STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Georgetown County

J. Mark Hayes, II, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

CARLOS ANTHONY DENNISON,

APPELLANT

APPELLATE CASE NO. 2019-001161

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF GEORGETOWN) 2019-GS-22-00262

STATE OF SOUTH CAROLINA,)
)
Plaintiff,) **Transcript of Record**
)
vs.)
) JUNE 20, 2019
CARLOS ANTHONY DENNISON,)
)
Defendant.)
_____)

B E F O R E:

Honorable Larry B. Hyman
Georgetown County Courthouse
Georgetown, South Carolina

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

Keith Powell, Esquire
Attorney for State

Sallie Beth Todd
Circuit Court Reporter

I N D E X

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
(THERE WERE NO WITNESSES CALLED DURING THIS HEARING.)				

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(THERE WERE NO EXHIBITS MARKED DURING THIS HEARING.)				

THE COURT: All right.

CLERK: Please raise your right hand?

CARLOS DENNISON, HAVING BEEN SWORN TESTIFIES AS FOLLOWS:

MR. POWELL: Your Honor, this is State v. Carlos Dennison. Mr. Dennison is present before you today representing himself. It's regarding two warrants, two indictments that were on the trial roster this week. The case got continued. The first number is 2019-GS-22-262 and the second one is 2019-GS-22-263, PWID heroin and PWID cocaine. This defendant has made various statements to the Court that he wished to represent himself. However, through abundance of caution, I don't think he ever received or technically received a Faretta Hearing. That's what he was brought before the Court today was to do that process.

THE COURT: Well what are the charges again now?

MR. POWELL: The ones that are on the trial roster are the PWID heroin, third offense; PWID cocaine, third offense. There were also two indictments that were not on the trial roster, distribution of fentanyl, both of those.

THE COURT: Mr. Dennison, Mr. Powell tells me you want to represent yourself; is that right?

MR. POWELL: Your Honor, I'm already representing myself. I'm ready to go to trial, Your Honor. I'm getting ---

THE COURT: Well, let me talk to you about that, Mr.

Dennison, I'm sure that you're a Rogue Scholar, but let me talk to you about that.

Mr. Dennison, you have a constitutional right to have an attorney and if you can't afford one, one would be appointed for you. You have that right. You also, after Faretta v. California, have the constitutional right to self-represent. That means you can certainly represent yourself and my inquiry here this morning is not whether or not that's a wise thing for you to do. My inquiry is as to whether or not you understand that you have a right to have an attorney and what would be expected of you in a trial. That's so that I would know whether or not you are knowingly and intelligently waiving your right to counsel.

Now, how far did you in school, Mr. Dennison?

MR. DENNISON: I have some college.

THE COURT: Okay. Well, good. Where did you go to college?

MR. DENNISON: I did online schooling.

THE COURT: Oh, online. Well, how many courses did you get?

MR. DENNISON: I only did a semester.

THE COURT: Well, how -- what did you take?

MR. DENNISON: Business.

THE COURT: Okay. Well, Mr. Dennison, have you ever been through a trial before?

MR. DENNISON: No, sir, Your Honor, but I'm still willing to go.

THE COURT: Okay. I understand that. I don't think that you have much choice; you're going to go through a trial with these charges. It's just whether or not you're going to be represented or not.

Now, Mr. Dennison, I would imagine then that you have not had a lot of experience with -- with trials, have you?

MR. DENNISON: No, sir, Your Honor, but I'm still willing to go myself, Your Honor.

THE COURT: All right, Mr. Dennison, let me ask you about that. Mr. Dennison, do you know what the rules of evidence are?

MR. DENNISON: No, sir, Your Honor, but I know that what's relevant has to be done with the case, Your Honor.

THE COURT: Well, let me tell you this, Mr. Dennison. Whoever your trial judge is cannot shoot you a break. The fact that you self -- or you choose to represent yourself does not excuse your compliance at all with the rules of evidence. The rules of evidence control how evidence is presented to the Court. For instance, Mr. Powell there is charged with the responsibility of presenting the State's case and he will present witnesses, I would imagine. He will present exhibits, evidence of different types, won't you, Mr. Powell, that's what usually happens, isn't it?

MR. POWELL: Yes, Your Honor.

THE COURT: Okay. Well, he may not be doing it right. He might be introducing evidence that's improper. He might not be complying with all the rules that permit him to introduce evidence against you and if you don't know how to object; if you don't know what those rules are, it comes right in. It's up to you. The trial judge cannot object for you. Not only does it come in and be heard by the jury, but on appeal, if you didn't object, you have waived your right to object on an appeal of that evidence.

Then it comes around the time where you can present your case if you want to. You might have evidence that would be clearly helpful to you and you don't know how to present it and you start to present it and Mr. Powell just makes some simple objection that you don't understand and the trial judge has to exclude the evidence. He cannot and will not help you. You have the constitutional right to self-represent, but he can't fix it for you. You assume the duties that an attorney would have if you decide to self-represent.

I mean, things like, do you even know what the rules of evidence concerning hearsay are?

MR. DENNISON: Uh ---

THE COURT: Do you even know what hearsay is?

MR. DENNISON: Your Honor, I'm sorry, Your Honor, I'm ready to go to trial, Your Honor. I was -- I was supposed to

go to trial this week, Your Honor. I don't see how the State get to keep getting continuances, when I was incarcerated ever since June the 20th of last year. The State should be ready. I'm ready, Your Honor.

THE COURT: Well, I think they are, Mr. Dennison, but their issue has been you wanting to self-represent and this Court has got to be clear that in spite of the fact that I do not believe that you are competent to represent yourself; I do not believe that you have the training that is necessary. I need to make sure that you understand that because whether you have the training, whether you have the experience, whether you have the knowledge or not, you still have the right to represent yourself. I don't want you making a fatal mistake that's going to end up in your incarceration because technically, you don't know how to control evidence that's coming in, either for you or for Mr. Powell. I don't want to see you do that and the law requires me to explain to you again, that you can do this; you have the right to do it. It's just that I have never, ever and I've been doing this 42-years. I've never seen one single pro se defendant that was able to competently defend himself. It's always a bad result, Mr. Dennison, and I want you to understand that.

Now, if you want to go ahead and represent yourself, my only concern is that you understand that you don't know how to do that and that you are probably making a mistake. Now, I'll

be glad for you to represent yourself, but do you understand that you're going to be held to exactly, exactly the same standard by your trial judge, whether it's me or somebody else, that judge is going to make you behave and follow the same rules that he would make a lawyer do. Do you understand that; you don't get any slack because you are not a lawyer; do you understand?

MR. DENNISON: Your Honor, you already had put this case on trial docket. Your Honor ---

THE COURT: I didn't put it on the trial docket, Mr. Dennison. I'm from Horry County. I came here, it was on a trial docket, I tried a case for 3 days this week. We just finished it last night.

MR. DENNISON: Your Honor, you put it on the trial docket last month on the 28th.

THE COURT: No, sir, I don't believe I did. I don't set the docket. Judge John sets the docket. Judge John is the Administrative Judge for this court.

MR. DENNISON: Well, Your Honor, I greatly apologize. I'm having headaches, Your Honor. I'm really ready to go to trial. I'm hurting, I want to get this done and over with. I'm ready. I don't see how the state keep getting continuances. How? I don't understand this.

THE COURT: When are you ready to try his case, Mr. Powell?

MR. POWELL: It will be on the trial roster on the next term of court.

THE COURT: When is that?

MR. POWELL: The second week in July, I believe.

THE COURT: Okay. All right. Mr. Dennison, I'll be happy to appoint you an attorney; you say you don't want one?

MR. DENNISON: I don't want no attorney. I'm sorry.

THE COURT: You want to self-represent, that is your right to do it. Okay. Put it first up. Put if first up on that next term of court the second week in July. That's what, 2 weeks from now, 3 weeks from now, whatever?

MR. POWELL: Yes, Your Honor.

THE COURT: Put it first up. Let's give Mr. Dennison his trial. Mr. Dennison, good luck to you.

MR. DENNISON: I appreciate it. I'm sorry, Your Honor.

THE COURT: That's -- no, it's fine. I just want to make sure that you understand what you're doing.

(COURT ADJOURNED)

STATE OF SOUTH CAROLINA)	**IN THE COURT OF GENERAL SESSIONS**
COUNTY OF GEORGETOWN)	**2019-GS-22-00262 & 00263**
STATE OF SOUTH CAROLINA,)	
)	
Plaintiff,)	
)	
Vs)	**Transcript of Record**
)	
CARLOS ANTHONY DENNISON,)	**JULY 8 – 10, 2019**
)	
Defendant.)	
_____)	

B E F O R E:

The Honorable J. Mark Hayes
Georgetown County Courthouse
Georgetown, South Carolina

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

Keith Powell, Esquire
Attorney for State

Sallie Beth Todd
Circuit Court Reporter

I N D E X

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
OFFICER JOHN GREGORY				
By Mr. Powell	79		88	
By Mr. Dennison		83		93
OFFICER NOEL SMITH				
By Mr. Powell	95		130	
By Mr. Dennison		115		
JUDGE ROBERT HARRY O'DONNELL				
By Mr. Powell	134		147	
By Mr. Dennison		137		
OFFICER DONALD TEMPALSKY				
By Mr. Powell	148			
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OFFICER JOHNELL SPARKMAN				
By Mr. Powell	179			
By Mr. Dennison		185		
DORIS YARBROUGH				
By Mr. Powell	195			
By Mr. Dennison		201		

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
LYNN BLACK				
By Mr. Powell	202			
By Mr. Dennison		214		
ABBY PORTER				
By Mr. Dennison	225			

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D2 (pretrial)	Bond Form	X		26
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MR. POWELL: The next matter the State would call, will be the matter of Carlos Dennison regarding true bill indictment 2019-GS-22-262, PWID heroin 3rd offense. The second true bill indictment 2019-GS-22-263, PWID cocaine 3rd offense. Your Honor, these two matters are on this week's trial roster. If the case does go to trial the State will go forward on the PWID heroin 3rd offense and the lesser included, we would drop the PWID cocaine down to possession of cocaine 3rd offense. The defendant is present before you, Your Honor. I understand he wishes to go forward with the trial acting pro se, representing himself. It might be good if I explain a little bit of history of this defendant to Your Honor. There are also two distribution of fentanyl 3rd offense indictments outstanding. The Georgetown Police Department did a controlled but with a CI on March 1st, 2018, in which the defendant sold what they thought was heroin to a CI. The drug report came back fentanyl so when the indictment was done it was done for distribution of fentanyl. The State discovered he had a prior possession of cocaine 2nd offense on his record so it was done as a 3rd offense. The Georgetown Police Department did a second CI controlled buy on March 8th, 2018. They sent a CI in, another distribution of what was thought was heroin. That drug report came back as fentanyl as well, so the indictment ended up being done for distribution of fentanyl for the 3rd offense. Arrest warrants were obtained

for the distribution of heroin charges that the police actually had made. On June 20th of last year, the defendant was located. He was served the two arrest warrants for distribution, searched subsequent to arrest located multiple baggies of what was believed to be heroin on him as well as a baggie of cocaine. That incident is what is on the trial roster this week. Your Honor, he was brought in and served the indictments, the direct indictments. He was served those back in April. He was represented by the public defender's office at that time. We did negotiate a guilty plea on all of the charges. We offered to reduce them down to 2nd offenses. That was presented to the Court as a negotiated sentence with a recommendation of six years for the 2nd offense. That was back in the first term of court we had here in May. Unfortunately, the Judge did not accept the guilty plea, did not let it go forward. During the routine questions that the Judge made when he asked about whether the defendant was happy with his lawyer and some comments made that the Judge interpreted as complaining about his attorney. The Judge ordered this put on the trial roster for the 2nd week term in May and however the case was not reached that week, other matters went to trial. It was placed on the subsequent following first term, June trial roster. At that point in time the defendant did complain about his attorney and basically fired his attorney and stated to the Court that he

wanted to go forward pro se. This was placed on the 2nd June term of court trial roster. He was up here in detention and our jury pool room is downstairs. Unfortunately, he was not brought down to jury qualifications so we thought it wouldn't be a good idea with trial based on that. We brought him into Court Thursday in front of the trial Judge. The Judge did a pretty good Faretta type hearing, in which the defendant did state his intention and desire to go forward pro se in this matter. So, we placed it on this term of court here. I don't know if Your Honor wishes to do another Faretta hearing. One thing I'm not certain of, is I'm not sure if it was ever explained to the defendant that we do have a trial this week on the PWID, possession indictments and make sure that that in and of itself, no matter how that turns out, does not involve the two indictments on the distribution. I'd like to make sure that the defendant does understand that. And that's basically the history of the outstanding charges on the defendant here in Georgetown.

THE COURT: Alright, thank you for providing me with that.

You are Mr. Dennison?

DEFENDANT: Yes, sir, Your Honor.

THE COURT: Mr. Dennison, it's a pleasure meeting you. Sorry it has to be under this situation. Mr. Dennison, you do understand -- you were able to hear the solicitor when he

explained to me the background?

DEFENDANT: Yes, sir, Your Honor.

THE COURT: Do you agree that that's the background of the case?

DEFENDANT: No, sir, Your Honor. What I'm trying to understand, he said on the second court term of May he said other matters. What other matters is the State talking about that stopped me from going to trial, Your Honor? I was trying to go to trial since November of 2018. What I was telling my lawyer, Erin Bailey, at the time, she keep telling me I wasn't indicted. Your Honor, this case is twisted. I'm sorry, Your Honor. I'm ready to go to trial. I'm ready to go to trial now.

THE COURT: Alright, and I think you're the first one up this week.

DEFENDANT: Alright.

THE COURT: So, we -- my information is that the State tends to go forward with the trial. But, counselor for the State felt like the record that is made by this Court might not be sufficient enough to establish that you understand that if we do go to trial and proceed forward with the possession with intent to distribute cocaine and possession with intent to distribute heroin that in those cases, regardless of what happens with those cases those other cases they have against you are still out there.

DEFENDANT: Alright, Your Honor. That is very well understood.

THE COURT: Alright, and you still wish to proceed without the services of an attorney?

DEFENDANT: Yes, Your Honor. Yes. I'm ready to go right now, with respect, Your Honor.

THE COURT: Alright. Sir, do you have any pending motions that we need to take care of?

DEFENDANT: Yes, sir, Your Honor. I have three of them.

THE COURT: Have you provided those to the State?

MR. POWELL: I don't think so, Judge.

THE COURT: What are your motions?

DEFENDANT: Speedy trial rights violation, and statutory requirement of defective warrants -- a defective warrant, and I'm sorry. Motion to suppress, I mean, motion for dismissal under plain error. And then I wanted to argue about the --- because I never received in the mail a chain of custody. I never had heard nothing from the State for the --- as in they didn't testify in the hearing --- from the State under Rule 6, I'm sorry. Those are my four issues.

THE COURT: Alright, so you have a speedy trial motion. Tell me again, the statutory requirement warrant?

DEFENDANT: Oh, on a defective warrant?

THE COURT: Defective warrant, oh okay.

DEFENDANT: Yes, sir.

THE COURT: And motion to dismiss based on a plain error.

DEFENDANT: Yes, sir, Your Honor.

THE COURT: Okay. And then a chain of custody issue. Was the chain of custody information provided to him through discovery?

MR. POWELL: Your Honor, I believe we provided all discovery including the chain to his attorney. I spoke to his attorney and he stated to me that they did provide everything to Mr. Dennison.

THE COURT: Alright.

MR. POWELL: I did not recopy everything and give him a second set based on my conversation with his prior attorney.

THE COURT: Okay. Alright, what we'll do, Mr. Dennison, is we will proceed -- we will address those motion prior to paneling the jury.

DEFENDANT: Yes, sir, Your Honor.

THE COURT: And so, what we'll do in just a few moments -- I don't like holding hostage everybody that's been called for jury duty. What we'll do is we'll go downstairs in just a moment and we'll do what's known as the jury qualification. Now this is a process where you nor the State, y'all do not ask questions. It's me asking questions of the ladies and gentlemen who've been summonsed for jury duty. Gives you an opportunity to listen to them, make some notes as to the kind of people they are, and they will provide information to me as

to whether or not they are qualified to serve on a jury. We will not pick a jury today. We will pick a jury first thing in the morning and at that time if you've got -- prior to that time if you've got any questions that you want me to ask the jury, please put them in writing and let me and the State know what those are. The State will be providing the same information to me as well, and they will give you a copy of any questions that they want me to ask the jury also, okay.

DEFENDANT: Yes, sir, Your Honor.

THE COURT: Now, Mr. Dennison, do you have any questions about the jury qualification process that we're fixing to do?

DEFENDANT: No, sir, Your Honor.

THE COURT: Okay.

MR. POWELL: Excuse me, Judge.

THE COURT: Yes, sir.

MR. POWELL: Your Honor, if we could put on the record that the defendant is dressed in -- in respect to him going downstairs to the jury qualification and being in front of the jury and the trial as far as that goes. Can we put on the record that the defendant is dressed in street clothes? I don't see any shackles or chains visible. It is my understanding that he might be wearing some type of stun cuff as security, but I would like on the record that he's not in detention center garb or shackles or anything of that nature.

THE COURT: Okay, and the Court will note that as part of

the record. Do you have anything you wish to further state for the record prior to us going and doing the jury qualifications?

DEFENDANT: No, sir, Your Honor. No, sir.

THE COURT: Alright.

MR. POWELL: Your Honor, do you see us doing our motions this afternoon and starting the trial in the morning?

THE COURT: If we could do the motions because we just need to get the motions done prior to actually swearing in the jury.

MR. POWELL: I just wanted to advise the officers that we were going to do them this afternoon and start the trial in the morning.

THE COURT: That would be great. Is that alright with you?

DEFENDANT: Yes, Your Honor.

THE COURT: Alright, we will try to do the motions right after lunch.

MR. POWELL: Your Honor, do you wish to try to pick a jury today and get that part out of the way or do that starting tomorrow?

THE COURT: Let’s try to do that in the morning because I don’t know how the motions are going to pan out, how long they will be, and I don’t like keeping the mass numbers downstairs.

MR. POWELL: Yes, Your Honor.

THE COURT: Alright. And, Mr. Dennison, if ever during the process you -- I understand that another Judge has already done the necessary hearing about you knowingly proceeding without the services of an attorney, but if ever during the process you feel like you change your mind and wish to have an attorney just let me know and we'll try to get one over here to sit with you, okay.

DEFENDANT: Alright, Your Honor. Thanks a lot.

THE COURT: Thank you. Alright.

MR. HAZZARD: Your Honor, if I may? Ronald Hazzard on behalf of the public defenders office. I apologize for being late. I am dealing with a case of pneumonia. Mr. Hart who works with me, who previously worked with Mr. Dennison, called me and indicated the Court had some concerns about possible assistance for Mr. Dennison. If the Court will take a break and allow us to go into chambers, I may be able to help this matter a little bit.

THE COURT: Alright. Well, we'll take a short recess for it. Now, we move downstairs to qualify the jury?

CLERK: Yes, Your Honor.

THE COURT: Okay. This is my first time in Georgetown so I'm unfamiliar with the geography of the building, as I came in the wrong door when we started. Alright, we'll step down and we'll see y'all downstairs.

(RECESS)

THE COURT: Alright, Mr. Dennison, are you ready to proceed?

DEFENDANT: I'm ready, Your Honor.

THE COURT: Alright. Is the State ready to proceed?

MR. POWELL: Yes, Your Honor.

THE COURT: Yes, sir, Mr. Dennison.

DEFENDANT: Defense is moving for a speedy trial violation for warrant number 2018A2220200120, warrant number 2018A2220200133, warrant number 2018A2220200345 and warrant number 2018A2220200346. The defendant contends his sixth amendment speedy trial was violated. The defendant was incarcerated from June 20th, 2018 to July 8th, 2019 which is 382 from the 70 days requirement -- I'm sorry. I'm sorry. The 70 days requirement has not been met under Rule 18 usc 3161. Under Rule 3161 (a) (b) and (c) (1) defendant were to be indicted on all charges. 67 days after the arrest defendant were only indicted only on two warrants, 2018A2220200120 and 2018A2220200133. There was a July term defendant could have been indicted but I wasn't. Defendant has set dates for appearances in August 2018 term and October 2018 term and neither was met. From August 27th, 2018 to October 28th, 2018 the defendant had not heard anything from the State which 60 days done passed. Then in October 28th, 2018 defendant had his bond reduced. In November 2018 defendant told his lawyer he wanted to go to trial. Trial

counsel for defendant, Erin Bailey, stated defendant was not indicted. Defendant claims -- I'm sorry. Defendant claims from October 28th, 2019 (sic) til January he heard nothing from his lawyer Erin Bailey, nor the State. Later in January, defendant got in touch with his lawyer Erin Bailey and again she said defendant still is not indicted. About 124 days from October 28th, 2018 is March 4th, 2019. Defendant filed a motion for pro se and speedy trial violation. March 27th, 2019 defendant was indicted for all four charges which is nine months later from the arrest of June 20th, 2018 also for warrants 2018A2220200345 and 2018A2220200346 is the first defendant was indicted and that's these charges I'm going on today. It also violated Rule 18 usc (a) and 3161 (a) (b) and (c) (1) and 3162 (a) (1). In the month of April 11th, 2019 which is about 279 days after the indictment of August 2018 defendant got his bond reduced. Defendant never made bond. May 15th, 2019 defendant had an appearance at a plea deal of 10 years that he turned down and he wanted his trial. Judge Hyman set the trial for the week of the 27th of May, 2019. On the 28th of May, defendant tried -- defendant's lawyer Madison Harte moved for a continuance -- I'm sorry. He needed to show defendant more discovery. June 10th, 2019 defendant relieved counsel and was pro se again. Judge Steven John relieved counsel and set the trial date for June 17th, 2019. June 17th, 2019 defendant was ready for trial but Judge Hyman

continued the trial because he wanted defendant to know he could receive counsel and wasn't sure, I guess, that I was ready. I guess mentally or whatever, I'm sorry. Defendant continued -- I'm sorry. Defendant continued pro se as he was from March 4th, 2019. Hyman set the new trial date for July 8th, 2019. Defendant respectfully moves for all charges to be dismissed due to 18 usc 3161 (a) (b) (c) (1) and also 3162 (a) (1).

THE COURT: Thank you, sir.

MR. POWELL: Your Honor, the State does not believe there has been a speedy trial violation. We told Your Honor a little bit of the history this morning. There were two CI buys from March of 2018, March 1st and March 8th. The arrest warrants were not served until defendant was located on June 20th, 2018, was when those warrants were served, served subsequent to arrest. The arrest lead to the drugs found in the defendant's possession for the two indictments that's on the trial roster before you today. Your Honor, we can't do indictments come back form SLED. The SLED Lab Reports for the case that's on the trial roster was dated January 15th, 2019. We hadn't discovered the distributions were fentanyl instead of heroin, third offenses instead of first offenses so we did direct indictments. It went to the grand jury in March. Our grand jury meets at the end of each month. They met March 27th, 2019, the indictments in all three incidents were then

true billed by the grand jury. Direct indictments have to be served in court on defendants. The defendant was brought into court on April 2019 when the direct indictments were served. We attempted to do the plea in May, the next month, on the first term. We have two weeks of court, two separate terms each month this year. We came to do the guilty plea the first term in May. It was turned down by the Judge. It was put on the trial roster the second term in May, the trial roster the first term in June, trial roster second term in June. The first term in June it wasn't reached, other cases were dealt with. The second week in June the defendant inadvertently brought down, like he was this morning from this detention area between our courtrooms to the first floor where the jury pool was. So, it got continued to today and it is on the trial roster again. Pretty much we've been doing everything we possibly could do once SLED got the drugs tested. I don't think the case have been called or accomplished any sooner. There was always some reason the past several terms of court that the case would been on the trial roster and wouldn't actually take place. We don't think the State has been slack or not responsive or not doing their job. We think was as early as it could be. The case before you is just 13 months old. We attempted to have it on the trial roster a month before it was one year old. It is our position that no speedy trial violation has occurred.

THE COURT: Any reply?

DEFENDANT: Your Honor, under 3161, Your Honor, I supposed to been indicted, I mean, within two months after the -- the arrest. Your Honor, give me a second. I'm sorry. I was never indicted for the possession charges until nine months later. The State is stating that because of the analysis, Your Honor, I don't believe that's the correct term they can use to exclude the time of the 3161 rule (a) (b) and (c) (1). And I'm sorry, Your Honor, I'm just trying to get this all on record. I'm sorry.

THE COURT: Does usca -- does 31 usca even apply?

MR. POWELL: I'm not familiar with that, Judge. I wasn't familiar with that statute before we started talking about it.

THE COURT: You're referencing the United States Code Annotation and our rules in state court that I traditionally see come from the South Carolina Criminal Rules of Civil Procedure or the South Carolina Code of Laws and not the United States Code Annotated sections.

DEFENDANT: Your Honor, we can move --- we can move to the next motion.

THE COURT: Okay. Alright.

DEFENDANT: Your Honor, the defendant argues the motion to suppress evidence on a defective warrant. These are warrants I'm submitting into evidence. On the face of all four warrants, Your Honor, which I'm using for evidence.

Exhibit --- do I speak exhibit now? I'm sorry. They are the same warrants: exhibit 1A 2018A2220200120, drugs schedule two. Exhibit 1B, warrant 2018A2220200133, drugs schedule one, two and three. Exhibit 1C, 2018A2220200345, drugs possession of cocaine. Exhibit 1D, 2018A2220200346, drugs manufactured schedule four with intent to distribute. And Exhibit 1E, bail bonding proceeding form number two. At the bottom where it states signature of issuing Judge, you will see that is Clerk of Court stamp clocked. The signature on the original warrant is different from the signature on the defendant's copy which makes the warrant a defective warrant. In Davis versus Sanders an 1894 South Carolina case, the South Carolina Supreme Court stated that a signature is a necessary element. The Davis requirement is that a warrant must be signed by a judicial officer in order to be complete. It is a common law decision predicated on police -- I mean, I'm sorry, on public policy consideration siting Davis vs Sanders a South Carolina case, 40 sc 507, 19 sc 138 (1894). Also, Your Honor, a warrant is not issued until signed by appropriate magistrate, municipal judicial officer or a judge of court record, State vs Covert 382 sc 285, 675 se 2d 740 a 2009 case. Your Honor, also the South Carolina Supreme Court stated we think it would be very dangerous to the peace of society for a court to hold that paper which shows on its face that it's an unfinished paper to be sufficient justification for an arrest. By the

signatures not matching on the original warrant and defendant's copy allow the credibility of the issuing Judge Robert Harry O'Donnell, judge code 6217, to vanish. It's confusing, misunderstanding, as stated by a Maryland Appellate Court in Giles vs State. A valid search warrant properly executed may produce evidence sufficient to convict the person accused of a crime. A defective and invalid search warrant produces confusion, waste and injustice to an accused or to society or to both. State vs Freeman a South Carolina case, 319 sc 110, 459 sc 2d 865 a 1995 case. Your Honor, with warrants they talk about good faith. With good faith even though the space for signature of issuing judge provide was to be a signature, as stated the original order does not match the defendant's copy which is to be on all four warrants making a total of eight signatures. Supreme Court stated a warrant is not issued until signed by an appropriate magistrate, municipal judicial officer or judge, cited in State vs Colvert (2009). Now, in State vs. Colvert there is a section the Judge stated on appeal held that the search warrant was not issued within the meaning of the statute because it lacked a timely signature. The Judge also had three -- there was a good faith exception to the statutory warrant procedure that it was (inaudible). He agreed that the absence of a magistrate's signature at the time the warrant was served invalidates it but did not reach the issue whether

it exists in good faith. Exception to the statutory warrant requirements says we find as explained below that no warrant was ever issued. In State vs. Colvert (2009) the same case, South Carolina Supreme Court stated the officers could have discovered the error by simply looking at the warrant itself. Therefore, the Court finds there was no good faith effort to comply with the statute. Also, under South Carolina law an unsigned warrant is not a warrant and is not capable of being issued within the meaning of Rule 17 13 140, Davis vs Sanders (1894) and State vs Colvert a 2009 case. Officers good faith irrelevant when the warrant is not signed, Davis vs Sanders. See also State vs Sachs 264 sc 541, 216 se 2d 501 (1975); also, State vs McKnight 291 sc 110, 112, 352 se 2d 471 and 472 a 1987 case.

Your Honor, the original copy signature does not match the defendant's copy signature on all four clerk stamped warrants. Judge Robert Harry O'Donnell is the Judge. Judge Robert Harry O'Donnell, judge code 6217, which reveals a crime of forgery and violates 17 13 140, statutory warrant required. Defendant would respect of the Court humbly request that contraband be excluded and defendant regain his liberty. I have the warrants right here, Your Honor. Can I bring them up to you? This right here is supposed to be O'Donnell's real signature. I'm sorry.

THE COURT: Have you shown them to the State?

DEFENDANT: No. I write them and told them. I write them back in January and February and sent all the warrants.

MR. POWELL: Your Honor, may I approach?

THE COURT: Yes, sir.

MR. POWELL: I have a copy that have the Judge's signatures. I'm not sure what Your Honor ---

DEFENDANT: Your Honor, neither of them match either. The four he got, neither of them match either. I'm sorry.

THE COURT: Alright. Yes, sir.

MR. POWELL: Your Honor, I have -- I don't know where the copies that the defendant presented to the Court came from. The four I handed up were what came, transmitted from the Clerk of Court's Office. As Your Honor is probably aware, arrest warrants are done, the Court ends up sending the Solicitor's Office copies of them for us to start opening a file. The four warrants that I have all appear to be signed the same by Judge Robert Harry O'Donnell who is the City of Georgetown ---

DEFENDANT: Not the same address.

MR. POWELL: --- Magistrate. This is the Georgetown Police Department city case, so they went to the city court judge and had the warrant signed. All I've seen and all I know about is the four I handed up to Your Honor which all appear to be the same. The signature which is sort of scribbly seems to match the bond paperwork that was done in

the distribution case and the PWID case that's on the trial roster. I don't where the copies that the defendant presented came from.

THE COURT: Reply?

DEFENDANT: Your Honor, the jury get to look at the warrants and tell. But, Your Honor, those are not the same signatures. Those are the same warrant numbers but those are not -- if you look at the affidavit signature of the officer you can see that their signature is not exactly the same. But you can see that that's the same signee. That's the same author that authored -- Officer John Gregory, you can see that his signature is the same but it's different.

THE COURT: Okay. I've got that the affiants were Noel Smith and John Gregory. John Gregory's -- the signature for John Gregory appears to be the same on three of them and then one signature for Noel Smith appears to be different because it's Noel Smith's name, not John Gregory.

DEFENDANT: No. What I'm saying is that the signature of John Gregory matches the copy. Both of them match as in they the same person that signs it. But Robert O'Donnell's signature, none of those match.

MR. POWELL: Your Honor, when I looked at it they didn't look one hundred percent perfect. I certainly can't explain the differences. I don't even know where those came from.

THE COURT: Are you talking about Robert O'Donnell's?

MR. POWELL: The warrants that that was passed up by Mr. Dennison to Your Honor. I think they're multiple copies of the same warrant and some of them it's hard to tell whether the signature of the Judge was the exact same on each one. I'm not a signature expert. I'm just talking about knee jerk reactions and glancing at them.

DEFENDANT: Your Honor, they came from the county jail. They were in my files at the county jail, the defendant's copy warrants. Those come from the county jail. I was incarcerated the whole time, Your Honor. Everything came from either my Rule 5 or from the jail house.

THE COURT: Okay. You know, you say they don't look the same; unfortunately, if y'all took at some of the papers that I've signed in my career you would probably not be able to read my signature. It looks like this Judge Robert Harry O'Donnell has the same rush when he signs his name as I do. I think that they're pretty similar, it's just that they're illegible but they're illegible in the same format on each one of them.

MR. POWELL: May I address one other part, Judge?

THE COURT: Uh-huh. (Affirmative response)

MR. POWELL: All of these charges from the two distribution cases and this PWID case that's on the trial roster, they're all direct indictments. So, I don't know that an error in the arrest warrant would override the direct

indictments that have been true billed by the grand jury that aren't even the charges in the arrest warrants. So, I'm not sure if that's an issue that needs to be addressed but certainly ---

DEFENDANT: Your Honor, those are not the same signatures, Your Honor. They not -- why -- why -- why is the same number warrant is different from the copy, original copy, and then you've got the defendant's signature. Why they different? They the same warrant. They 20180222020133 (sic) the original warrant does not match the copy. That's the same warrant, that's a copy, why they don't match?

THE COURT: Alright. I'm going to deny the motion, but you're protected on the record with it. But, with that being said, you've handed me a group of documents that we need to get admitted into evidence. Do you have any objection to us taking them and they becoming part of the record of this case?

DEFENDANT: No, sir, Your Honor. I don't.

THE COURT: Okay. In the event that I have made an error there will be another Judge or Judges that will take a look at what we've done here today and they will need to see these documents. That's why I want them in the record.

DEFENDANT: Alright.

THE COURT: Do you have other copies?

DEFENDANT: I mean, I've got other copies for me.

THE COURT: Okay. That's what I mean because it may be

that you want to use these same documents for some other purpose in the future, so I just wanted to make sure you had copies.

DEFENDANT: No, sir.

THE COURT: Sir?

DEFENDANT: No, you can take them.

THE COURT: Alright, madam court reporter.

Alright. We'll mark -- I've counted 10 pages that the defendant has presented as a group. We'll mark those as defendant's 10. I've noted the State we'll do -- it's four pages but the four pages are both front and back. That will be the State's one for this proceeding.

(DEFENDANT'S EXHIBITS ONE, TWO, THREE, FOUR, FIVE, SIX, SEVEN, EIGHT, NINE and TEN ARE ADMITTED INTO EVIDENCE)

(STATE'S EXHIBIT ONE IS ADMITTED INTO EVIDENCE)

DEFENDANT: Your Honor, can I speak?

THE COURT: Uh-huh. (Affirmative response)

DEFENDANT: Will I be able to let the jury look at those signatures?

THE COURT: If you feel like they become relevant during the trial of this case and issues are presented then you can attempt to use them. I can't tell you now because I don't know what the State's position is, whether they're going to

object to it. I also don't know what any of the issues are in the case right now other than what y'all have argued to me so far. But, yes, you will have those available to you to use during the trial of the case.

Do you wish to do your next motion?

DEFENDANT: Oh, yeah. I'm sorry. I'm sorry.

Your Honor, defendant is moving for a dismissal on all said warrants that is in evidence. US Supreme Court stated on the grounds of US versus Causey 834 F2d 1277, 1281 6th circuit (1987) under the standard there must be error that is plain and that affects substantial rights. Also, the error affects the fairness and integrity and public reputation, US versus Swafford 385 F3d 1026, 1028 6th circuit (2004) and Johnson versus US 520 U.S. 461, 467, 117 S.ct 1544; 137 L.E.2d 718 a 1997 case. I'm sorry. With respect, Your Honor, warrants 1A through 1D, which is in evidence, all have two signatures; one on original warrant and one on defendant's copy. South Carolina Supreme Court stated officers could have discovered either error by simply looking at the warrant itself, therefore, the Court finds there is no good faith effort to comply with the statute, State versus Colvert. Your Honor, the warrant is a judicial proceeding, the signature is required. Two -- I mean, two signatures on the warrant -- also, any of them belongs to Robert Harry O'Donnell, judge code 6217. This type of profession conduct is an error that

essentially affects the fairness and integrity and public reputation of judicial proceeding. I wrote the State about these, but I never get a response or anything. I'm sorry. United States vs Swafford, 385 F.3d 1026, 1028 6th circuit (2004) defendant humbly requests that all charges vacated. I'm done, Your Honor.

THE COURT: Alright. Will you take a question? What is -- I understand that legal position, but factually what is the difference between the warrants that you argued before as to the warrants now?

DEFENDANT: I just want to get it on the record, Your Honor. I want to get it all on record.

THE COURT: Okay.

DEFENDANT: But, like I said, it's two signatures per warrant. The warrants they don't match.

THE COURT: Okay, so it's the same factual basis just another legal theory?

DEFENDANT: Yes, sir.

THE COURT: Yes, sir.

MR. POWELL: Your Honor, it seems to me that perhaps it's an argument that the errors he complained about under the motion about the defective warrants that Your Honor just ruled upon, that additional error in the State not catching it and doing something about it. I think Your Honor had already ruled that there wasn't a problem with the warrants. I'm not

sure if I understood his motion but he seems to be complaining that the State didn't notice, he noticed it and he thinks it's plain error that the State did not notice it. Your Honor, I've only seen the warrants that were presented by the State to Your Honor.

THE COURT: Alright. I think my prior ruling controls on that issue as well.

DEFENDANT: The last one is -- I'm sorry.

THE COURT: Take your time.

DEFENDANT: Your Honor, I wasn't notified I guess until now, but Your Honor, in the chain of custody there's two of the analysis chemists that dealt with the drug and in the motion it's only one signature of the analysis. The State --- I'm sorry. Oh yeah, I'm sorry. I'm sorry. Your Honor, under State versus (inaudible), the chain of custody need not negate all possibility of tampering the State is required to show that the -- I mean, the chain in complete. Under Rule 6 the State never notified me, let me know, that they were proceeding with just the analysis. They didn't let me know they was going to use the chemist. And because there is one signature of Ms. Black, there's another chemist -- I'm sorry. I can't think it -- yeah, Ms. Yarbrough, she's another one -- she's another chemist who was dealing with the drugs, so I wanted to have her here to testify on her behalf on proceeding with the analysis.

THE COURT: Your Honor, for the Court's information some of the documents that I handed to the defendant when Your Honor first stated to address us today included the chain of custody. My file shows that we did send the chain of custody earlier when he had an actual attorney of record. There were -- I'm sure Your Honor is familiar with the SLED lab. Just for the record, SLED has technicians that accept evidence from law enforcement. Evidence is taken to Columbia where SLED is, so if somebody drops something off SLED has a technician that does an intake that signs for it, puts it in their secure area. If the chemist wants to test something, they have to sign it out. Quite frequently the person that signs the drug evidence from their evidence locker to the chemist is a difference person than did the intake. Then of course the chemist gets control of it and takes it to their locked room where they do testing and does the testing. There's actually three SLED individuals on the chain of custody, Doris Yarbrough, D-O-R-I-S Y-A-R-B-R-O-U-G-H. She was the technician who did the intake, secured it. Then Charlotte Pitts, C-H-A-R-L-O-T-T-E P-I-T-T-S, was the SLED technician who signed it over to the chemist so that testing could be done. Lynn Black, L-Y-N-N B-L-A-C-K, was the actual chemist who did the drug analysis and signed the lab report. I think Mr. Dennison received those three names on the chain of custody, that's what the three individuals on the SLED chain,

each one did. I may be stating the title wrong on the technician, but they have a person who does the sign in of things and obviously they do a chain. The chemist has to get it so the person who does that, of course a trained chemist has to do the forensic testing. So, those are the three names that I see on the SLED chain of title and those names are on our potential witness list. They've been subpoenaed and I did provide a witness list to Mr. Dennison at the time I gave him the other documents as well. For the record, the NCIC, potential witnesses and things of that nature. But, that's what those three individual's involvement is involved in this they've all be subpoenaed, Your Honor.

THE COURT: Who was the person that you said you wanted to talk to?

DEFENDANT: Lynn Yarbrough (sic) and we only have the signature of Ms. Lynn Black. I'm sorry, not Lynn Yarbrough, her name is Doris Yarbrough. She handled the drugs throughout all phases of the chemist. You can see as you go down on the chain of custody, you see if was only her, Lynn Black and Doris Yarbrough who dealt with the drugs during the testing.

THE COURT: Alright. Mr. Dennison, you are entitled during the trial of this case to go into any defects that you believe that is in existence in the chain of custody as well as, if I'm looking at the State's witness list the person that you want to speak with or have as a witness is Doris Yarbrough

and so she's already under subpoena to be here. You have a right to subpoena her as well. If by chance, the State calls her and you cross examine her but you still want to use her as part of your case, we can hold the subpoena and not release her from the subpoena and you would have access to her as part of your case.

DEFENDANT: So, she's already coming as a witness?

THE COURT: If I read the State's witness list correct, yes.

DEFENDANT: Alright. Alright. That's it, Your Honor.

THE COURT: Alright. I'm not sure that I officially ruled on the first motion, but the first motion for speedy trial would be denied. I don't -- I'm not seeing that the State has delayed the trial to the extent that it would warrant a dismissal of the charges. There are other types of remedies the Court could impose if it felt like a speedy trial violation was -- had occurred but I have not seen that one has occurred as of now. Okay. Any other motions from the defense or the State?

MR. POWELL: Your Honor, I have one matter. Since the defendant is representing himself I just would like to point out to the Court that if he does an opening statement and testifies in his opening statement the State -- that opens the door and the State will attempt to address that in his direct case. He may say something in the opening that is basically

testifying and we would try to argue, Your Honor, that he's opened the door to whatever those matters might be. Your Honor, we will address that later down the road.

THE COURT: You know the defendant is representing himself. He does have a right to make an opening statement if he chooses too. He can also wait until after the State finishes their case and then make an opening statement. But opening statements -- the Court will inform the jury that opening statements are not evidence in a case. It is simply the parties contention as to what the issues are in a case and that the issues will be presented -- that the factual information that they will decide the case on will be presented by witness from the witness stand and any documents that are presented during the course of the trial. So, okay, with that being said, do you understand the jury selection process?

DEFENDANT: Yes, sir, Your Honor.

THE COURT: Do you have any voir dire of questions that you want me to ask the jury on your behalf other than the standard ones?

DEFENDANT: We gone pick the jury this afternoon?

THE COURT: Yes, sir.

DEFENDANT: So, if I come up with something between, I can hand it to you?

THE COURT: Absolutely, and also if you anticipate

calling any witnesses go ahead and write me their names down because I have to ask the jurors if they are familiar with them, related to those people or know them.

DEFENDANT: Your Honor, under the best evidence rule I wanted to get Judge O'Donnell here to sign and see his license because those are not his signatures. And under the best evidence rule I wanted him here. I asked the attorney, defense counsel to have him present. I subpoenaed him and I also subpoenaed the nurse from the Georgetown County Jail. They sent me documents, medical records when I had subpoenaed her and the documents because I can not talk about these professionally because I was going through withdrawal when I was incarcerated, and I wanted her to testify about the medicine and its use. You know, describe how it is when a person is going through withdrawal because I was going through withdrawal when I was incarcerated. But I had wanted to subpoena Judge O'Donnell and I told the Court's that -- I mean, the attorney for the State that I wanted to subpoena the Judge and I didn't get the subpoena for him.

THE COURT: My understanding is that you've had a lawyer kind enough to volunteer help you issue subpoenas and that type of stuff.

DEFENDANT: And I told them I wanted to subpoena Judge O'Donnell and they didn't let me.

THE COURT: What if I sent that lawyer back over to

address that issue of subpoenas? We're not going to start the trial of the case until tomorrow and, you know, it could be if you do intend to testify or you intend to present your case that we might not even get to your case until Wednesday or Wednesday afternoon. So, you've got time to issue subpoenas.

DEFENDANT: Okay, so who -- so I just talk to ---

THE COURT: Get Mr. -- is it Mr. Hazzard?

DEFENDANT: Yes, sir.

THE COURT: To step back over and talk with you, speak with you. I'll reach out to Mr. Hazzard and let him reach out to you, okay.

DEFENDANT: Alright. Alright.

THE COURT: Alright. Anything else?

MR. POWELL: Nothing from the State, Judge.

THE COURT: Okay. What we'll do is I will try to reach out to Mr. Hazzard on your behalf, Mr. Dennison. The jury is not coming back until 2:30 so you've got some time if you come up with questions that you do want me to ask as part of the voir dire process. Also, write down a list of anybody that you might call as a witness, even if you ultimately don't call them it's better that I've asked the question do they know them than if you later decide you might want to call them.

DEFENDANT: Well, it's really just Robert Harry O'Donnell and Ms. -- I'm sorry, what's her name, Abby Porter, the nurse. Those mainly the two that I want.

THE COURT: You want me to ask them about --- it's Robert Harry O'Donnell?

DEFENDANT: Yes, sir.

THE COURT: Okay. If I am needed, I will be I the back.

MR. POWELL: Thank you, Judge.

THE COURT: Thank you very much.

(RECESS)

MR. HAZZARD: Your Honor, may it please the Court? Earlier this morning I was present in the courtroom and the Court instructed Mr. Dennison to provide written voir dire questions for the Court's consideration. Obviously, Mr. Dennison does not have that capability, so I took the liberty of preparing some standard voir dire questions for him. In speaking with him, it is my understanding that he ask the Court to inquire of the jury panel all questions listed with the exception of defendant's proposed voir dire question number two. He says he does not wish that one asked but would ask that the other nine be asked. He would also ask that the defendant's proposed voir dire document be made a court's exhibit.

THE COURT: Okay. I will make it a Court's Exhibit. I've written on it so all the notes on it for purpose of the record will be mine.

MR. POWELL: Not a problem.

THE COURT: Okay.

Madam court reporter, court's exhibit one.

COURT REPORTER: Okay, thank you.

(COURT'S EXHIBIT NUMBER ONE

IS MARKED FOR IDENTIFICATION)

THE COURT: Mr. Dennison, can you refresh my memory of the name of the Judge?

DEFENDANT: Judge Robert Harry O'Donnell.

THE COURT: Robert Harry O'Donnell, okay.

MR. HAZZARD: I've discussed that with Mr. Dennison. He has two witnesses that he wants to appear. One is Ms. Abby Porter who is a nurse at the detention center. We have at his request issued a subpoena and obtained his medical records, but it did not require that she actually appear, so they provided the records. I have asked my administrative assistance to update that subpoena asking Ms. Porter to appear or be available to appear and that she provide a standby number for when she is needed. I've also requested that we issue a subpoena on Mr. Dennison's behalf for City Court Judge O'Donnell and that he also be allowed to provide a standby number for the Court.

THE COURT: Okay. So, I will add the other witness that you had referenced was this, if I recall correctly was Doris Yarbrough.

DEFENDANT: I'm sorry. You've got to repeat that. I'm sorry. I'm sorry.

THE COURT: The other witness, the third person that you had referenced earlier was Doris Yarbrough. Now she's already listed on the State's list so when I announce the potential witnesses, I will add Robert Harry O'Donnell and Abby Porter.

DEFENDANT: Yes, sir, that's right.

THE COURT: Okay. I received a request to charge from the State but that would be at the closing. You don't have an voir dire other than the list of witnesses?

MR. POWELL: No voir dire, your Honor.

THE COURT: Okay.

MR. POWELL: I do have one issue to address with the Court.

THE COURT: Okay. Yes, sir.

MR. POWELL: Your Honor, the State has no real issue or heartburn over any of the defendant's proposed voir dire questions, I can put that on the record for Your Honor so you can make the decision about whether you want to do those or not. But, what the State would ask would be for the Court to clarify the roll for Mr. Hazzard in this proceeding. I respect him trying to help the defendant, but I don't know if he has any real roll. The State's concern would be, my understanding Mr. Hazzard is ill. If I recall correctly, he used the word pneumonia this morning. If he is sitting here with the jury for any certain portion of the trial, the State would be concerned if he gets too sick to remain that it would

be grounds for some kind of mistrial or something along those lines. So, we would like Your Honor to clarify for the record what his role in this proceeding is going to be.

THE COURT: Alright. Well, Mr. Dennison, Mr. Hazzard has been kind enough to step in and to sit with you. What is your view of Mr. Hazzard to this case?

DEFENDANT: I would appreciate if you would let him stay to help me.

THE COURT: Alright. I would find that that would be to your benefit to have him as standby counsel so that if you have any questions that arise you could turn to him and look to him. So, Mr. Hazzard's roll is going to be as standby counsel.

DEFENDANT: Yes, sir.

THE COURT: Thank you, sir.

DEFENDANT: Thank you.

MR. HAZZARD: In that vein, one thing I would ask form the Court, upon pain of death or serious bodily injury I have to pick up my wife and my daughter from the airport this afternoon so if we could end today's proceedings no later than 4:00 I would be grateful.

THE COURT: Let's shoot for 4:00.

So, I intend to just announce the case as that Mr. Dennison is charge with possession with intent to distribute cocaine and possession with intent to distribute heroin and

the allegations are that these two events occurred on January 20th, 2018 in Georgetown County.

MR. POWELL: Your Honor, I advised the Court earlier today, I believe, that the State is going to go forward with PWID heroin and go forward with the lesser included possession of cocaine.

THE COURT: So just possession, okay.

MR. POWELL: Cocaine is possession and heroin is PWID.

THE COURT: Alright, let me write this down to get it right. At my age I tend to forget things. So, it's just straight possession of cocaine and possession with intent to distribute heroin?

MR. POWELL: That's correct, Your Honor.

THE COURT: Possession with intent to distribute heroin. Okay. Now, Mr. Dennison, when I introduce you to the ladies and gentlemen of the jury, I will ask that you stand and face them. Then when I get to the part about the lawyers participating in the trial of this case I will have y'all to stand and introduce yourselves. And I'm not going to have you introduce yourself because you're just standby.

MR. POWELL: Just for the record, Noel Smith, he's the chief investigator in the case. He's sitting ---

THE COURT: Do you want to introduce him as that?

MR. POWELL: It doesn't matter, Judge. I just wanted to let you know he was.

THE COURT: Okay. Alright, are they all here?

CLERK: Yes.

THE COURT: Are y'all ready?

MR. POWELL: Your Honor, you probably should introduce Mr. Smith, Officer Smith.

THE COURT: Okay. I don't see anybody else, potential witnesses, but if any of the witnesses are in the courtroom when I call your name just stand up and face the ladies and gentlemen of the jury.

Do you want to bring them up? Are they outside?

BAILIFF: Yes, sir. They're ready.

THE COURT: Okay, let's bring them in.

We're agreeable, five and five?

MR. POWELL: That's my understanding, Judge.

REPORTER'S NOTE: (Jury venire enters courtroom)

THE COURT: Alright, ladies and gentlemen, thank you for your patience while we gather together to try to begin the first trial of the week. Ladies and gentlemen, we are about to begin the jury selection in the case of State versus Carlos Anthony Dennison. As we did this morning, I will have some more questions to ask you. But, before I ask you these questions I need you to please stand and raise your right hand and let the Clerk of Court swear you in.

REPORTER'S NOTE: (Jury sworn by Clerk)

THE COURT: Thank you, ladies and gentlemen. Ladies and

gentlemen, I introduce to you Mr. Carlos Anthony Dennison. Mr. Dennison, if you will face the ladies and gentlemen of the jury. Ladies and gentlemen, this is Carlos Anthony Dennison. Now, Mr. Dennison is charged by way of two indictments. The first indictment is for possession of cocaine and the second indictment is possession with intent to distribute heroin; and he is charge by way of these indictments of these events having occurred in Georgetown County on or about June 20th, 2018. Now, he has plead not guilty to these indictments and therefore this trial is to determine whether or not the State can meet their burden of proof beyond a reasonable doubt of establishing Mr. Dennison's guilty. But, ladies and gentlemen, again this is Mr. Dennison. I need for you to please stand if you're related by blood or marriage to Mr. Dennison or if you have a close personal or social relationship with Mr. Dennison. If you do, please stand at this time.

Alright, Mr. Dennison, you can have a seat.

Yes, ma'am. Your juror number?

JUROR 142: 142.

THE COURT: Do you want to come and meet me right up here?

You are 142?

JUROR 142: Uh-huh. (Affirmative response)

THE COURT: You're Ms. Smith?

JUROR 142: Uh-huh. (Affirmative response)

CLERK: Please take a seat in the jury box.

Juror number 43, Justin Davis.

What says the State?

MR. POWELL: Please present the juror.

CLERK: What says the defense?

DEFENDANT: Please swear the juror.

CLERK: Please take a seat in the jury box.

Juror number 175, Nickolas Wynn.

What says the State?

MR. POWELL: Please present the juror.

CLERK: What says the defense?

DEFENDANT: Please swear the juror.

CLERK: Please take a seat in the jury box.

THE COURT: One alternate.

CLERK: Alright. Juror number 92, Karen Kelly.

What says the State?

MR. POWELL: Please present the juror.

CLERK: What says the defense?

DEFENDANT: Please swear the juror.

CLERK: Please take a seat in the jury box.

THE COURT: Anything concerning the matter and method of selecting the jury from the State?

MR. POWELL: No, Your Honor.

THE COURT: Any from the defense?

DEFENDANT: No, sir, Your Honor.

THE COURT: Okay. Thank you, ladies and gentlemen. Ladies and gentlemen, congratulations on being selected as our first jury. Just give me a moment, I have to address the people who unfortunately did not make the round for the first jury. I do want to thank you for your patience and time while we went through the jury qualification process, also the jury selection process. I'm going to ask you if you would to retire back to the jury assembly room and someone will be down there just shortly with some instructions for you. But, again thank you for your time and your patience. I'm going to let you exit the courtroom but if you would please do so quietly because we're going to continue to work. You may go with the bailiff.

REPORTER'S NOTE: (Remainder of jury panel released).

THE COURT: Alright, ladies and gentlemen, again congratulations on being selected our first jury for the week. Let me give you a few preliminary instructions. What you're going to be called upon in this case is you're going to hear evidence, you're going to listen to the parties present to you their evidence in the case that supports their positions and then once it's over I'm going to instruct you on what the law is that you will apply to that evidence. And then at the end of the case you will begin what's called your deliberations. Now, your deliberations will take place with all 12 of you present. And you then after the deliberations will reach a

verdict and that verdict will be unanimous, all 12 members of the jury will agree on what the verdict is in this case. I need to instruct you now that until the case is given to you to begin your deliberations, you should not discuss the case with anyone. That includes among yourselves, family members, friends, even if you go home to night and somebody who's sitting across the dinner table says, oh gosh it's so great you got selected on a jury, what kind of case is it? Very politely tell them that the Judge has instructed me that I cannot have any discussion about the case with anyone. After the case is over you can talk until you're blue in the face but until that time do not have any discussions with anyone. One of the reasons that we have that instruction to you is that you are supposed to keep an open mind throughout the trial of this case. You're not even to begin the process of deciding the issues of this case until after all of the evidence has been presented to you and I have had the opportunity to instruct you to the law that you will apply to that evidence. So, I encourage you to keep an open mind as we go through this trial. I also need to give you preliminary instruction that, you know, if I've said anything that you don't quite understand or perhaps during the trial of this case one of lawyers says something or one of the witnesses says something that you just don't think you understand and you say well I'll go home and pull Webster's Dictionary off

the shelf, you cannot do that. You cannon do any type of independent research or investigation into anything that you hear during this trial. That is because your deliberations and the decisions you make has to be based solely on the information you receive in this courtroom. So, if you -- and that includes don't even go out and try to Google my name or Google one of the witnesses, and you say I'm going to figure out who these people are ahead of time. Do not even do that because that would violate my instruction to you that you have to base your decision based on what is presented to you in this courtroom. Now, with those preliminary instructions I'm going to let you know that we're going to call it a day for y'all. I'm going to let you go home. I ask that if you would be back in the jury deliberation room by 9:30 in the morning. There will be frequently times when I have to excuse you from the courtroom so that I can continue to work with what's call matters of law with the attorneys. Given the hour that it is we're -- the things that we've got to do, I don't want to begin this case at this hour. I'd like for y'all to begin fresh in the morning at 9:30. But, again congratulations on being selected our first jury. I'm going to let you go with the bailiff. He'll show you where the jury deliberation room is and explain to you how to come and go from the courthouse. But, we'll see you back at 9:30 in the morning.

REPORTER'S NOTE: (Jury excused for the evening at

3:31PM)

THE COURT: Do you understand what jury charges are, Mr. Dennison?

DEFENDANT: No, sir.

THE COURT: Okay. When we get -- can you let go of the door?

Alright, when we get to the end of this case what we'll do is -- once all of the evidence has been presented I have to charge the jury on the law. Both sides have the opportunity to tell me, Judge, I know a particular law that I think should apply to this case and I want the jury to hear it and they give it to me, and I take a look at it. The State has given me a request to charge. This is what I've got to take a look at whether or not I'm going to incorporate it into my final charge. So, if you come up with any in your research, you just let me know what that law is, okay.

DEFENDANT: On the record I can say the King's charge. So, if I was going to do a guilty plea, a King's charge for a lesser included offense.

THE COURT: Oh, the lesser included offense charge. Okay. Alright. Keep that in mind because I will look it up but I cannot tell you right now that I would or would not charge it because that depends on what evidence is shown during the course of the trial. But, I will write that down that you want a lesser included offense charge. Okay.

Alright. Let me know as soon as you can if either side comes up with anything else you want me to do because I'm going to go ahead and start trying to prepare them.

MR. POWELL: Okay. Your Honor, what time would you like the parties back in court, 9 or 9:15 before the jury?

THE COURT: Do I have anything else that I need to hear?

MR. POWELL: I'm not aware from anything from the State at this time.

DEFENDANT: No, sir. No, sir, Your Honor.

THE COURT: Do you have anything?

MR. TODD: Your Honor, we don't have anything for tomorrow morning, so the trial would be the only thing on our schedule for tomorrow.

THE COURT: Okay. You stood as if you were going to have me to do something.

MR. TODD: No. I just wanted to let you know where we stand.

THE COURT: Okay. I appreciate that.

Alright. I'll probably be here early so if you need me, come get me, but we'll plan on getting back together at 9:30.

MR. POWELL: Alright, thank you.

THE COURT: Thank you.

(RECESS)

THE COURT: I am told that all of the jurors are here. Anything else before we bring the jury in.

MR. POWELL: Nothing from the State, Judge.

DEFENDANT: Nothing from the defendant.

THE COURT: Okay. Thank you very much. Alright, what we'll do is we'll bring the jury in. I went through the list and I usually appoint the foreman. I don't know any of these people individually, so I just looked at their educational background. I'm going to pick Gary Gates to be the foreman. But we'll bring them in, so you can let -- where's the bailiff? You can let Mr. Gates know that he's going to be the foreman so he will sit in the first seat. Everybody else can sit where they usually sit except for the alternate. He or she will sit at the end. Then what I'll do is once they come in, I will have them sworn and I will read to them a preliminary charge. After that then we'll receive the opening statements from the State. The defense has the option to give an opening statement. You can either do it now or at the end of the State's case before you present your case so that's your option. Do you know what you want to do yet?

DEFENDANT: Yes. Yes, sir. I'm sorry. Yes, sir.

THE COURT: Do you want to go ahead and do your opening statement now?

DEFENDANT: No, sir.

THE COURT: You're going to wait and save it?

DEFENDANT: I'll wait.

THE COURT: Okay. That'll be good. Alright, let's bring

them in. We can bring them in.

REPORTER'S NOTE: (Jury panel enters courtroom at 9:42AM)

THE COURT: Good morning, ladies and gentlemen. We are now going to proceed with the trial of the case. But, before we start the trial of the case, the Clerk of Court needs to swear you in. So, if you would please stand and raise your right hand.

REPORTER'S NOTE: (Jury sworn by Clerk)

THE COURT: Thank you. You may be seated, ladies and gentlemen. Ladies and gentlemen, before we begin the trial, I want to tell you that this trial will probably be different from what you might expect. Many people do not have the chance to attend an actual court session as you are doing now. And they think from watching television or movies or reading books that trials are always full of high drama, intense action and riveting circumstances. While all of these things may be true at times, this trial is not for entertainment. It is a fundamental part of our democracy. And a trial is often slow, deliberate and repetitive just the opposite of what you have seen on television or in movies or read about in books. This courtroom is a place of honor dedicated to the protection and preservation of citizens rights through what many have called the greatest justice system ever created. The parties appearing before you, especially the attorneys are advocates and they represent -- the parties that they represent are

first and foremost they are officers of the Court, sworn to uphold the integrity and fairness of our judicial system. You should expect them to be professional, competent and ethical in their representation and remember that you have taken an oath to try this case and reach a fair and just verdict. You are also expected to be professional, reasonable and ethical. I thank you for accepting the important responsibility of jury service and for your contribution today to our justice system. Now, what I'm going to say now is intended to serve as an introduction to the trial of this case. These remarks are not a charge of the law in this case. I will instruct you on the law applicable to this case at the end of the trial before you retire to consider your verdict. This is merely an explanation of the procedures that we will follow in this trial of this case so that you may better understand what is happening.

The defendant in this case is charged by way of indictments filed with this Court for the crimes of possession of cocaine and possession with intent to distribute heroin. The elements of these will be explained to you later. These indictments are simply the charge by which the case is brought into court and they are not in any sense evidence of any of the allegations contained in them. The defendant has plead not guilty to these indictments. The State therefore has the burden of proving each of the elements of the indictments

beyond a reasonable doubt. And it will be your duty, ladies and gentlemen, to decide whether the State has met that burden. Your purpose as jurors is to find and determine the facts. You are the sole judge of the facts. If at any time I make any comments regarding the facts, you must disregard my comments. You are to determine the facts from the testimony you hear and other evidence that is introduced in this court. And it is up to you to determine the inferences which you may properly -- feel is properly drawn from the evidence. But, it is especially important that you preform your duty of determining the facts diligently and conscientiously because ordinarily there is no way to correct an erroneous determination of facts made by a jury. On the other hand, with equal emphasis, the same law that makes you the judge of the facts, makes me the judge of the law. The law as given by the Court is the only law that you may consider. You must accept and follow it even though you may disagree with it. I cannot tell you what the facts are, and you cannot disagree with me about what the law is or what the law ought to be. Your job is to take the law as I give it to you and apply it to the facts as you find them from the testimony of witnesses and any other evidence that is introduced. After doing that you will render your verdict. A true and just verdict in the solemn oath you have just taken as jurors. Now, until I advise you to begin your deliberations you must not discuss

the case with anyone, including your fellow jurors, friends, family members and anyone involved in this case. This includes discussions face to face, and by telephone, e-mail, texts, blogs, or any other method of communication. You may not use a computer, a cell phone, or other electronic device with communication capabilities at any time while in the courtroom or during your deliberations. During your breaks for meals or overnight if necessary, you may use these devices; however, you may not at any time use these devices to get or send information about this case. This includes information about a party, a witness, an attorney, a court officer, news accounts, research on any topic, any topic you may think would be helpful in deciding the case or any testimony that has been presented by any witness. I do not anticipate there being any type of media coverage, but during this trial do not read, listen to, or watch any news reports about this case. This includes anything that may be in the newspapers or on the internet, radio or television. You must not consider anything you may have read or heard about this case outside of the courtroom whether before or during the trial. Now, after the trial is submitted to you, you must discuss it only in the jury room with your fellow jurors. The attorneys and the parties have been advised that they are not to talk to you at all. So, if you see anyone involved in the case and they do not even say hello to you, they’re not being

unfriendly or rude to you, they are simply following my instructions.

It is important for you to keep an open mind and not decide an issue in this case until all of the evidence has been presented, the parties have made their closing arguments, and I have instructed you on the law of the case. It is your solemn responsibility to determine the guilty or innocence of the defendant and your verdict must be based solely on the evidence as presented to you in this trial and on the law as I instruct it to you and at the close of the case. Now, in just a moment the solicitor will make what is called an opening statement in which the solicitor will explain to you the issues in this case, or at least what the solicitor thinks the issues are in this case. The defendant may also make an opening statement, but he also has the right to wait and make an opening statement after the State has closed their case and he has exercised that option. So, he will receive -- so you may receive his opening statement at that time. Now, I tell you that the opening statements, they are not evidence in this case. It is only the contention as to what the issues are in this case. The evidence in this case will be presented to you by the testimony of sworn witnesses from the witness stand and/or any exhibits that may be introduced in this trial. From time to time, ladies and gentlemen, you may hear something like, Your Honor I believe we have a question of law

or a matter of law to discuss with you or someone may say, Your Honor may we approach the bench or sometimes I myself may find it necessary to excuse you from the courtroom for a short while so that the attorneys and I -- the parties and I can discuss what is known as matters of law. The reason for this is because you are the sole judge of the facts of the case and sometimes when I am discussing matters of law with the parties it may be necessary for me to make some kind of comment on the facts in connection with ruling on whether a particular law applies or not. I'm not supposed to tell you what I think the facts are, so I will excuse you from the courtroom while these discussions take place so that you will in no way be influenced by any comment that I make about the facts in ruling on matters of law. Now, ladies and gentlemen, in determining what the true facts are in this case, you must decide whether or not the testimony of the witnesses, or of a witness, is believable. It is my responsibility to rule as a matter of law of whether a certain testimony is admissible or not but once a testimony is admitted whether or not you believe it is solely for you to determine. In determining whether to believe a witness you have the right to consider the interest of any witness, the bias of any witness, the prejudice of any witness, the opportunity for the witness to have seen the matters and things about which the witness may testify and the way the witness acts on the witness stand.

You have a right to consider anything that is in the record that will help you evaluate the testimony of the witnesses. That means that it is your duty to pay close attention to the witnesses, to observe the witnesses, to listen to the witness and to pay close attention to the parties and the Court. So, do not let you thoughts wonder, but give strict attention to the testimony in the case so that at the end of the testimony after all the arguments are made, the charge of the law by the Court is given to you, that you will then be in a position to determine what the true facts are, apply the law to those facts, and thus render a true and just verdict. Now, it is your added duty, Mr. Foreperson, to preside in the jury room and to be the jury spokes person here in this courtroom. It will also be your duty to write the verdict in this case, but I will give you further instructions about that at the conclusion of the case.

In order to preserve everyone's rights I will allow the parties to object to anything that I have just now stated to the jury. Any objections from the State?

MR. POWELL: None from the State, Judge.

THE COURT: Any from the defense?

DEFENDANT: None from the defense, Judge.

THE COURT: Thank you. So, we will now receive the State's opening statement.

MR. POWELL: Thank you, Judge.

Good morning, everybody. You may be wondering why we're here today or what this case is all about. You heard the Judge talk about the two indictments, but I think the real reason that we're here today is the problem described as easy money. Somebody making a decision to make easy money instead of the repeating way of working what somebody might call a routine normal job. Certainly, easier than being a schoolteacher or working in an office, working in a grocery store, working in a factory, different things of that nature. Because, you see, what the State's position is, is that this defendant, Mr. Dennison, decided that drugs was the area that he wished to get involved in. The police department were called in to go to an unrelated scene on June 20th. I'm going to try to go through the facts real briefly that we expect to show you with the evidence that we have. The police were dispatched to an unrelated scene here in Georgetown back in June 20th, 2018, last year. Officer John Gregory, who we intend to call to testify in a minute, he responded to this scene. He was talking to the individual, they were sent there to deal with at the address. And he looked over I the next-door yard and saw Mr. Dennison there in that yard. And what he remembered was that he received information from Noel Smith, an officer at the Georgetown Police Department, that Officer Smith had obtained a couple of unrelated arrest warrants that were outstanding on that 20th of June, and he

knew those warrants were open. So, while he was dealing with the unrelated individual, he sent word to Officer Smith that Mr. Dennison was in that next-door yard. Officer Smith comes to the scene, arrests Mr. Dennison on those open warrants and like police officers always do, they cuff him, they search him, they look for weapons, guns, knives, look for illegal drugs, things of that nature; and what did Officer Smith find on the defendant? He found heroin and cocaine and it was on his person. They found heroin in multiple baggies, so for that reason along with some others that you'll hear about, they charged him with what we call PWID heroin. PWID is P-W-I-D, possession with intent to distribute are what those letters stand for. Basically, he was arrested for having heroin in his possession and our position is he intended to sell that heroin to someone else. Four baggies, four different sells. He cocaine in one bag, so they charged him with possession of the cocaine. That's what the trial is about today, whether the defendant knowingly had those drugs in his possession in Georgetown County and had the heroin in his possession with the intent to sell it to somebody, what we call distribution, and whether he knowingly possessed the cocaine. We're going to present testimony today. Our job is to prove to you beyond a reasonable doubt that those two crimes did take place and did happen. I'm confident that the testimony and evidence that we present today will leave you

firmly convinced that he's guilty of both charges. Thank you.

THE COURT: Is the State ready to call their first witness?

MR. POWELL: Yes, Your Honor.

The State would call Officer John Gregory to the stand.

THE COURT: Come right up here and let the Clerk of Court swear you in.

JOHN GREGORY, HAVING BEEN FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

CLERK: Please be seated and state your full name for the record.

MR. GREGORY: John A. Gregory, Jr.

DIRECT EXAMINATION OF OFFICER GREGORY BY MR. POWELL:

Q: Good morning, Officer Gregory.

A: Good morning.

Q: Where are you currently employed, sir?

A: Georgetown City Police Department.

Q: What's your position there at the present time?

A: I am the overall control supervisor.

Q: What's your rank there?

A: Staff sergeant.

Q: How long have you been with the Georgetown Police Department?

A: In totality probably about nine years.

Q: Any other law enforcement experience with any other

agency?

A: I worked for Horry County for two years.

Q: Police Department or Sherriff's Department?

A: The police department and I worked for the Georgetown County Sherriff's Office for about two years.

Q: Were you working back in June 20th, 2018?

A: I was.

Q: What took place that day?

A: On that day myself and another -- at that time I was the CID Supervisor, in charge of detective including narcotics and general investigations, which totaled about five of us. On that day we went to a call for service to help out patrol. Patrol was kind of thin and spread out and there was a call in reference to threats and someone chasing someone. We located the victim on Congdon Street in between the railroad tracks and South Carolina Federal Credit Union in the street and started speaking to him in reference to what was going on and waiting for a patrolman to show up.

Q: Did you notice anything going on other than talking with this victim at that time?

A: As I was standing there, I observed Mr. Dennison standing in the yard to the south of me, standing next to a porch. I knew that he had arrest warrants.

Q: Were you familiar with which officer obtained the warrants on him?

A: I signed -- I was familiar with Detective Smith's investigation because I supervise Detective Smith and I signed a couple of those warrants.

Q: When you saw Mr. Dennison and being aware of these other warrants, what did you do at that point in time?

A: I called Detective Smith, informed him that Mr. Dennison was in the location and informed him to come and arrest him.

Q: What did you see in regards to Mr. Dennison after you notified Officer Smith about his presence there? What did you see occur after that?

A: Mr. Dennison was unaware. He seemed unaware. He looked at us a couple times. He didn't seem like he was too concerned with what we were doing. At the point -- at some point he has -- it looked like he had a bag or a backpack and he starts to -- he started to kind of put his things together. I couldn't see, it was too far away, but he was messing with a bag and about that time Detective Smith shows up.

Q: What did you see, if anything, what did you see Detective Smith do?

A: Well, I told Detective -- I pointed out where Mr. Dennison was at in relation to where we were at, and as Mr. Dennison started to walk away. Because Detective Smith had his back to him and I was staring at Mr. Dennison, I informed Detective Smith that Mr. Dennison was walking towards the south away from where we were at.

Q: What did Officer Smith do at that point?

A: Officer Smith and some other police officers that were there confronted Mr. Dennison. I did not see them actually put handcuffs on him because there was a car in between them -- in between us. Mr. Dennison walked in front of the car, which I lost sight of, and at that point another police officer and Mr. -- then Detective Smith confronted him. By the time I walked over and finished dealing with what we were dealing with, Mr. Dennison was in handcuffs.

Q: You said this took place in the City of Georgetown, would that be Georgetown County also?

A: Yes.

MR. POWELL: I have no further questions of this witness, Judge.

THE COURT: Thank you very much.

CROSS EXAMINATION OF OFFICER GREGORY BY MR. DENNISON:

Q: Mr. Gregory.

A: Yes, sir.

Q: You stated that you had a couple of those warrants and you signed them.

A: Yes, sir.

Q: Out of all the years, nine years, how many times monthly do you get warrants signed?

A: Do I get warrants signed?

Q: Yeah.

A: On average?

Q: Yeah.

A: Probably, in the supervisory roll, probably six to seven times.

Q: Six to seven, so you're familiar -- do you take the warrants to Judge O'Donnell himself?

A: Yes.

Q: And you have them signed?

A: Yes.

DEFENDANT: Your Honor, the exhibits, the warrants, I want to show the jury the warrants. I'm sorry. But I want to show them the warrants were the Judge signed at.

THE COURT: You're on cross examination of him so you have a lot of leeway with cross examination so if you have the documents, you can show him and see if he can identify them.

DEFENDANT: I'm sorry. I'm sorry. I'm so sorry.

BY MR. DENNISON:

Q: Mr. Gregory, here's your name. You signed that right there?

A: Yes.

Q: Whose signature is that? By law, whose signature is that?

A: That's Judge O'Donnell's signature.

Q: That's Judge O'Donnell's signature?

A: Yes.

Q: Okay. So, whose signature is this one?

A: That's Judge O'Donnell's signature.

Q: Okay. Whose signature is this one? Remember you're under oath and the jury is going to look at these signatures.

A: That's Officer Steven Church -- and I'm not an expert on handwriting.

Q: You sure not. You sure not. Okay.

MR. POWELL: Excuse me, Your Honor.

THE COURT: Excuse me one second, Mr. ---

BY MR. DENNISON:

Q: Whose signature ---

MR. POWELL: Can the defendant give the officer a little bit of breathing room there?

THE COURT: Yeah. Allow the ---

BY MR. DENNISON:

Q: Is that Judge O'Donnell's ---

THE COURT: Excuse me one second, one second.

DEFENDANT: Sorry.

THE COURT: This lady right here is a court reporter. She's taking down everything that's said. So, when you're asking the witness questions allow them an opportunity to answer and don't step on them with other words.

DEFENDANT: I'm sorry.

THE COURT: Because that way she's got to make a good record, as well as give the witness an opportunity to actually answer the question.

DEFENDANT: I apologize.

THE COURT: Alright, thank you very much.

BY MR. DENNISON:

Q: That's Judge O'Donnell's signature?

A: Judge O'Donnell's signature.

Q: All these is?

A: Yes.

Q: Well the jury gone look at these, sir. Do you really believe that they gone see this as a signature?

A: Would you like for me to explain what happens when I sign these?

Q: You can explain.

A: I hand it to the Judge. The Judge asks me if I swear and affirm. I say yes. The Judge signs it in front of me and I take them.

Q: Okay.

DEFENDANT: Your Honor, I would like to put this in evidence.

THE COURT: You going to show it to him?

DEFENDANT: Yes, sir.

THE COURT: Alright. In order to admit something into evidence, you have to lay a foundation for it. So, do the foundation first.

DEFENDANT: I ---

THE COURT: You show it to the witness, let him see if he

can lay the foundation for it to be admitted.

MR. POWELL: I just haven't seen it, Judge. I'm not sure what ---

THE COURT: You need to show it to opposing counsel first.

DEFENDANT: I'm sorry.

MR. POWELL: It's okay.

BY MR. DENNISON:

Q: Mr. Gregory.

A: Yes, sir.

Q: Nine years you worked with Judge O'Donnell getting signatures.

A: Yes, sir.

Q: About nine times a month. You recognize his signature. Do you recognize that signature?

A: Yes.

Q: That's his signature?

A: Yes.

Q: Okay. So, ---

DEFENDANT: Your Honor, I would like to put this in exhibit.

MR. POWELL: Is he asking to put that into evidence, Judge?

THE COURT: Are you going to -- you can have it marked for identification or you can have it marked and try to get it

into evidence. Which one do you want ---

MR. POWELL: Your Honor, I haven't seen the other documents he showed the officer.

DEFENDANT: It's the same warrants. It's the same warrants.

THE COURT: He hasn't offered them yet.

MR. POWELL: Okay. I just didn't see what they were before he walked up there.

THE COURT: Alright. So, we're talking about the document that's in your left hand right now?

DEFENDANT: Yes, sir.

THE COURT: Okay. Have you seen the document in his left hand?

MR. POWELL: Yes, Your Honor.

THE COURT: Alright. Do you want to admit it, or do you just want it marked for identification?

DEFENDANT: I wanted it admitted into evidence.

THE COURT: Any objection to it being admitted into evidence?

MR. POWELL: No, Your Honor.

THE COURT: Alright. It will be defense one. Give it to the lady, let her put a sticker on it. Allow her an opportunity to actually mark it before you start talking. Okay. Give her just a second.

(DEFENDANT'S EXHIBIT NUMBER ONE

IS ADMITTED INTO EVIDENCE)

THE COURT: Okay. Yes, sir.

DEFENDANT: Your Honor, I'm done with this witness.

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

MR. POWELL: Yes, Your Honor.

REDIRECT EXAMINATION OF OFFICER GREGORY BY MR. POWELL:

Q: Officer Gregory, have you obtained arrest warrants from cases you've been involved with?

A: Yes.

Q: How do you generate them and get the city judge -- first of all, excuse me, what Judge do you normally go to to have warrants signed?

A: Judge O'Donnell or the associate municipal judge.

Q: Does a municipal judge have ---

A: Yes, magistrate. We have to use a municipal.

Q: I want to talk about the arrest warrants some, but I want to get some information in about how you guys do it. If you're going to generate an arrest warrant; how do you do that?

A: We sit at our desk, formulate what's called an arrest affidavit. We forward the arrest affidavit, via e-mail to the Clerk of Court for the City. The Clerk of Court types up a warrant. The warrant is then -- it's a blank warrant. It has the name; it doesn't have any signatures to it. So, what happens then is we take the warrant and either we meet with --

- sometimes we meet the Judge at his office or we -- or the Judge inside the municipal courtroom, the Judge comes there, and we present it to him. He asks us to swear and affirm like I just did to the truthfulness of the warrant. You say yes. At that point the Judge either signs it or he doesn't. After he reads it he either signs it or he doesn't sign based on what he's read.

MR. POWELL: May I approach the witness, Judge?

THE COURT: Yes, sir.

BY MR. POWELL:

Q: Officer Gregory, is this one of the documents the defendant showed you earlier?

A: It is.

Q: Is it an arrest warrant?

A: It is.

Q: What's the number of the arrest warrant at the top?

A: 2018A22202002 -- correction, I have dyslexia, 120.

Q: You're looking at -- is it two pieces of paper that you're looking at?

A: I am.

Q: Is it both the same warrant?

A: It's the same warrant.

Q: What's written down at the bottom of the front page?

A: Original.

Q: What's written down at the bottom of the second page?

A: Defendant copy.

Q: When the clerk generates the arrest warrant do they generate both of those copies?

A: Yes.

Q: Do you go to the clerk's office after they say they're ready do you actually sign both of those?

A: Yes.

Q: The Judge will sign both of them?

A: Yes.

Q: Is this another document that the defendant showed you earlier and asked questions?

A: It is.

Q: What is it? Is it an arrest warrant?

A: It's an arrest warrant.

Q: Take your time, but please read the arrest warrant number into the record.

A: 2018 Alfa 2220200133.

Q: Is it two pieces of paper?

A: There are.

Q: Same arrest warrant number on both?

A: Last ending number is 133. Yes.

Q: What's typed down at the bottom of the front page?

A: Original.

Q: What's typed down at the bottom of the second page?

A: Defendant copy.

Q: Once again, if you went to sign an arrest warrant at the city judge, clerk's office would you sign both of those copies?

A: Yes.

Q: Would the Judge sign both of those copies?

A: Yes. Although, just to point out, this is the one that Lieutenant Church signed.

Q: The one ending in 120 was your signature?

A: Yes.

Q: The one ending in 133, the first page you see what looks like Officer Church's signature on the affidavit?

A: Yes.

Q: How about the second page? Does that look like his signature on the second page?

A: Yes.

MR. POWELL: Your Honor, at this time we'd like to introduce both of these affidavits into evidence.

THE COURT: Any objection?

DEFENDANT: Your Honor, I object. I object because those warrants are already in.

THE COURT: Alright. I'm going to allow it. Anything with the admissibility that started at the trial of the case -- do not assume that anything we done in pretrial is part of the evidence, so I'm going to allow it. Go ahead and ---

MR. POWELL: I'll let the clerk mark them, Judge. I

apologize, Judge, I should have had them marked for identification perhaps. Will you mark those, please, and I'll read the exhibit numbers into the record? These are going to be State exhibits, correct, Judge?

THE COURT: Yes, sir.

MR. POWELL: Your Honor, I've premarked some. The clerk has a question, that perhaps you should address. I've premarked some exhibits with her before we got started.

THE COURT: Okay.

MR. POWELL: I believe we had something yesterday at the hearing that was number one for the State so I think she marked three things as number two, three and four. In mind I would mark those as five and six and they would go in with those numbers and obviously the record would show that it's the first thing I've put in as a trial exhibit. Is that the correct way that Your Honor wishes to do it?

THE COURT: She can proceed like that with those documents now that we've made that part of the record.

MR. POWELL: Yes, sir, Your Honor.

THE COURT: I would not want the jury to be confused with us starting with an odd number.

MR. POWELL: I want to make sure I do it the you wish me to, Judge.

(STATE'S EXHIBIT NUMBER FIVE AND SIX

ARE ADMITTED INTO EVIDENCE)

MR. POWELL: Your Honor, for the record, warrant number 2018A2220200120 is marked as State's exhibit number six and is introduced into evidence. I believe it's the first trial exhibit but for the record it's identified as number six.

THE COURT: Uh-huh. (Affirmative response)

MR. POWELL: The second item is arrest warrant number 2018A2220200133, it's marked for identification as State's exhibit number five. I believe it's the actual second trial exhibit.

THE COURT: Thank you, sir.

MR. POWELL: I have no further questions for Officer Gregory, Your Honor.

THE COURT: Anything new that you need to cross examine him?

DEFENDANT: Yes, Your Honor.

THE COURT: Any new matters that he brought up.

DEFENDANT: I have exhibit number five and exhibit number six.

RECROSS EXAMINATION OF OFFICER GREGORY BY MR. DENNISON:

Q: Now, you said, Mr. Gregory, that the signatures are the same. Your signatures -- there's no difference in your signatures. But why you don't see in Robert Harry O'Donnell's letters, the R, the O'Donnell. What you don't see none of the letters in his name? Look at your signature. Look at Steven Church's signature, you can see that S, you can see the C, you

can see the signature as in the name. Okay. Robert Harry O'Donnell, O'Donnell, these warrants you see the letter M for Harry O'Donnell. I mean, you sure you going to Robert Harry O'Donnell and get the signature from him when --- I'm sorry. I'm showing you exhibit number one. Now, here on the bond paper you see so clearly. I mean, you can see clearly the Robert name do not look like a Robert, but you can see the O'Donnell distinctively. I mean, you see O'Donnell and when you come over here to exhibit number five and number six, I mean, how -- and then on exhibit number five defendant's copy, you see three -- I'm so sorry. But, how you see Robert O'Donnell in these signatures? How you see it? When you can clearly see it on exhibit one.

A: I can't attest to these because I wasn't there when these were signed. The reason I can say that that is his signature is because I was standing there when he signed it.

Q: You were standing there. And who else was standing there when he signed it?

A: Nobody else.

Q: Nobody else. So, how could you tell me and the jury that we supposed to easily believe that he signed those papers because you said he signed them?

A: Then that's an issue that the people are going to have to take up. I was standing there when he signed it. I swear and affirm that I was telling the truth. He signed these warrants

in front of me.

DEFENDANT: I'm finished with this witness, Your Honor.

MR. POWELL: Nothing further of this witness, Judge.

THE COURT: Thank you, sir. You may step down. Watch your step when you're stepping down.

Is the State ready to call their next witness?

MR. POWELL: Yes, Your Honor. The State would call Officer Noel Smith.

THE COURT: Come right here and let the clerk swear you in.

NOEL SMITH, HAVING BEEN FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

CLERK: Please be seated and state your full name for the record.

OFFICER SMITH: My name is Noel Smith.

DIRECT EXAMINATION OF OFFICER SMITH BY MR. POWELL:

Q: Good morning, Officer Smith.

A: Good morning.

Q: Officer Smith, where are you currently employed?

A: Georgetown City Police Department.

Q: How long have you been working with Georgetown Police Department?

A: About six years.

Q: Any other prior law enforcement experience?

A: Florence County Sheriff's Office back in '97, Georgetown

County Sheriff's Office in 2000.

Q: Are you currently assigned to any other agency?

A: The 15th Circuit Solicitor Drug Enforcement Unit here in Georgetown.

Q: And what is the 15th DEU?

A: It's a joint task force between the city police department and the sheriff's office along with Horry County.

Q: What is its primary objective?

A: Narcotics.

Q: What's your present position with the Georgetown Police Department?

A: Detective.

Q: During your career have you had any experience in other areas of narcotics?

A: Yes, sir. Off and on for the last 15 years.

Q: Were you assigned to DEU back in March of last year?

A: I was not at that time.

Q: Were you assigned to DEU back in June of last year?

A: No, sir.

Q: It just happened recently?

A: Yes, sir.

Q: During your years as an officer, specifically as a narcotics officer, have you ever dealt with cases with heroin?

A: Yes, sir.

Q: Ever dealt with a heroin user?

A: Yes, sir.
Q: Ever had an opportunity to deal with heroin sellers?
A: Yes, sir.
Q: Are you familiar with the amount of heroin that would be in a single dosage, the amount somebody would actually use?
A: Probably about a tenth of a gram, depending on your location, Florence may do it a little bit different from Georgetown versus Charleston; but about a tenth of a gram.
Q: So, is heroin a powder? How is heroin normally used? What does is look like?
A: It's an off-white powdery substance.
Q: Are you talking about a very small amount of powder?
A: A very small amount.
Q: During your experience, in what ways have you seen users consume and take heroin?
A: The way they package it? Is that what you're saying?
Q: No. The way they actually take it. The way they ---
A: They can inject it, take a spoon, burn the spoon with the product on the spoon, take a needle, a syringe, take that inject it in a vein whether it be in your foot, whether it be in your arm, whether it be in your neck, several ways you can do it.
Q: During your experience, have you ever seen the actual amounts that buyers normally would purchase?
A: Yes, sir.

Q: And how much would they -- how many doses would they normally buy of heroin in your experience?
A: For personal use?
Q: Yes, sir.
A: They may use a gram, two grams at the most.
Q: Have you dealt with heroin being sold before?
A: Yes, sir.
Q: How do heroin sellers -- how do they sell their products? How do they package it? What ways have you seen?
A: They may use little small plastic baggies you can buy out of any Dollar General, Wal-Mart, etcetera. They may use newspaper. They may use notebook paper, or they may use like little lotto slips, little tickets you can buy out of the convenient store.
Q: Have you ever seen plastic baggies used to package heroin?
A: Yes, sir.
Q: Have you ever seen plastic baggies used for cocaine?
A: Yes, sir.
Q: During your experience as a narcotics officer, have you ever seen heroin mixed with anything else?
A: Fentanyl. Some people may use baking soda and basically these are the cuts that you're going to put on the drug itself, to dilute the drug is what I'm trying to say.
Q: It gives them more to sell?
A: Yes, sir.

Q: On June 20th, 2018 at that point in time did you know who Mr. Dennison was?

A: Yes, sir.

Q: Had you had a chance before then to obtain two arrest warrants on him?

A: I did.

MR. POWELL: May I approach the witness, Judge?

THE COURT: Yes, sir.

BY MR. POWELL:

Q: Officer I'd like to hand you what's been introduced into evidence as State's exhibit number five and see if you recognize this.

A: This is the arrest warrant.

Q: What's the date of the Judge's signature on it?

A: It's going to be for the March 9th, 2018.

Q: And what is the charge in that arrest warrant?

A: It's going to be possession with intent to distribute heroin.

Q: Please take a moment, read the affidavit, please.

A: On March 8th, 2018 the City of Georgetown Police Department Criminal Investigations Narcotic Division conducted a controlled by of what is believed to be heroin from [redacted] North Congdon Street in the City of Georgetown. The aforementioned division used a confidential informant who was under the complete supervision of said division throughout the process.

The informant purchased from Carlos Dennison who was on the property outside of the residence. The investigations narcotic unit provided the confidential with U.S. currency to make a controlled purchase. The confidential informant gave Carlos Dennison provided monies, in return Dennison gave the informant approximately 2.58 grams of an off-white powdery substance believed to be heroin. This being against the peace and dignity of the State of South Carolina.

Q: Once again, take your time. Sometimes ---

DEFENDANT: Your Honor, I'd like to object. I move for a mistrial. They're speaking about a charge ---

THE COURT: Excuse me.

Alright, ladies and gentlemen, we have question of law that has to be taken up outside of your presence. If you would, please do not have any discussions with anyone about anything involving the case but you may retire back to the jury room.

REPORTER'S NOTE: (Jury retires to jury room at 10:25am)

THE COURT: Yes, sir.

DEFENDANT: Your Honor, the State is presenting evidence on the charge I'm not accused of and that charge does not nothing related to this charge that I'm for trial now. Talking about a distribution that I'm not guilty of, also that has nothing to do with this trial.

MR. POWELL: Your Honor, it's our position that he

brought this matter up and opened the door. He started questioning the officer's integrity about signatures on arrest warrants. We asked to put that into evidence based on him opening that door. They're in evidence and certainly the jury has the right to consider them and take them back to the deliberation room and read them. They're evidence that's been entered in.

THE COURT: Reply?

DEFENDANT: Your Honor, I didn't open a door to that allegation. I only asked about the signatures and that's why I move for a mistrial. They bringing up things that are needed pertaining to my case.

MR. POWELL: Your Honor, my turn?

THE COURT: Yes, sir.

MR. POWELL: Your Honor, it's the State's position that he's attempted pretrial and today in cross examination to attack the validity of the two outstanding arrest warrants that were the basis of the June 20th, 2018 arrest that allowed the State to search, without a search warrant, the defendants person in which they discovered the drugs that are what this trial is about by attacking the officers integrity and validity of the arrest warrant. We believe he has definitely opened up the door for what those arrest warrants were about, and we have the right to establish everything to do with them in response to the door being opened by him.

THE COURT: Your Honor, I'm --- I'm sorry. I'm not asking the witness for the validity of the warrant, I'm not asking about the issue itself, the charge. I'm just trying to prove the signatures on the warrant. I never opened the door for them to speak of, you know, the warrant and the details of the charge.

THE COURT: Alright. I'm going to deny your motion at this time. I think you have opened -- your trial strategy as I understand it from pretrial as well as what you've done so far, is you are attacking the prior validity or the prior arrest. I do agree that the State does not need to run that rabbit out into the middle of the field. I think it does has the potential of diverting the jury from the facts upon which the State must prove beyond a reasonable doubt for the crimes of which you're being tried. But I don't believe that the State has gone that far in order to warrant a mistrial. But you were the one, you were the one that made these documents an issue. You have allowed these documents into evidence. They're going to go back to the jury. They're going to sit there and they're going to read exactly what this gentleman has been asked to publish. He has not said anything else other than what is in the documents that you have allowed into evidence. There has been no harm to you so far. Are you following me?

DEFENDANT: Yes, sir.

THE COURT: So, the more you make reference to these documents, in my humble assessment, draws attention to the other parts of the document. Okay.

MR. POWELL: Yes, sir, Your Honor.

MR. HAZZARD: Court's indulgence, Your Honor.

DEFENDANT: Your Honor, can I have a curative instruction to the jury about the allegations in the warrant?

THE COURT: Have you written me one up to take a look at?

Well, let me put it to you this way, if you come up with one, I will consider it. You know but I don't feel that at this juncture I think I've admonished the State that, you know, so far all they've done is just publish what's in the document. They have not gone into anything other than that and these documents are going to be in the back anyway with them. So, I don't think that the State has gone to the point to where they need a curative instruction. But if you devise one, I'll be more than happy to consider it and we can make it part of the jury charge.

DEFENDANT: Alright, Your Honor. Alright.

THE COURT: Okay. Thank you. Anything else?

MR. POWELL: Your Honor, I will -- we have published the one document. I wish to publish the other one as well. I can pass it to the jury, pass it around or have the officer read it. I just want to give you a heads up so if you wish to tell me something in advance of me trying to do it.

THE COURT: Well, what I would -- I would prefer but the State does not have to do this, and I would then allow the defense to make the necessary objection and hear their argument. I would -- I think I would with the other document, more general approach or broad approach of do you see anything defective, you know, I'm not -- I don't want to be in the position where I'm telling the State how to try their case. But my understanding is that a municipal judge has to have probable cause which goes to what's in the affidavit and this gentleman if he's familiar enough with the rules and procedures you can approach it that way without publishing the actual detailed facts. They're going to have the facts in the back.

MR. POWELL: Yeah, the affidavit. The State's position would be that the affidavit -- the four corners of the affidavit is what constitutes probably cause for the judge signing the arrest warrant.

THE COURT: Okay. Alright. I mean, if you want to publish it I will allow you to publish it but not go beyond the facts of it since he's not on trial for those cases, he's just contesting the validity of the search warrants.

MR. POWELL: Yes, Your Honor.

THE COURT: Anything else before we bring in the jury?

DEFENDANT: Your Honor, for the record, I object to anything they say about the warrant. I'm just letting that be

on record.

THE COURT: Say that one more time I didn't hear you.

DEFENDANT: I'm objecting to anything that he says about the warrant in this case. I'm objecting, objecting to it.

THE COURT: Are you going to say anything about the warrants?

DEFENDANT: No, sir. I'm just going to keep asking about the signatures.

THE COURT: Well, that's part of the warrant.

DEFENDANT: Okay. Okay.

THE COURT: How are you going to distinguish?

DEFENDANT: I'm sorry, Your Honor. I'm done.

THE COURT: Alright. Okay. The jury is out, it's a little bit quick for our first break but do you want to go ahead and take a break now while they're out as opposed to bringing them back in for about 15 minutes?

MR. POWELL: That's fine with the State.

THE COURT: Mr. Dennison?

DEFENDANT: That's fine. That's fine.

THE COURT: Okay. Let's step down for about 10 or 15 minutes, this will be the morning break and that way we won't have to break again. Sir, you're in the process of giving testimony so please do not have any discussions with anyone about the substance of your testimony but you may step down. We'll come back.

(RECESS)

THE COURT: Anything else before we bring the jury in?

DEFENDANT: No, sir, Your Honor.

MR. POWELL: Nothing from the State.

THE COURT: Just need to remind you, you remain under oath.

OFFICER SMITH: Yes, sir.

THE COURT: Thank you.

REPORTER'S NOTE: (Jury enters courtroom at 10:46am)

THE COURT: Alright. The foreperson has provided the Court with a note that we will make a court's exhibit to this proceeding, that they have asked that some of the jurors are having difficulty hearing. So, everybody try to speak up as well as remember that we are making a recording of everything that happens so try not to speak over each other. So, try to really speak up so that everyone can hear you.

Madam court reporter, make that a court's exhibit.

(COURT'S EXHIBIT NUMBER TWO

IS MARKED FOR IDENTIFICATION)

THE COURT: Is the State ready to proceed?

MR. POWELL: Yes, Your Honor.

THE COURT: Yes, sir, you may continue.

MR. POWELL: May I approach the witness, Judge?

THE COURT: Yes, sir.

BY MR. POWELL:

Q: Officer Smith, I'd like to hand you what was previously introduced as State's exhibit six and see if you recognize that.

A: Yes, sir.

Q: Is that an arrest warrant that you obtained last year on Mr. Dennison?

A: Yes, sir.

Q: Back in March I believe.

A: March 1st, 2018.

Q: Can you please read the affidavit and publish it to the jury?

A: That on March 1st, 2018 the City of Georgetown Police Department Criminal Investigation Narcotics Division conducted a controlled buy of what is believed to be heroin from [redacted] North Congdon Street in the city of Georgetown. The aforementioned division used a confidential informant who was under complete supervision throughout the transaction. The informant made contact -- or made the purchase from Carlos Dennison who was on the property outside the residence. The investigation narcotics unit provided the confidential informant with U.S. currency to make the purchase. The confidential informant gave Carlos Dennison provided monies and in return Dennison gave the informant out of his blue in color tote back 0.91 grams of a powdery substance believed to be heroin. This being against the peace and dignity of the

State of South Carolina.

Q: Thank you, officer. Officer, were you working June 20th, 2018?

A: I was.

Q: What happened on that day?

A: I was informed by Staff Sergeant Gregory that they were on call on North Congdon Street. I was on the other side of town and he advised that Carlos Dennison was near the location of [redacted] North Congdon Street.

Q: What did you do as a result of getting that information?

A: I traveled to the location. I saw Mr. Dennison. I went up to him and advised him that he had an arrest warrant, two arrest warrants at which time he didn't know what I was talking about, but I told him he had active warrants. We did confirm through central dispatch that the warrants were still active. And we cuffed him at that particular time, searched him and transported him to the Georgetown County Detention Center.

Q: Were the two arrest warrants that you just talked about, were those the two warrants that you previously read to the jury?

A: Yes, sir.

Q: From back in March of 2018?

A: March 1st and March 8th, 2018.

Q: When you detained the defendant, what did you find when

you did the search?
A: We did a pat down search of Mr. Dennison to make sure he didn't have any weapons, any guns or knives, any contraband, at which time in his front right pocket there was a small container, like a lip balm container. We had opened that and found little plastic baggies of what seemed to be narcotics.
Q: What did you believe those four baggies contained?
A: I believe they contained heroin and possibly cocaine.
Q: Is that based upon your prior narcotics experience?
A: Yes.
Q: Drugs you have seen before in your career?
A: Yes.
Q: Was anything else discovered on his person or was he carrying anything else? Was there any other item that may have been concerning?
A: Mr. Dennison had a dark in color tote bag that was affixed to his person on his back. Inside of the bag there was some more plastic baggies, a few dollars, I forget how much maybe 10 dollars at the most. But there were also some lotto tickets.
Q: Did the baggies create any concerns for you based on your narcotics experience?
A: I looked at the lotto tickets and just looked at the narcotics that we'd just found and just said that possibly these are going to be for sale because that's what we've seen

in the past.

Q: What do you mean for sale?

A: Meaning that the narcotics were going to be sold for profit because of the amount of lotto tickets that were in the bag. It just, from my experience, these lotto tickets weren't being played, they were going to be used to -- we call them slips -- to put either crack cocaine, cocaine, or heroin inside of those slips.

MR. POWELL: Can I approach the witness, Judge?

THE COURT: Yes, sir.

BY MR. POWELL:

Q: Officer, I'd like to show you what's been previously marked for identification as State's exhibit two and see if you recognize this.

A: Yes, sir.

Q: And what is that?

A: This is the bag that Mr. Dennison had on his person June 20th of 2018.

Q: Had you ever seen Mr. Dennison carrying that bag before that day?

A: Yes, sir.

Q: I'd like to show you what's been marked for identification purposes as State's exhibit four and see if you recognize what that item is.

A: Yes, sir. These are the lotto tickets that I spoke of

earlier. These were located inside of this particular bag.
Q: Are they actual tickets or are the slips you fill out to get the ticket?
A: Slips you fill out to get a ticket.
Q: And just to be clear, you've seen these in your experience used to package drugs?
A: Yes, sir.
Q: On that day what did you end of doing with the suspected heroin and cocaine, the drug evidence? What did you do, if anything, to secure those items?
A: We secured those items, we took them back to the city police department and there's some paperwork that we have to fill out because this was going to be evidence. They have what they call a SLED bag for the South Carolina Law Enforcement Division. It's where it's sealed, any narcotics that we come in contact with have to be sealed, placed into evidence, turned over to the evidence custodian, and then we document it in out report that those items had been placed in SLED bag or BEST bag. We have to put the numbers that's on the bag in our report and close out the report.
Q: Can you please describe does Georgetown Police Department have a secure evidence locker type facility>
A: We do.
Q: Can you please explain and describe that to the jury?
A: This evidence locker is with a little key and once you

drop whatever evidence there's going to be you take the key, you lock the box and of course you put the key through a hole. And once you drop the key on the other side there's no way for you to get that key. The only person that has access to that key would be the evidence custodian.

Q: Where does the access to that locker come?

A: We can only see the front side. When we place evidence, like I said, when we put evidence in there's no way for me to go around because the door used by the evidence custodian that door is locked, always locked.

Q: You don't have access to that?

A: No access to it. No, sir.

Q: Anybody other than the evidence custodian have access to it?

A: I'm not sure if the chief or captain does but I know the evidence custodian for sure.

Q: Is this similar to a post office box?

A: Yes, sir.

Q: After evidence, drug evidence is secure by the Georgetown Police Department, is it ever sent anywhere for testing or anything of that nature?

A: Once we sign everything over to the evidence custodian, it will be the responsibility of the evidence custodian to then sign paperwork to say that he is signing it out and taking it to the South Carolina Law Enforcement Division. It would be

their analyst that will analyze the narcotics that we drop into evidence and they will determine what the narcotic may or may not be.

Q: Officer, I'd like to show you what's been marked for identification purposes as State exhibit three, and just ask you if you recognize it?

A: Yes, sir.

Q: And what is it?

A: This is the SLED BEST bag that was sealed on the day that Mr. Dennison was arrested with the items that I placed inside of this BEST bag.

Q: Based on your experience once you seal something up in a BEST bag if somebody opens it, is that evident from how the bag appears?

A: Yes, sir.

MR. POWELL: Your Honor, I don't think I did it, but at this time I'd like to move to be put into evidence what was marked as State exhibit two for identification and State exhibit four.

THE COURT: Any objections?

DEFENDANT: No, Your Honor.

THE COURT: Without objection, State's two and four.

(STATE'S EXHIBIT NUMBERS TWO AND FOUR ARE ADMITTED INTO EVIDENCE)

BY MR. POWELL:

Q: Did you, in fact, charge the defendant, Mr. Dennison, in regards to the heroin and cocaine from that day on June 20th, 2018?

A: The charges were possession of cocaine and possession with intent to distribute heroin.

Q: Why did you charge possession with intent to distribute heroin?

A: Because of the way the narcotics were packaged, the instruments that could be used meaning those lotto tickets that could be used to put narcotics in. Even though they were not in the slips at the time certainly my experience has shown they are going to be used at some later point to be used to sell narcotics.

Q: Why did you charge just possession of the cocaine?

A: The possession -- because of the amount. It was possession and that particular cocaine was in one plastic baggie. It wasn't in different plastic baggies, just in one.

Q: Based on -- when you're dealing with drug users in your past experience would you see multiple baggies on drug users -- drug dealers, excuse me? I'm sorry.

A: If someone if going to use normally they would have the narcotics in one plastic bag. They wouldn't have it in several plastic baggies. Nine times out of ten the dealers would normally use several bags or methods to put their narcotic whatever that might be in the slips or the plastic

baggies. But the dealers would normally use several plastic bags as opposed to just one.

Q: Would it still be your opinion today that the heroin that was in his possession he intended to sell it?

A: Yes, sir.

MR. POWELL: I have no further questions for this witness at this time, Judge.

THE COURT: Any cross examination?

DEFENDANT: Yes, sir, Your Honor.

CROSS EXAMINATION OF OFFICER SMITH BY MR. DENNISON:

Q: Mr. Noel Smith.

A: Yes, sir.

Q: You said $10 dollars was in my possession.

A: I couldn't remember. That was figure, 8 – 10 dollars.

Q: You couldn't remember.

A: I couldn't remember how much money it was.

Q: You telling the State $10 dollars.

A: Yes, sir.

Q: Was it anymore money?

A: I didn't see anymore money. No, sir.

Q: Exhibit number two, this tote bag.

A: Yes, sir.

Q: A homeless man, his mother died, he had to do what he got to do to survive. What all you find in this tote bag?

A: Again, the slips, a few dollars, I think there was some

deodorant, that's pretty much all I can remember.
Q: Okay. How about the bank card, Bank of America?
A: I can't remember that, sir.
Q: You can't remember that?
A: No, sir.
Q: How about the check stub from -- I'm sorry -- Jumping Jacks? The State is saying I don't work, I choose to sell drugs.
A: I don't remember a check, sir.
Q: You don't remember no checks?
A: No, sir.
Q: For profit, for profit, so when a person sell drugs for profit what they trying to pay for?
A: I'm sorry.
Q: When they trying to make a profit, what they making a profit for? A drug dealer, what a drug dealer making a profit for?
A: Well it depends on whether the drug dealer is a user or not.
Q: A user or not.
A: Uh-huh. (Affirmative response)
Q: Is the profit so he can get more cocaine maybe? He's an addict.
A: Or heroin.
Q: Or heroin. Or heroin, yeah. He's selling to get more

heroin because he gets sick. I want to read what doctor's say about people who is addicted. Withdrawal sickness is a shattering experience and even a physician finds it an ordeal to watch the agony of patients in their condition. The addict begins to grow uneasy about 12 hours after the last dosage of morphine or heroin. He yawns, shivers and sweats, discharge pours from the eyes, watery mucus pours from the nose, the hair on the skin stands up and the skin itself is cold. His bowels begin to act with -- I'm sorry, fantastic violence causing explosive vomiting. The abdominal pain is severe and rapidly increase 36 hours after his last dose of the drug that addict presents a truly dreadful spectacle. His weakness may become so great that he literally cannot hold up his head. So, he might have a few friends that he know or he knows some people outside or his friends know some people that might want some heroin ---

MR. POWELL: Your Honor, I have to object at this time. I think the defendant is testifying. I haven't heard a question.

THE COURT: Alright. If you will, sir, move forward and ask the witness a question.

DEFENDANT: Okay. I'm sorry. I'm sorry. I'm sorry.

BY MR. DENNISON:

Q: So, how much of amount of the drug was it in evidence number -- I don't see a number on here. I'm sorry.

COURT REPORTER: It's on the back side.

DEFENDANT: Oh.

BY MR. DENNISON:

Q: Evidence number three. How much amount this is? How much amount was it?

A: I would have to look back at the warrant itself.

Q: You said four baggies?

A: Yes, sir.

Q: Okay. I had two baggies in there. Addicts go through withdrawals, so we eat the bag. You said it was packaged like it was being sold. I mean, you testified saying two grams a person can use in one day. What's the quantity amount for the statute of PWID? What's the amount that a person has on them that they can be charged with PWID?

A: It's in not grams, grains.

Q: To be charged with PWID?

A: Yes, sir.

Q: I thought the statutory amount was like a gram?

A: I don't know what you're talking about, sir.

Q: Mr. Noel Smith, you worked with the police for about how many years?

A: Six.

Q: What's your rank?

A: Detective.

Q: So, you get warrants signed by Judge Robert O'Donnell, am

I correct?
A: Yes, sir.
Q: Mr. Smith, you use confidential informants to make controlled buys, correct?
A: Yes, sir.
Q: So, after the controlled buy from the CI to the -- I'm sorry. So, after the controlled buy the CI returns to you, do you have knowledge of them using the same drug you asked them to purchase?
A: Whenever we use a confidential informant, we make sure that they're equipped with video and audio equipment. There's always about two or three other persons assisting me. Once we send the CI in, that CI is under our complete supervision which simply means besides the recording device, besides the audio device, we have eyes on the CI throughout the entire time, meaning the CI is not going to be out of our sight. SO, when we tell the CI to go from point A to point B, we make sure that they go from point A to point B. They do not go to C, they do not go to D or E, point A to point B back to me at a predetermined location.
Q: What do the CI do with the drug once they return to you?
A: Once the CI returns to me all evidence that's been purchased from whoever is turned over to me. We make sure that the narcotics are secured at that time. The CI is asked to explain in detail what took place while they were on the

scene. Once we get back to the office, we make sure that the audio and video equipment goes exactly with what the CI told us and what we also have heard, we want to make sure that they marry together. So, in other words we want to make sure that the CI said I went form point A to point B, we want to make sure that's what the video shows. If anything else deviates, we'll cease at that time and have a conversation with that informant.

Q: The job you have as an officer allows the community or town to have trust in you, yet the people believe you and your fellow officers will be fair in a justice system. Are you a fair officer?

A: Yes, sir.

Q: A fair officer?

A: Yes, sir.

Q: Mr. Noel Smith.

A: Yes.

DEFENDANT: May I approach?

THE COURT: Yes, sir.

BY MR. DENNISON:

Q: Are you familiar with these documents with your signature on them?

A: Yes, sir.

Q: Did you read ---

MR. POWELL: I haven't seen them yet.

DEFENDANT: I'm sorry.

THE COURT: Show them to counsel.

BY MR. DENNISON:

Q: Could you read from control number all the way down to your signature? Could you read what's on there?

A: Do you want me to read the number itself?

Q: Yes, sir.

A: The control number?

Q: Yes, sir.

A: Bravo meaning B266115. This will certify that I, Noel Smith, am employed by the Georgetown City Police Department and that on March 1st, 2018 I seized from -- there's no name there because he wasn't identified at the time -- at [redacted] South Congdon Street. And then, of course, it lists what items were purchased, an off-white powdery substance, in parenthesis heroin, my signature, my printed signature, the date, March 1st, 2018, and then of course, my signature, my printed name, the company Georgetown Police, then of course the date and time of the purchase, March 1st, 2018, the time 3:21 and of course the time that I have is put in military time 15:21.

Q: This form here, are you familiar with this form?

A: This is the evidence voucher.

Q: Evidence voucher.

A: Uh-huh. (Affirmative response)

Q: That number down there, the SLED lab number, could you

read that number to the jury, please?
A: Where at?
Q: The SLED lab number right down there.
A: SLED lab number looks like L1803512 testing.
Q: Thank you. That control number you read on the other paper.
A: Uh-huh. (Affirmative response)
Q: What number that was again?
A: I'd have to look, I'm sorry.
Q: The control number is going to be bravo as in B266115. Like you said when you put it in a SLED lab box ---
A: The evidence drop box.
Q: Nobody else can touch the drug?
A: Except the evidence custodian.
Q: So, why do y'all mail the evidence off? Are you familiar with this?
A: I am not.
Q: You not familiar with that?
A: No, sir.
Q: It got the numbers on it.
A: Yes, sir. But this was not to me, this was to Sergeant Steven Church.
Q: Yeah, but that's the drug you turn in.
A: True.
Q: So, how the drug -- how, how it went from B266115 to

B266061?

A: You would have to ask the evidence custodian.

Q: I have to ask you, what's your rank again?

A: Detective.

Q: You a detective.

A: Yes, sir.

Q: So, these drugs are at the police station where nobody else can get to these drugs, nobody else can get the evidence back that is locked and sealed. Nobody else. So, how did the number change?

A: I can only testify to what I ---

Q: What you do?

A: Yes, sir.

Q: You can't help out your other fellow officers and explain what may happen?

A: I mean, we all have different jobs. I don't know their jobs specifically.

Q: But you turned the drug in, you turned -- so when it -- I'm sorry.

A: It's okay.

Q: What's the drug name on that? What's the drug name on that? What's the name of that drug?

A: It doesn't have one. You talking about here?

Q: Yeah.

A: Two pieces of paper containing powdery substance,

fentanyl.
Q: Fentanyl.
A: Uh-huh. (Affirmative response)
Q: What -- I'm sorry, but on this paper what that's supposed to be?
A: It says heroin.
Q: Heroin.
A: Uh-huh. (Affirmative response)
Q: Which one carry more time?
A: Heroin.
Q: Heroin carry more time than fentanyl, but we see on the new epidemically that fentanyl kills. It kills. We hear about heroin, we hear about heroin, yeah. But fentanyl, how come would the evidence bag change? How come it ain't went down to weed, marijuana?
A: I can't answer that question intelligently because I'm not a SLED analysis person. I don't do that. My job is to place the narcotics in the BEST bag, that's what we do.
Q: But it's a locked box. How could it -- how could it change? It changed from the package and it changed the drug.
A: Mr. Dennison, you're asking a question that is outside of my scope. I'm neither the evidence custodian nor the SLED analysis.
MR. POWELL: Your Honor, I'd have to object on the grounds of relevancy with this last question. He's discussing

the drugs from the prior arrest warrants that were sent to SLED. I don't quite see what the relevance is with drugs being transmitted to SLED on this other incident.

THE COURT: Alright.

DEFENDANT: Your Honor, I'm about to state it right now.

THE COURT: You're going to ask him a question that makes it relevant, more relevant?

DEFENDANT: Yeah.

THE COURT: Alright, then proceed.

BY MR. DENNISON:

Q: You sign off, this signature, and the warrants I'm looked up in here for, I'm complaining about the signature.

A: When you say I signed off on them, what paperwork?

Q: You signed off right here on this.

A: Yes, sir.

Q: Saying this is the drug you dropped off believed to be white powdery substance, heroin.

A: Yes, sir.

Q: But then when it got to the lab it's fentanyl and it's not in the same bag. The signature, the importance of a signature, how can an officer of your rank sign off on something and later on it's someplace -- I mean, I'm sorry. You officers turn in paperwork to the State and the State handles defendants -- I'm sorry. Well, I have paperwork right here from the solicitor's office. They got a quote at the

bottom that say, the mission of the 15th Circuit Solicitor's Office is to uphold the public's trust in the pursuit of justice and enforcement of the law, meaning they want you, ladies and gentlemen, to trust them when they pursuing a case. It can be any of you loved ones, any one of you or friend of yours and when you come through this system they just gone tell you they don't know, they not in that category or they don't know because it's somebody else. I'm sorry. I'm sorry. I'm sorry. Exhibit number one, exhibit number three and exhibit number five, Mr. Noel Smith.

A: Yes, sir.

Q: These signatures.

A: Yes, sir.

Q: I do not trust them. I'm just gone ask you, you work with Judge O'Donnell, you've been on the force for years and might I ask, how much time a month do you go to Judge O'Donnell and get a warrant signed?

A: It just all depends.

Q: It just all depends. So, you don't know how much time a month you go, about ten, more?

A: Maybe.

Q: Maybe.

A: Depending on how many buys we make, how many cases we generate. If you don't get the cases, you don't go see Judge O'Donnell.

Q: You don't go.

A: No, sir.

Q: But when you get a warrant you make sure it's Judge O'Donnell that signs it?

A: When I go get a warrant signed. Yes, sir.

Q: So, you're familiar with Judge O'Donnell's signature?

A: Yes, sir.

Q: Okay. So, whose signature is this one?

THE COURT: If you would use a number when you refer to a document.

DEFENDANT: I'm sorry.

BY MR. DENNISON:

Q: On, on, on exhibit number five.

A: Here?

Q: Yes.

A: Judge O'Donnell.

Q: That's Judge O'Donnell's signature?

A: Yes, sir.

Q: Okay. On exhibit number one, the bonding paper, whose signature is that?

A: Looks like Judge O'Donnell.

Q: Looks like Judge O'Donnell.

A: Uh-huh. (Affirmative response)

Q: How that look like Judge O'Donnell? Describe to the jury how that look like Judge O'Donnell.

A: Well, because I've never been educated as far as reading signatures so I couldn't answer that intelligently.
Q: But you said it looks like it.
A: It looks like his signature.
Q: Okay, so describe, tell the jury what you feel or what you say it look like. Tell them because you say it look like it.
A: So, this particular paperwork here, this signature looks like it was done with a thicker pen and it's faded. This is more detailed because it's not faded so it looks exactly, to me, like Judge O'Donnell's signature. You will have to ask him.
Q: I have to ask him. I have to ask him.
A: Sure.
Q: On exhibit number three, whose signature that is?
A: Looks like Judge O'Donnell's.
Q: And will you flip that over, please.
A: Looks like Judge O'Donnell's.
Q: It look like Judge O'Donnell's?
A: Yes, sir.
Q: And you swear that on oath?
A: Well, I work with Judge O'Donnell and I'm familiar with his signature, it looks like his signature and I'm already under oath.
Q: The jury is going to look at these warrants.
A: Sure.

Q: And we supposed to trust you?

A: Yes, sir.

DEFENDANT: Your Honor, I'm finished with this witness.

THE COURT: Any redirect?

MR. POWELL: Yes, Your Honor.

Mr. Dennison, do you have the papers that you just talked about that I can see?

DEFENDANT: And could I -- can I speak, Your Honor?

THE COURT: You can ask a question.

DEFENDANT: I want to put these into evidence. I want them to see the signature. The jury, I want them to see the signature. They're no consistent.

MR. POWELL: I have no objection to this.

THE COURT: Without objection, it will be the next -- let the court reporter mark them -- it will be the next two defense exhibits.

Madam court reporter, they are what?

COURT REPORTER: Number two and number three.

THE COURT: And tell the Court, identify number two.

DEFENDANT: Say that again, Your Honor.

THE COURT: Identify the document that is number two, like is it a report card, is it a principal note, is it a detective report? Just tell me what it is.

DEFENDANT: Oh, those were the post reports of the contraband. The post reports of the chain of custody.

THE COURT: Alright. Thank you.

(DEFENDANT'S EXHIBIT NUMBERS TWO AND THREE ARE ADMITTED INTO EVIDENCE)

MR. POWELL: May I approach the witness?

THE COURT: Let me ask, were those the post reports chain of custody of the drugs of the prior arrest or of the drugs that are subject of this trial?

DEFENDANT: Of the prior arrest.

THE COURT: Of the prior arrest. Alright, thank you.

REDIRECT EXAMINATION OF OFFICER SMITH BY MR. POWWELL:

Q: Officer Smith.

A: Yes, sir.

Q: Was there two CI buys, separate buys, different dates that these two arrest warrants are dealing with?

A: Yes, sir.

Q: I would like to show you these documents and see if you recognize what they are. Take your time.

A: This is the chain of physical custody.

Q: Is it regarding one of the two arrest warrants or both of the arrest warrants?

A: This is for one. This was done on March 1st, 2018.

Q: Is the control number up at the top of the first page, the BEST bag number that would relate to that arrest warrant?

A: Yes. It's bravo 266115.

Q: I'd like to show you this second set of documents and see

if you recognize what it is.

A: This is going to be for the custody sheet, chain of custody sheet. This is going to be dated March 8th, 2018.

Q: Is the BEST bag difference number on that one?

A: The same number.

Q: Look at the two numbers and see if they're different, please.

A: I'm sorry, 115 would be the first one, 117 it's 266117.

Q: Were there two separate BEST bags used? One for each of the arrest warrant scenarios?

A: Yes, sir.

MR. POWELL: Your Honor, at this time I'd like to put these two sets of chains into evidence.

THE COURT: Any objection?

DEFENDANT: No, Your Honor.

THE COURT: Alright.

MR. POWELL: And the court reporter will need to mark them, Judge.

THE COURT: Go ahead and mark them.

(STATE'S EXHIBIT NUMBERS SEVEN AND EIGHT ARE ADMITTED INTO EVIDENCE)

MR. POWELL: Your Honor, for the record, the documents that address BEST bag number B266117 was marked as State exhibit number seven and introduced into evidence and the documents dealing with BEST bag number B266115 was marked as

State exhibit eight and introduced into evidence.

THE COURT: Aright, while the Court appreciates the detail of having the BEST bag number identified with the number, for clarity purposes would you state whether seven or eight is with the prior arrest or the subsequent arrest that deals with the case to which this jury will make a determination?

MR. POWELL: Yes, Your Honor. State exhibit number eight referenced the March 1 incident prior arrest warrant, not the charges that the trial is on. Exhibit number seven was the March 8th incident arrest warrant, prior arrest warrant, not the charges that the trial is -- need to be addressed.

THE COURT: Alright, thank you.

MR. POWELL: Thank you, Judge.

BY MR. POWELL:

Q: Officer Smith, during your experience as a narcotics officer have you ever seen drugs being sold that was a mixture of drugs?

A: Yes, sir.

Q: Have you ever seen heroin that contained other substances mixed in with it?

A: Cocaine.

Q: Have you ever seen fentanyl mixed in with it?

A: Yes, sir.

Q: Have you ever seen something sold as one drug and it

turned out to be another drug?
A: Yes, sir.
Q: Would that be one of the reasons or part of the reason that items are sent to SLED to be tested to find out what it actually is?
A: Yes, sir. We will assume but SLED will ultimately make that decision.
Q: Have you sent something that you thought was heroin that turned out to be fentanyl for example?
A: Yes, sir.
Q: During your experience as a narcotics officer have you ever dealt with addicts who actually sold drugs to be able to have drugs to use?
A: Yes, sir.
Q: Particularly would that apply to the situation with heroin?
A: Yes, sir.

MR. POWELL: No further questions, Judge.

THE COURT: Thank you, sir. You may step down. Watch your step as you're stepping down.

Is the State ready to call their next witness?

MR. POWELL: Your Honor, the State would call Judge Robert O'Donnell to the stand.

THE COURT: Just come right up here and let the Clerk of Court swear you in.

ROBERT O'DONNELL, HAVING BEEN FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

CLERK: Please be seated and state your full name for the record.

JUDGE O'DONNELL: Robert Harry O'Donnell.

DIRECT EXAMINATION OF JUDGE O'DONNELL BY MR. POWELL:

Q: Good morning, Judge O'Donnell.

A: Good morning.

Q: Your Honor, where are you employed, sir?

A: Attorney on front street, but also the city judge for Georgetown City, Georgetown, South Carolina.

Q: Do the duties as city judge include you signing arrest warrants for Georgetown Police Department?

A: Yes, sir.

Q: During your career approximately how many arrest warrants do you sign per day?

A: I know I signed off on about 5,000 cases a year in my jurisdiction and general session as well. I've been doing this 44 years so it's about a quarter of a million signatures.

Q: When Georgetown Police Department comes to you and presents you an arrest warrant, is it one page, multiple pages, more than one copy?

A: Multiple pages, one original, one copy, the original is stamped with a red stamp original so the copy also has the word original but it's not red. So there's two copies of each

arrest warrant.
Q: And down at the bottom would there be preprinted original word and a defendant copy on the other page?
A: Yes, sir.
Q: Your Honor, I'd like to hand you what's been marked as State exhibit one. Excuse me, Judge. Make sure I'm handing you the right one. Now, I'd like to hand you what's been marked as State exhibit five that's been entered into evidence. If you would look at these two pages and see if you recognize or see your signature on those documents?
A: Yes, sir. That's my signature.
Q: Is that an arrest warrant that was presented to you?
A: Yes.
Q: And what was the date that you signed those two copies?
A: March the 9th, 2018.
Q: Down at the bottom of the first page, what's preprinted?
A: Original.
Q: What's at the bottom of the preprinted part?
A: Defendant copy.
Q: I'd like to hand you what was marked as State exhibit six and put into evidence and see if you can see your signature on those documents?
A: Yes, that is my signature.
Q: Is that an arrest warrant you signed?
A: Yes, it is.

Q: What is the date you signed that?

A: March the 6th, 2018.

Q: Is your signature on both pages?

A: It is.

Q: What's preprinted on the bottom of the front page?

A: Original.

Q: What's preprinted on the bottom of the second page?

A: Defendant copy.

Q: Is it routine to get both of those handed to you at one time?

A: Yes.

Q: Officer signs both of them in your presence?

A: They are stapled together, and yes, they do.

Q: Do you sign both?

A: They sign in my presence; I sign in their presence.

Q: At that point in time, the warrant's active, it's been issued?

A: That's correct.

MR. POWELL: Judge, I have no further questions for this witness.

DEFENDANT: Your Honor, I'd like to ask the Judge if would produce his license under the best evidence rule.

MR. POWELL: I would object to the wording, phrasing, Judge. I'm not sure what he's even asking.

THE COURT: Alright.

DEFENDANT: I'm just asking for his signature.

THE COURT: You may ask him if he has his license with him. I have no idea.

CROSS EXAMINATION OF JUDGE O'DONNELL BY MR. DENNISON:

Q: Mr. O'Donnell, do you have your license with you?

A: I hope I do. I usually do. Yes, sir. I've got that right here.

DEFENDANT: Can I give it to the jury?

THE COURT: You need -- ask the witness if he has any problem with you giving it to them?

MR. POWELL: Your Honor, may we approach?

THE COURT: Alright. If y'all will to approach. Give me a moment and I'll meet you down there.

REPORTER'S NOTE: (Bench conference)

BY MR. DENNISON:

Q: Mr. O'Donnell ---

THE COURT: Hang on a second.

MR. POWELL: I'm sorry. I'm sorry.

THE COURT: Judge, what we're going to do is the Clerk of Court is going to -- if you'd be so kind as to give the Clerk of Court your license, she'll photocopy it and then she'll give you back the original. Then we'll mark out all of the personal identifiable information.

THE COURT: Lawyers, counsel, please approach.

REPORTER'S NOTE: (Bench conference)

DEFENDANT: Your Honor, I'd like to introduce this into evidence.

THE COURT: If you'd let the witness lay a foundation.

DEFENDANT: Oh, I'm sorry.

BY MR. DENNISON:

Q: Are you familiar with that?

A: Yes, sir, I am.

DEFENDANT: Your Honor, I want to introduce this into evidence.

THE COURT: Ask him what it is.

BY MR. DENNISON:

Q: Can you tell me what this is, please?

A: A copy of my current South Carolina driver's license.

Q: Alright.

THE COURT: Alright. He's asked to be admitted into evidence.

MR. POWELL: (Affirmative response)

THE COURT: Alright. Without objection.

(DEFENDANT'S EXHIBIT NUMBER FOUR IS ADMITTED INTO EVIDENCE)

BY MR. DENNISON:

Q: Mr. O'Donnell, how long were you a judge?

A: I think it's 44 years.

Q: Your staff, how many of them are there?

A: There are four in our Clerk of Court's Office for the City

of Georgetown Municipal Court.
Q: How long were they there?
A: They vary from I'd say eight years to a couple of years.
Q: Do they have access to the warrants?
A: They have access to the warrant forms that are supplied by court administration, the blank forms, and I can't tell you too much about how much is electronically transmitted from across the hall at the police department to the court side of the building. I don't get involved in that. It doesn't come to me in that early stage.
Q: Is it possible that they can sign a warrant?
A: I would find that to be very hard to believe with the staff that I work with. I don't hire them, but the City hires them, and I find them to be very honest.
Q: But is it possible? Is it possible they can sign it?
A: I guess anything in the world is possible. I would no of no reason why a member of the Clerk of Court's Office, what reason they would have to do such a thing, risk their job and their reputation and be charged with a crime to for some reason sign an arrest warrant.
Q: But it's possible.
A: Anything under God's sun is possible.
Q: Well, I ask that because of the importance of a judicial signature. The Supreme Court of South Carolina said a warrant is not issued until signed by appropriate magistrate,

municipal judicial officer or judge of the court record. That's Supreme Court. Like I say, the signatures of the warrants do not look valid. Mr. Robert O'Donnell, is there by any chance someone else could be signing the warrants?

A: I don't think that's ever happened that I know of. There was a family court judge years ago that someone forged his signature on an adoption decree or something, Judge Bonnoitt. But that's the only time I've ever known anyone in my 44 years of being a Judge and a lawyer to know of anyone to do something like that in Georgetown County, 15th Circuit.

Q: I'm sorry. I'm listening.

DEFENDANT: Your Honor, I'm getting exhibit number one and two.

THE COURT: Are those defense or state's? Defense one or State's one?

DEFENDANT: There's two of them. There's one, two of them.

THE COURT: I'm sorry. They would either be the defense one and two or the state's one and two.

DEFENDANT: Oh, defense one and two. I'm sorry.

THE COURT: Okay. Thank you, sir.

DEFENDANT: I'm sorry.

BY MR. DENNISON:

Q: Mr. O'Donnell, do you recognize this?

A: This is two pages, the same form, bond forms, one on June

21st -- they're both on June 21st, 2018. Yes, sir. These are the forms that we use provided by the State Court Administration for us to use on their approved form when we hold bond hearings and bonds been set. Two types of bond, first a recognizance or in this case, cash or surety.

Q: Oh, I was just looking at the signatures. Can you tell me how the signature -- the first one, that first signature right there? That's your signature?

A: That is on a signature stamp.

Q: A signature stamp. How's that created?

A: We created it from my signature.

Q: So, that's ---

A: I cannot tell you what date that stamp was made by the printing company that creates stamps.

Q: But that's your signature?

A: That's a copy of my signature, yes.

Q: But it's your signature? As in, you the one that created that signature.

A: That signature was a signature when the stamped that's used for some of the things, which is when it's allowed, is used.

Q: How did it get to the stamp?

A: The company that does this, Regal Printing, or whoever they have services for you to do that. You write your signature and they create a rubber stamp to be used.

Q: You write your signature and they create it, so it's your signature.

A: Yes. That's the way my signature looked when that stamp was created.

Q: Okay. Can you flip that over, please?

A: Yes, sir.

Q: So, whose signature is that?

A: That's my signature also.

Q: But why is it different from that?

A: Because when I signed it, it was a time different from when that signature stamp was created. My signature has evolved in 44 years, at 250 -- a quarter of a million signatures just on these court records alone, not to mention the other stuff that I sign. My signature's never been Robert Harry O'Donnell. It's always been Robert H. O'Donnell and to save a lot of time about 20, 30 years ago I used RH O'Donnell to save a lot of time. It's still my signature and my signature is -- I guess a lot depends on the time of day. Sometimes I meet them halfway from North Litchfield to Georgetown at 3:00 in the morning for a search warrant and I get up out of bed, drive there and then go back and try to go to sleep. So, my signature is not picture perfect all the time.

Q: How much your signature can change in 10 years?

A: I don't know. My doesn't look like it did when I finished

college, I tell you that.

Q: So, what if I say I came in from of you in 1993 and my signature not really much changed since ’93. That’s what 20 something years.

A: I’ll take your work for it.

Q: Do you recognize these?

A: Let’s see. I can tell you what they say they are. I don’t know anything about these. These are forms I the discovery process. Something to do with your public defender and something to do with one of the assistant solicitor’s asking the Judge to sign, or excuse me, make a jury charge. But my signature is not on any of this.

DEFENDANT: Your Honor, I’d like to put these in evidence for the jury to see the signatures.

MR. POWELL: Your Honor, I’m not sure what he’s asking.

DEFENDANT: Oh, I’m sorry. I’m sorry. These papers I got from you.

MR. POWELL: Your Honor, I’d like to take up a matter of law on this.

THE COURT: Alright, ladies and gentlemen, this is one of those time where we have to have a discussion outside of your presence. So, please do not have any discussion with anyone about anything involving the case but you may retire back to the jury deliberation room. We’ll get you back shortly.

REPORTER’S NOTE: (Jury retires to jury room at 11:43am)

MR. POWELL: Your Honor, I'm not sure if you want us to approach or come down but he's handing me a document which is a form transmittal form. When the defendant obtains an attorney and we send discovery to them we have a one page form that itemizes what's sent. I sign it and there's a line for the attorney to sign and send it back, sometimes the defense attorney's do that, sometimes they don't. But this is a form which appears to be dated back in August of last year when we sent discovery items to Erin Bailey who was his first attorney. Ms. Bailey ended up being relieved. I believe there was some conflict they found out that existed with her representing Mr. Dennison and there was an order relieving her at some point in time but that's who this transmittal's addressed to. The second document is an order relieving Mr. hart who was appointed to take the place of Ms. Erin Bailey, the first attorney appointed to represent him. So, there's a document that's an actual court order relieving Mr. Hart, my signature is on that consenting to it. My signature, which I think is my signature and not a stamp, is on the transmittal form. And then I presented to Your Honor and gave Mr. Dennison a state request for jury charge which Your Honor saw earlier before we got started and my signature is on that as well. I don't know the relevancy of any of these documents. If anything, it shows my signature being three different ways because my signature fluctuates when I sign documents. I

don't know if Your Honor wishes to see these. That's what he asked -- it appears to be what he's wanting to put into evidence.

MR. POWELL: But the distinctiveness in these warrants, I mean, these paperwork, documents and also this is rubber stamp as well as Judge O'Donnell's. So, I want the jury to see that as well as a rubber stamp it can be a signature in ink. So, I want them to see that the distinctiveness in signatures. So, that's the relevance of these documents. I want these to be in evidence. I want them to see it.

THE COURT: I'll deny the motion. I'm not going to allow that into evidence. If you're attacking this witness's signature as not being his signature, that would be an improper way of doing it.

How much further do you have with this witness? I'm just trying to get a scheduling idea.

DEFENDANT: Say that again.

THE COURT: How much more do you have with this witness? I'm trying to get a scheduling idea.

DEFENDANT: We got the signature so -- I apologize. I'm done. I'm done.

THE COURT: Well, let me bring the jury back in and let you say that in front of the jury that you have no further questions.

DEFENDANT: Okay. Okay.

THE COURT: Alright. Let's bring the jury back in.

REPORTER'S NOTE: (Jury returns to courtroom at 11:48am)

THE COURT: Yes, sir, Mr. Dennison.

DEFENDANT: Your Honor, I'm sorry. I'm not done. I'm sorry. One more thing.

BY MR. DENNISON:

Q: Mr. O'Donnell, on your signature right here it appears to look like an M.

A: I use RH O'Donnell. This was in June of 2017 and that's a couple of years ago. I guess this is a five or ten year drivers license. Maybe I was a little more formal than I would normally be. So, yes I recognize my signature; and yes, the R I make contains the left half of the H that I make. That Ho goes over the O and D and by the time I'm at O-N-N-E-L-L it was almost like five humps following one another.

Q: So, you write -- I'm sorry. So, you write the R and you pick up and you start writing again.

A: No, the R continues -- you right, then I write the H and then swing it up to the O-D-O-N-N-E-L-L.

Q: R and then O'Donnell.

A: Yes, sir. The pen leaves the paper on the bottom left hand side of the H and starts back at the top of the right side of the H and I'll tall you it's a difficult signature to forge.

Q: It is. It is.

DEFENDANT: Thank you, Your Honor. I'm done with this witness.

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

MR. POWELL: Very briefly.

REDIRECT EXAMINATION OF JUDGE O'DONNELL BY MR. POWELL:

Q: Judge O'Donnell, I'd like to hand you once again State exhibit five and six. Take one more look at them, please. After the questions Mr. Dennison gave to you, is there any doubt in your mind whatsoever that you signed those two documents? Look at your signatures once more time and make sure you're positive you signed those.

A: Yes. With exhibit five, the original and copy is quite similar to each other; and with exhibit six the original and the copy are quite similar. But with exhibit number six I was either in a hurry or whatever and they're very comparable to each other, similar but they're all mine.

Q: As you testified when Mr. Dennison asked you questions, your signature fluctuates but they're both your signature?

A: Yes, sir.

Q: All four places?

A: Yes, sir.

Q: No questions?

A: No question.

MR. POWELL: No further questions, Judge.

THE COURT: Alright. Thank you, Your Honor. You may

step down. Any reason why the witness cannot be excused?

MR. POWELL: None from the State, Judge.

DEFENDANT: I've got one more question.

THE COURT: It has to be new matters that he brought up in his questioning. He has to have raised a new issue with his redirect in order for you to have a question for him.

DEFENDANT: I'm sorry. I'm so sorry. Alright.

THE COURT: Alright. Any reason why the witness cannot be excused?

DEFENDANT: He may be excused.

THE COURT: Thank you, sir. You may be excused.

JUDGE O'DONNELL: Thank you.

THE COURT: Thank you for coming.

MR. POWELL: Are we going forward with more testimony, Judge?

THE COURT: Uh-huh. (Affirmative response)

MR. POWELL: The State would call Don Tempalsky, Your Honor.

DONALD TEMPALSKY, HAVING BEEN FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

THE COURT: Please be seated and state your full name for the record.

OFFICER TEMPALSKY: It is Donald Tempalsky, T-E-M-P-A-L-S-K-Y.

DIRECT EXAMINATION OF OFFICER TEMPALSKY BY MR. POWELL:

Q: Officer Tempalsky, where are you employed presently, sir?
A: At the 15th Circuit Drug Enforcement Unit.
Q: What is your position with them?
A: Deputy drug commander and presently in charge of the Georgetown Office.
Q: What is the 15th Judicial Circuit Drug Enforcement Unit?
A: It's a drug task force. What we do is we take departments within the 15th judicial circuit which includes Horry County, Georgetown County and departments and representatives to that task force. This way we have multijurisdictional investigations that can take place across city and county lines. It's a mix of officers from many departments.
Q: Was there a certain issue that the DEU was formed to address?
A: Well, just that, many times offenses or drug offenses take place they go across jurisdictional lines and they become blurred whether it is a person coming from the county into the city to make a drug sell. Some are going from Myrtle Beach bringing drugs to Georgetown. It's a real issue with drug sells that they take place over jurisdictional lines.
Q: Is the drug enforcement unit commonly referred to as DEU?
A: Yes, that is correct.
Q: What actually is a deputy drug commander? What duties do you have?
A: Well, we have a command structure in the drug enforcement

unit. We have a commander that is in charge of the entire drug enforcement unit. Then we have several offices, satellite offices, at one time we had them in Myrtle Beach, Conway, Georgetown and a deputy commander will be in charge of each of those offices, kind of like a foreman for each spot.

Q: Sir, how long have you been a law enforcement officer?

A: I'm in year 36.

Q: What agencies have you worked for during your years as an officer?

A: I started out in New Jersey in the Linden Police Department in New Jersey. When I came to South Carolina I started out at the Georgetown County Sheriff's Office and worked for the Georgetown City Police Department before going to the drug enforcement unit.

Q: When you were working up in New Jersey did you ever have the chance to work in the area of illegal narcotics?

A: That was most of my career in New Jersey.

Q: How long do you think that time period covered?

A: Probably off and on for probably 20 years of my entire career, in New Jersey probably 15 to 17. My former department when you were promoted you went from -- if you were in a specialized unit such as narcotics or a detective or juvenile or traffic, you were moved back to patrol. That was my chief's thought process, so when I made sergeant, I went from the car to narcotics, made sergeant and moved back to patrol

and had to work my way back to narcotics so you kind of bounced back and forth.

Q: What different positions or ranks did you hold as a narcotics officer there in New Jersey?

A: I started out as a narcotics investigator, made sergeant, went back to patrol, was able to become a detective sergeant in the narcotics bureau and was there quite a period of time. I was promoted to lieutenant, went back to patrol and then ended my career back as a lieutenant in charge of the narcotics bureau.

Q: Given your career, approximately how many arrests have you been involved in?

A: Between cases I've made myself, and in all my positions whether in New Jersey or South Carolina, I've always been a working supervisor, carried my own caseload there and here probably 1,000.

Q: How many approximate cases, drug cases arrests? Do you have a figure in mind? One hundred, one thousand?

A: Well over 1,000 arrests, hundreds of cases, probably several hundred search warrants. My drug experience has always been in drug units or in patrol and in patrol you make your drug arrests on your own basically. But in drug units you work with other officers becoming an integral part of their case and as maybe you've heard from other officers, we don't usually as narcotics officers, work by ourselves. We do

that to ensure the integrity of the investigation. We do that to ensure the integrity of the chain of evidence. So, when one detective may make a controlled purchase, there's probably going to be two or three of us in addition on that case. So, you participate in a great many cases as a narcotics officer even though they may not be your own case.

Q: During your narcotics career have you dealt with people who use drugs?

A: I have.

Q: During your career in narcotics have you dealt with people who sold drugs?

A: I have.

Q: During your career have you dealt with people who have addiction issues with illegal drugs?

A: Absolutely.

Q: During your career have you ever seen drug addicts sell drugs?

A: Yes, sir.

Q: What kind of, if any, what kind of federal narcotic training school have you attended or participated in?

A: I'm a graduate of the DEA, which is the Drug Enforcement Administrations Federal Narcotics Bureau in plain English, graduate of the basic drug investigators training course, and I'm a graduate of their advanced drug investigators training course.

Q: Have you taken or participated in any subsequent drug training courses?

A: Well, throughout my career I've taken yearly training but also advanced training in narcotics from the time I started as a police officer. I graduated from New Jersey's drug supervisors training course, drug unit supervisors advanced training course, South Carolina graduate of the drug unit supervisors training course here at USC in Columbia. I've been a member of the New Jersey's Narcotics Officers Association and in that capacity at least four or five days every year specifically on drugs and narcotics investigations. I probably average about one to three weeks a year, throughout my career, in drug training and I keep myself current through associations with different federal and state agencies that provide online training or information on a weekly basis about drug trends and different types of drugs and different types of investigative techniques.

MR. POWELL: Your Honor, at this time we would ask the Court to qualify this witness as an expert in the area of illegal narcotics trade.

THE COURT: Illegal narcotics trade?

MR. POWELL: Yes, sir.

THE COURT: Any objection to the witness being qualified in that manner? Do you have any voir dire of the witness on that issue?

DEFENDANT: No, sir, Your Honor.

THE COURT: Thank you.

Ladies and gentlemen, give me just a moment. Ladies and gentlemen, normally when a person -- normally a person cannot give opinion testimony. Normally when a person testifies they must testify as to what either they saw, heard or sensed by smell or something of that nature. But, however, there is an exception when someone is qualified because of education or experience. They are permitted to give their opinion in certain areas that the Court qualifies them. This witness will be qualified in the area of illegal narcotics trade to give opinion testimony in that area. Now, that does not mean that you must accept the opinion, but it is evidence for you to use in any way that you see fit.

MR. POWELL: Thank you, Your Honor.

BY MR. POWELL:

Q: Officer Tempalsky, are you familiar with the illegal sell of heroin?

A: Yes.

Q: Are you familiar with the illegal consumption and use of heroin by people?

A: Yes.

Q: In your experience, how much dose does a heroin user take at one time, amount wise?

A: It’s usually what’s called a point or it’s one tenth of a

gram of heroin. But that's at a time, your addiction may determine how many times you need to take another dose. But that's a normal dose of heroin.

Q: Is there a common number of doses that a heroin user will buy at one time?

A: In my past experience, most heroin users -- I'll put this in simple terms. I can't give my kid a bag of candy, I give him one piece because they're going to eat the whole bag. A heroin user is much in the same. They will buy that dose, that one piece, they will do it and then they will go buy another. The exception may be if there's two people together, but the addiction is so strong, and the need is so great that they can't pace themselves and they will use what they have.

Q: Do you have any opinion about whether it would be unusual for a heroin addict to have three or four doses of heroin on them at one time?

A: It's unusual.

Q: In regards to selling heroin, what kind of normal or common ways is heroin packaged for sell?

A: Well, different parts of the country will have different trends and different ways to package illegal narcotics. But here in our area, this particular area of South Carolina, what we see is -- we formerly saw wax paper slips almost like a small wax paper envelope. That trend has kind of gone out to where we have small pieces of a corner of a plastic bag, small

Ziplock baggies, or paper. Believe it or not, it's very common to see a person that is a dealer to use whatever is handy and an easy source of paper very common is cash register receipt, lottery ticket slips are very easy, you can take a whole stack from the store. Actually, we've seen actual lottery tickets themselves. Any type of piece of paper that is handy to take to fold up to hold the heroin. It's not a large amount so you don't want it to spill out. So, you're going to want to look for something that you can make fairly good creases in.

Q: Based upon your experience, have you seen a difference in the amount of illegal drugs that any one seller will do? What have you seen in that department?

A: Well, there's a whole gamut up the food chain. There is everyone from -- there are those who will come to a person and say I can hook you up or I can connect you to my dealer. Now, what they will do is take your money, they will go to the dealer, they will buy the drugs probably at a discount because they are in a way an employee of the dealer. They will take a portion of the drugs they just purchase for themselves and then they give you the drug back. That is probably the lowest level of a dealer. We work right up to street dealers who will buy -- they buy their drugs prepackaged, will take a little bit out of each bag for themselves if they're an addict, or they'll take a little bit out of each bag to extend

their product. Put it this way, if you buy 10 bags and you take a little bit out of each you can have 20 bags. And when we're talking about such small amounts that it is very, very difficult to tell if you have purchased a full point or full tenth of a gram. No one's going to have a scale on the street. It would not be common for someone to have a scale to measure what they just bought.

Q: Paired from one end of the spectrum to the other from selling a small amount to selling a large amount, is there a difference with whether you would expect that person to have cash on them or not -- the amount of cash of them?

A: Well, most people that are involved in drug trade catch on very quickly to law enforcement techniques. And the likelihood of someone keeping their drugs and a large amount of money on them on the street is low. That's one of the reasons we do search warrants on locations such as houses or storage units or outbuildings. It's a common technique to carry very small amounts of drugs on you in case the police arrest you, the thought is if you have a smaller amount you may have a lesser charge, you'll lose less money. And then there's always the issue of is someone else in the drug trade going to steal your drugs. So, if you have, let's say, 100 bags of heroin you're not going to walk around the street with 100 bags of heroin. You're probably going to hide 95 and keep 5 or some smaller portion on you because the risk of being

ripped off or robbed by someone else is just as great as the police arresting you.

Q: Does the word stepped on have any meaning in the illegal drug trade?

A: It does. Especially in the lower rungs of drug dealing. Many drug dealers buy their drugs in quantities, they don't know exactly what they purchased. Maybe when they came across the border or came through a lab, they were somewhat pure; but they've passed through very many hands to get down to the street level dealer. What they will do then is if, for an example, they have purchased enough to fill five one point bags. If they can, they will try to create ten one point bags by taking a little bit of dope, which is common for heroin or cocaine or whatever you're selling, take a small portion out of each of those five, put it in the next five bags. Then find something to take up the space, whether you use baking soda or laxative powder or -- we've found everything. We've found crushed up prescription pills, crushed up over the counter medicine, we've found roach killer, concrete powder, you name it, anything that can be a powder substance could be put into your heroin or your cocaine or whatever you're selling to make it appear that you're selling a larger amount.

Q: Have you ever seen illegal -- one illegal drug mixed in with another illegal drug?

A: Yes, sir, and that's one of the situations that's a result

of what I just said. When it comes across the border, the first person to get their hands on the drugs has a kilo and they want to make it into two kilos to sell, we don't really know what they're going to cut it with. They may cut it with -- they may have cocaine on hand, they may have methamphetamine on hand, they may have prescription pills on hand, they may have an innocuous powder on hand and they're going to cut it to make it into two kilos. Well, that may be repeated 10 or 15 times before it gets to the street level dealer and it is more common to see items that have a mixture of drugs than it is to see an item for sell of a completely pure drug. That is very unusual. One of the most common things we see used to step on or extend heroin is fentanyl. And the reason is, is fentanyl is so strong so I can take a very, very small portion of fentanyl add it to a very, very small portion of heroin, then use some innocuous powder that has no value at all and make it a whole point and extend my product. And the more product I have, the more profit I make.

Q: Have you ever seen one drug sold, represented as another drug, like fentanyl being sold represented as heroin? Have you ever seen a situation like that?

A: I have. It happens often. Fentanyl is an opioid. It's the family tree of heroin, just like morphine is, just like a lot of other drugs are. Sometimes street dealers just don't know what they're selling. I can't say in my career I've ever

met, or ever investigated a drug dealer that actually tested what they have. You see it on TV all of the time, but I've never really seen it in 35 years of being a cop. It is fairly unusual. I'm sure that there are in the hierarchy of drug dealing, people that do that. But no street level drug dealer that I've ever seen is testing their drugs to see what they have. So, they may have bought what they believed was heroin and it turned out as fentanyl and they're selling it as heroin. They have bought methamphetamine and sold it thinking that they're selling heroin. It's really a hit and miss game.

Q: If an officer made an arrest for an illegal drug, I presume they'd be thinking what that drug is but is there any kind of presumptive test or field testing? Can you explain how any of that comes into play?

A: Well, the drug industry has become less -- I'll give you an example. Fifteen years ago if you could have put a tan powder in front of me and a white powder I could have said one of them is probably heroin and one of them is probably cocaine and you could have put something else and I could have been able to say that's crack. Today it is very, very difficult even as a trained narcotics agent to tell you exactly what it is and we use first of all our training experience, sometimes we'll use how an item is packaged. We'll take into account what we are intending to purchase and then before we get a warrant, we'll do a presumptive field test. Now, what these

are, they are small packets that have several glass vials of chemicals inside them. And you break the vials and you put a small amount of what you have taken as evidence, whatever the drug is, put a small portion into the bag, close the bag, seal it and break these vials in a certain sequence. Depending on the color that the substance turns it's supposed to indicate that it is likely to be a certain substance. The problem is, is that there are so many mixtures that you really don't -- you can't be 100 percent sure. So, that's why it's called a presumptive test. We presume that it is heroin, or we presume that it is methamphetamine, or we presume that it is cocaine but the only one that's really going to be able to tell you is the chemist who is going to be able to use, you know, machines worth hundreds of thousands of dollars and having years of training. They're the ones who's going to be able to tell you exactly what the substance is, not us.

Q: Would that be the purpose of South Carolina Law Enforcement, SLED, having a lab in Columbia and having chemist and scientist trained for you to send drugs for them to check?

A: It is.

Q: What's your opinion or your experience, what have you seen officers do about weighing things? Do they collect something and do a presumptive test? Do they weight anything after they go back to the office? How does that work?

A: In the 15th circuit, the common procedure for a drug

purchase or a drug seizure for narcotics agents is to bring the items seized back to our facility and use a scale to get an approximate weight. The scales we use aren't certified scales and the items are weighed inside the package. So, you could have a tenth of a gram of heroin packaged in a piece of paper or a tenth of a gram packaged in a piece of tinfoil or a piece of plastic and have three different weights. We're only getting an approximate weight for the purpose of initiating our arrest warrants or initiating a search warrant. And we always say it's an approximate weight. The real weight is going to come by the lab. In a safe environment they're going to take those drugs out of whatever packaging and they're going to be able to weigh them. We don't have the expertise; we don't have the safety procedures and we don't have the equipment necessary to weigh the drugs. That will be done before an agent packages or an officer packages the drugs for evidence.

Q: What is the BEST bag? Is it supplied by SLED?

A: Yes. SLED provides us with a manila envelope. Inside the manila envelope are several documents that need to be filled out and a plastic bag that has a tamper proof seal. So, when an agent or an officer takes drugs, they weigh them, field test them, package them in either what they come in or they'll heat seal them, we do heat seal ours. Then they'll put them in this envelope and pull off the piece of protective tape and

seal the bag. That bag stays sealed. It goes into the manila envelope, it goes into the evidence locker, eventually going to SLED.

Q: There were two different separate incident dates that arrests were made. Would it be routine -- that involved narcotics -- would it be routine to use two different separate BEST bags and send them separately to SLED?

A: Absolutely. Each incident would have a different BEST bag. You wouldn't save your BEST bag and keep putting evidence into it. If you made an arrest today, you'd take your evidence, you'd put it in your BET bag, seal your BEST bag and put it in your evidence locker. If you made an arrest next week, even if it was the same person, you use a new BEST bag.

Q: Were you personally involved in the arrest of the defendant for the drug charges we're having here today in trial?

A: No, sir.

Q: Were you asked to review the case file of these two charges?

A: Yes, sir.

Q: Have you done that?

A: I have.

Q: What did you look at and what did you see?

A: Well, I noticed that the bags, the four BEST bags that

were seized from Mr. Dennison per the case file, had inconsistent weights, all less than a point off; well, three of them less than a point, which they were probably small amount taken out of them. I also noticed that there were different mixtures in the bags leading me to believe they were probably stepped on or diluted in some manner to extend the amount of drugs for sell.

Q: Did you find multiple baggies, paper slips, anything along those ideas, along those lines?

A: Yeah, the lotto slips that were seized in this case. Again, it's a very common thing. I could say we've seen those numerous times. It's just an easy source of paper, easy source of easily folded paper to contain a powder and nobody looks twice if you take 10. A lotto slip can be cut into pieces and can be used to carry drugs. We find it a lot.

Q: Based upon your experience and review of the case file in this matter, do you have any opinion in regards to heroin, whether this is a possession with intent to distribute heroin case or just a possession user case?

A: In my review of the case file I believe that this is a possession with intent to distribute.

Q: If you have been the arresting officer, what would you have charged him with?

A: That charge, the possession with intent to distribute heroin.

Q: Thank you Officer Tempalsky. No further questions at this time.

CROSS EXAMINATION OF OFFICER TEMPALSKY BY MR. DENNISON:

Q: I'm sorry, what is your name again?

A: Donald Temalsy. Don is easier, it's a mouthful otherwise.

Q: Mr. Don, you say it's unusual for people like me, unusual to see things packaged the way it was.

A: I don't know if I said that.

Q: Oh, I'm sorry. Stepped on. Stepped on. What do you mean by stepped on?

A: No, I don't think it's unusual at all to see street level amounts of drugs to be diluted but the more common term for diluting or extending the amount of your substance to be -- it's common street term to say stepped on.

Q: And in my case how is stepped on -- the drugs in my case, how is stepped on?

A: Well, it appears from the lab results there were several different drugs contained within those bags, in each separate bag.

Q: It was heroin and cocaine, a speedball. A speedball.

A: I can't tell, I don't know what -- I don't even know you so I don't know what your habits, personal drug habits are. But I'll look back at the case if you don't mind, but I'm pretty sure that I saw that there was fentanyl in most of these bags that were seized from you on the day in question.

So, item 1 had heroin and fentanyl, not a speedball. Number 2 had heroin, fentanyl and cocaine. Number 3 had heroin and cocaine and number 4 had cocaine and then there was a folded paper containing a powder substance and then another folded paper wrapper containing a paper substance. So, I'm not sure what those were, they weren't tested by the lab.

Q: So, being a user, could I by what appeared to be heroin, but it has fentanyl mixed in it? Could I buy it? If the dealer tell me it's heroin, but he put fentanyl in it. Under your professionalism, could I go to a dealer, I got $20 can I get a bag, and he already put fentanyl in it?

A: Absolutely.

Q: That, that could happen.

A: Absolutely.

Q: Okay. So, when you say stepped on, I stepped on it for what purpose?

A: So that you could extend your product. If you are a user and you're telling me you're a user, you can take a small amount out of each bag for your own personal use. Then what you could do is replace what you took out with another item that you don't like to use, put it in the bag so then you could sell your bag. So, now you've been able to get high but you've been about to sell what you've purchased for the same about of money that you would have needed to use for yourself. So, in essence you're getting high for free because you're

going to get your money back for that bag you just bought because you're going to sell it to the next person that unfortunately has a drug addiction and you're going to take advantage of them.

Q: So, for the record, I'm going to take advantage of them?

A: Well, I consider that any person who is a drug dealer, which this case it appears that you're a drug dealer, any person that does that takes advantage of other people's addictions. And I feel that, yes, you are taking advantage of a person's addiction if you sell them drugs.

Q: You're stereotyping. So, you saying a addict gone just get people? An addict, an addict going to get people, so I'm gone get you?

A: I didn't say get, I said take advantage of.

Q: Take advantage of you. So, because I'm an addict I'm gone take advantage of someone?

A: It is -- unfortunately, yes, it is extremely common because the addiction overtakes most people's sense of honesty, decency, the ability to make good judgment. They will, as an addict, steal, rob, do anything they can including sell drug, which is very common, to support their habit. And unfortunately, they sell drugs to other people with addictions. There's always the option of getting that other addict help, not selling them more drugs.

Q: So, you an expert, expert -- you, you want the jury to

know that you're saying I'm me, Carlos Dennison, is gone go out and get people because I am an addict. I am going to go out there and steal from people because I'm an addict.

A: That's been common in my experience that people that have addiction problems, one of the ways that they support their addiction -- it's been my experience, and most people that are drug addicts quickly loose the ability to make a honest living. Their addiction overtakes their ability to work. So, they need to support their addiction because that overtakes their life. So, they ---

Q: So ---

A: --- I'll answer you, sir. So, to support their addiction, if they can't work legally, they need to have an illegal source of money to buy their drugs. So, whether that's stealing, whether that is shoplifting, whether that is selling drugs, whether that is robbing, that's just the cycle and it's just my experience and that's what I've seen.

Q: I was employed at Drunkin' Jacks. Have you ever heard of a lawyer using drugs? In your profession, have you ever heard of a lawyer using drugs?

A: Absolutely.

Q: So, so do they steal? Do a lawyer steal? They making money, now; do they steal?

A: It depends on what drug you're using and what your status is and your ability to maintain your addiction. The use of

drugs and becoming addicted to drugs and the level of addiction varies from person to person. It is very possible for an individual, much like an alcoholic there's people that can drink socially but not become an alcoholic and they can maintain their job. There are certain people that can use some types of drugs and maintain a professional position.

Q: But, you testified saying an addict is just gone go steal and rob. So, now it's some people can handle to drug and be civilized but then earlier you said if they use drugs they gone steal.

A: I said addict.

Q: Well, use drugs is an addict.

A: No. No. I don't classify everyone that uses drugs to be addicted ---

Q: So ---

A: --- sir, I'll answer your question -- or, just like someone who drinks alcohol. I don't consider them an alcoholic. Just because someone smokes marijuana once a week, I don't think they're addicted to marijuana. Unfortunately, certain drugs lead themselves to a very quick addiction phase. Harder drugs like heroin, like crack cocaine are very easy to become addicted to, where other drugs like maybe alcohol or maybe marijuana are a little bit more difficult to become addicted to.

Q: Do you believe an addict can become successful? Like

they're an addict for two years, three years and somehow they stop, like the Good Lord bless them and they start taking on a job or career. Do you believe that happen?

A: Once they're able to kick their addiction, and it is difficult, I have seen it. I've personally seen it. I know people that have been able to. They're addicts for life, but they are able to stop their abuse of the drug. Yes, sure. Without a doubt they can turn their life around.

Q: I was working. I was working at the time. I was somebody but you testifying as if you know the living of an individual who using drugs. You testifying like you been there, like you there and you know that you got lottery tickets to sell. How you know he don't play the lottery? I mean, out of 10 people ---

A: I don't know which question you want me to answer first because you've got several in there. I'll answer them all for you though.

Q: Okay, I'm sorry. Out of 10 people, out of 10 addicts who get caught with lottery paper, is all 10 of them got the lottery paper for drugs? They might have a job, you know, I'm gone work and I'm gone play the lottery.

A: I'd have to make my opinion on a case by case basis with each one of those 10 and take into account many factors like in this particular case I looked at many factors to come to that decision. Each case is different. There are some

generalities, but I would try to look at as much information as possible before I came to a decision.

Q: In my case right now, did you know I had a job at the time you was looking at those drugs and when you made your opinion? Did you know I had a job at the moment?

A: I heard you mention that several times.

Q: No, I'm talking about before now when you looked at it. When did you look at my case?

A: Yesterday.

Q: Yesterday. So, you made your opinion yesterday?

A: Yes, sir.

Q: And you just knowing about the job?

A: Yesterday I heard you say something about a job.

Q: I'm sorry. I don't recognize that. Who I said I had a job to?

A: I don't recall.

Q: You can't recall yesterday?

A: I've heard a lot of things in the last two days, but the fact that you had a job would not preclude me from determining that you possessed these items for sell. I know many people that are in the drug trade that take jobs for small periods of time whether they need to for their parole or probation officers or whether they utilize those jobs as an avenue to meet other people to sell their drugs or to obtain other drugs. It's not unheard of for a drug dealer to tell us that

they have a job. Most people when we arrest them for dealing drugs, when we ask them who their employer is they'll give us an answer such as they're a landscaper or that they work in the food and beverage industry.

Q: Defendant evidence number three, exhibit number three and exhibit number two. I was talking with Mr. Noel Smith earlier.

A: Yes, sir.

Q: About the drugs that you -- not the drugs -- yeah, the drugs in the case when it's sealed and packaged. In your professionalism, how long you been with the -- in the professionalism you in? How long you been with the, with the police department?

A: I've been in law enforcement this year, 36.

Q: Thirty-six years?

A: Yes, sir.

Q: Thirty-six years. Could you explain how drugs would be written up, signed, stating ---

DEFENDANT: May I approach the witness?

THE COURT: Yes, sir.

BY MR. DENNISON:

Q: Do these look familiar? The paperwork.

A: Well, this is one -- I think I mentioned before that there are certain items of paper in a BEST bag that the State supplies that have to be filled out. This is actually a two-

sided copy. This is actually two different pieces of paper actually in the bag. One, this is the outside of the envelope, just a photocopy of. And this is a chain of custody, this is one of the State's forms.

Q: The chain of custody important? It's important?

A: Absolutely. It is important.

Q: Well, could you tell me, well the jurors and me, why would the police officer put the evidence, after they get it from the CI they put the evidence in the evidence bag and they sent it to -- they put it in the locker and they sent it to Columbia. It comes in a different number bag. Can you explain how that would happen?

A: I don't know that this is that same ---

Q: The officer signed it.

A: Hold on. Hold on a second. Let me look. No, these are two different dates. This one you gave me is from March 1st. This one you gave me is from March 9th.

Q: I'm sorry. Look at the incident date right there. The incident date. Now, right here look at this number right here, this SLED lab number. The SLED lab number.

A: Okay.

Q: Look at the SLED lab number right here.

A: Alright, I think what's confusing you is, here's -- there's a lot of numbers here in a case. So, the first thing is when this is your case number departments do different

systems for case numbers. In the drug enforcement unit we go DEU dash then the next two numbers are going to be the year, 16, 18, 19 dash then the case number. It could be 234, 135, it could be .03, .01. Some departments don't use that. Some departments do separate case numbers. So, when you're saying your case number that is department specific case number.

Q: So ---

A: Hold on. This case -- this slip doesn't show me what the case number is because I don't know what it is.

Q: I'm not talking about the case number.

A: But, you're asking me if these are all linked items. This I can tell you that this is linked to this by the incident report number which is your case number. That is a number generated by the City of Georgetown in this case. That links these two items. This document, I have no idea what case this came from because you don't have a case number on it because this is just one piece of paper pulled out of a pile that I don't even know when this -- I assume it's from your case because you have these documents but it doesn't have the case number on it so I don't know.

Q: Can I speak?

A: You asked me.

Q: I'm gone show you. Right here is the control number.

A: Right.

Q: This right here is when the incident happened, March the

1st.

A: Right.

Q: He signed off right here that he gave the drug to J. Sparkman. He gave the drug to J. Sparkman.

A: You're linking these two documents. How are you linking these two documents?

Q: Look at the this right here, 3-1 right here. SLED lab number, not your case number, the SLED lab number. Look at the SLED lab number. This is the case -- this is where he got the drug. This is where he got the drug.

A: No, you're saying that he didn't. This is not the document that links to this.

Q: Look, he got the drug March the 1st, March the 1st, March the 1st.

A: But I don't know that this is the only drugs that they took on March the 1st. They could have had 10 items submitted for evidence on March the 1st.

Q: I'm showing you, sir. I'm showing you March the 1st. Now, right here, he put in here L1803512, L1803512.

A: Yes, sir.

Q: That supposed to be this number.

A: Sir, I told you I can link these two documents because they both have the same case number on them. This doesn't have a case number it has a date. I don't know how many -- sir, I'm going to answer you. I don't know how many items of

evidence they took on March the 1st. I don't know what case this is from, all it has is the SLED bag number on it because this is only one piece of paper from a pile of papers that I don't link to these. These are linked because I can tell you that there is some commonality between these two pieces of paper because this has the case number ending 2834 and this has the case number ended in 2834. I can say, yes, I believe that there's a link between these two items. I can't tell you that I see any link between this piece of paper with this SLED bag number on it and these, other than someone hand wrote in pencil on here.

Q: I write that.

A: Well, the preprinted items or the items that appear to be prior to this being altered by a pencil, I believe that these two can be linked together. I cannot testify at all that there's any commonality between these or any link between that document and these. There's no case number for me to link it. There's no BEST bag number for me to link it.

Q: This is the BEST bag number right here.

MR. POWELL: Pardon me, Your Honor. I think this has been asked and answered numerous times.

DEFENDANT: This is the BEST bag ---

THE COURT: I believe that we need to move on. So, ask him one more question and let's move on to another topic.

DEFENDANT: Yes, sir.

BY MR. DENNISON:

Q: This is the BEST bag number right here.

A: That is correct. That is BEST bag number Bravo 266115.

Q: Okay. So, why this one right here is not the same?

A: Because it's -- I don't know. I don't see anything that says this is from the same case.

THE COURT: Alright. Let's move on.

DEFENDANT: I'm sorry. I'm sorry. Your Honor, the defense rests. The defense rests.

THE COURT: You're finished with this witness?

DEFENDANT: I'm finished with the witness.

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

MR. POWELL: No, Your Honor.

THE COURT: Thank you, sir. You may step down. I would suggest that we take a break.

MR. POWELL: That's fine with the State, Judge.

THE COURT: Alright. Ladies and gentlemen, this is going to be the time where we have our afternoon lunch break. Now, you are in the process of receiving testimony so I need to reiterate my ongoing instruction to you that you cannot have any discussion with anyone about anything involving the case including your fellow jurors or anybody else you see. Also, you've now heard some testimony, maybe locations or you've again, you might have heard words that you don't quite

understand or maybe something you feel like you need to get a little bit more education about, do not do any type of independent research or investigation into the case because again your deliberations have to be based solely on the information you receive as part of this trial. Taking a look at the clock it's about 20 minutes til one. I would ask if you would try to be back here maybe about 10 minutes after two and we will resume with the presentation of the evidence. Again, thank you very much. You may go with the bailiff.

REPORTER'S NOTE: (Jury retires to lunch at 12:40PM)

THE COURT: Anything before I step down?

MR. POWELL: Nothing from the State.

THE COURT: Okay. We will step down. Thank you.

DEFENDANT: Your Honor, I was asking if I get the jury to believe those not his signatures, do I get a not guilty plea? If I get the jury to believe that those not his signatures, do I get a not guilty plea, or could I get you to tell the jury that we have a not guilty plea if the signature does not belong to Judge O'Donnell?

THE COURT: What you'd need to do is I know that you have exhausted the legal research in this case, you'd need to present to me and the State the legal basis for your wanting me to do something, either give a jury charge or to craft some type of instruction or a motion you might make. I would need to know the legal basis for that motion. Alright.

DEFENDANT: Alright.

THE COURT: Thank you very much.

(RECESS)

THE COURT: This afternoon how many witnesses does the State anticipate us getting through?

MR. POWELL: We have three, Your Honor, three left.

THE COURT: Okay. Alright. Any issues before we bring the jury in?

MR. POWELL: None from the State, Your Honor.

DEFENDANT: None from defense.

THE COURT: Let's bring the jury in.

REPORTER'S NOTE: (Jury enters courtroom at 2:15PM)

THE COURT: Is the State ready to call their next witness?

MR. POWELL: Yes, Your Honor. The State would call next Officer Johnell Sparkman.

THE COURT: Just come right up here. Let the clerk swear you in, sir.

JOHNELL SPARKMAN, HAVING BEEN FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

CLERK: Please be seated and state your full name for the record.

OFFICER SPARKMAN: Johnell Sparkman.

DIRECT EXAMINATION OF OFFICER SPARKMAN BY MR. POWELL:

Q: Good afternoon, Officer Sparkman. Officer Sparkman, where

are you currently employed, sir?

A: Georgetown Police Department.

Q: How long have you been a law enforcement officer?

A: It will be 40 years August 1st.

Q: What are your current duties there at the police department?

A: Evidence custodian.

Q: Can you please explain how your job works with the evidence room, securing things, receiving things from officers, can you explain that a little bit? How the physical location is and how it works?

A: The evidence room is located in the police department. There we intake any property that's for either safe keeping or has some type of evidential value to a case. Officers what they do is they submit it in, and they lock it and once they lock it, they toss the key into a hole inside, secured inside the locker along with the property that's submitted. Once I get in, I have a card access along with my fingerprint that I get inside the room. Once I get inside there, the property is secured inside there.

Q: So, the officers have access to these lockers like in a hallway or something?

A: Yes, the exterior access is in the hallway.

Q: And you have a locked in room to get inside and get access to them.

A: Yes.
Q: Then an officer brings something and drops something off what do you do when you see it's in the locker? DO you keep some kind of record? What kind of record do you make?
A: Yes, the officer along with the evidence or the property that goes in the evidence locker, on the voucher they have a description of what they are submitting. Once I get that inside, I document that in a ledger. I physically write down what's on the property sheet and then I take that property sheet and submit it into a three-ring binder. On that I have where the property is located, and they are documented as they come in by document number. And then also there is a location of where that property will be located in the evidence room.
Q: What is a BEST bag, Officer Sparkman?
A: The whole bag provided by South Carolina Law Enforcement Division. Normally whenever I take evidence to be analyzed I'll get those once I come back. I'll get those directly from SLED. Those are used for any drug evidence that we have to submit to be examined by SLED.
Q: What is a chain of custody form?
A: Chain of custody form is one of the forms that comes along with the evidence vouchers. Pretty much they'll fill out what the evidence are, what the drugs they are submitting and date and time, location where it was collected.
Q: Is this chain of custody information something you keep as

a routine record there at the police department?
A: Yes. Once it's filled out it's submitted along with the evidence voucher -- I mean, along with the BEST bag. So, later it goes to SLED and it stays with SLED until they finish processing it. So, whenever I get a chance to go back, it's pretty much a pick-up and delivery. I drop off and then I pick up as I drop off.
Q: Is most drug evidence submitted to the evidence room to you, most of that evidence gets taken to SLED for testing?
A: Yes. They'll stay in the evidence room until they're submitted to SLED.
Q: Does any regular officer have a keep or combination or access to the locker room?
A: Only other is my commanding officer.
MR. POWELL: May I approach the witness, Judge?
THE COURT: Yes, sir.
BY MR. POWELL:
Q: Officer Sparkman, I'd like to see if you can identify this, please. Do you recognize what that is?
A: Yes.
Q: What is it?
A: It is the chain of custody form that comes along with the evidence -- I mean, with the BEST bag.
Q: Does this document have a BEST bag number located on it?
A: Correct, it's the control number.

Q: Can you read that number, please?
A: B as in Bravo 293893.
Q: It looks like there maybe three activities that were logged in. Can you go over and tell the jury what those are showing, dates and what you did those three occasions?
A: The first set of signatures is once I receive it, once the officer delivers it into the evidence, deposits it into the evidence locker. The second set of signatures is me receiving it out of the locker. The third set of signatures -- correction, the second set of signatures is me receiving it and then I turn it in submitting it to SLED. And then the third set is once I go back to SLED, I'll pick it up and return it back to the evidence room and it will maintain there until we hear the Court wants the case disposed of.
Q: So, it shows you receiving it logging it in, taking it to SLED and getting it back from SLED basically?
A: Yes.
Q: Officer Sparkman, I'd like to hand you this item and see if you can recognize what it is?
A: Inside the heat seal bag is the actual BEST bag, the BEST bag that comes along with the BEST bag kit.
Q: Would you look at that form you just were talking about and look at the BEST bag and see if those numbers match up?
A: In the top right-hand corner of the BEST bag and the top left corner of the actual copy of the chain of custody sheet

the control number matches the same. B as in bravo 293893.
Q: And does that chain of custody form show when that BEST bag and stuff was dropped off to the evidence room?
A: It has on there date sealed by the case agent 6/20/2018.
Q: And what date did you take it to SLED? Does the document show what date you took it to SLED?
A: July 3rd, 2018, I arrived at SLED approximately around 5:00 in the morning.
Q: Would that bag, would it be routine that when you went to SLED with that bag, the bag would have been sealed at that point in time?
A: Yes, the bag is kept in -- the bag is sealed by the submitting officer. It's kept in a manila envelope and will stay in the manila envelope and I will take that along with the form. Once I get to SLED, I'll fill out the date and time of me depositing to SLED.
Q: Does SLED assign a tracking number when you submit it and drop it off to them?
A: Yes, a lab number.
Q: Is that the L number that's on your chain of custody form?
A: Yes.
Q: That's what they told you was the number when you turned it over to them?
A: Yes. Once -- I won't receive that number until after the case has been assigned.

Q: By SLED?

A: Yes.

MR. POWELL: One moment, Judge. Your Honor, at this time the State would move to be allowed to put in what was marked for identification as State's exhibit nine, the Georgetown Police Department Chain of Custody involving the drug evidence in this matter.

THE COURT: Any objection?

DEFENDANT: No, Your Honor.

THE COURT: Without objection.

(STATE'S EXHIBIT NINE IS

ADMITTED INTO EVIDENCE)

THE COURT: Thank you.

MR. POWELL: I have no further questions of this witness at this time, Your Honor.

THE COURT: Any cross examination?

DEFENDANT: I will get exhibit three, number nine, number eight. I'm sorry. Number three.

THE COURT: Now, are these State's or defense exhibits?

DEFENDANT: Defense exhibit's, I'm sorry.

THE COURT: Alright. Thank you.

DEFENDANT: May I approach the witness?

THE COURT: Yes, sir.

CROSS EXAMINATION OF OFFICER SPARKMAN BY MR. DENNISON:

Q: Mr. Johnell.

A: Yes.

Q: This, this and this.

DEFENDANT: I'm sorry, Your Honor. I'm putting exhibit eight back for exhibit one.

THE COURT: Mr. Dennison, remember the jury has sent back a note about speaking up, so really speak up so they can hear you.

DEFENDANT: Oh, okay. I'm putting exhibit eight back for exhibit seven, seven. I'm sorry. I'm putting exhibit seven back for nine.

BY MR. DENNISON:

Q: Mr. Sparkman, the same way this is B293893 matches this bag. You just testified saying that match. Does these right here match, B266115? It was given to you by Noel Smith.

A: This particular form is one of the forms that comes along with the BEST bag. This particular form is not the form that you would have the case number that's assigned to the case. So, this goes along with the BEST bag but we're missing a form. Because I can't indicate as Officer Tempalsky said earlier, I can't indicate which case this goes to. This right here is an actual case number, this is actually the evidence voucher for the Georgetown Police Department.

Q: Right there were you sign at saying it's going to SLED, what's that number down there, L18?

A: L1803512.

Q: Is that number on here under that drug analysis? Is that number on there? On that form?
A: Yes.
Q: So, how did it get there?
A: These numbers are assigned by SLED. The lab number's assigned by SLED. The case number is assigned by each individual agency. This is a form for the Georgetown Police Department. I intake evidence for the Georgetown Police Department and the 15th Circuit Drug Enforcement Unit. They have two numeric systems of how they assign their case numbers.
Q: So, down there where it shows that Noel sign off, Mr. Noel sign off ---
A: So, basically what it is, these are two separate cases.
Q: I know that.
A: Okay, so ---
Q: I would like to ask a question.
A: Go ahead.
Q: What did he turn in when he sign these right here? What did he turn in? He's turning in something.
A: A powdery substance in rolled paper, it's a copy. I can't read it right here.
Q: Okay. He turned in something and it's going to the SLED lab. What is he turning in? You sign off saying you got it, so what did he got?

A: A powdery substance.
Q: In what SLED pack? That's what you did here? This the same thing you did right here. This the same thing you did right here. This is a different case, but you did the same thing here.
A: Uh-huh. (Affirmative response)
Q: See, right here and right here. Where the case number on this?
A: The case number in this case is 18008061. The case number here is 18002834. What I'm saying is it's two separate cases, you are missing paperwork.
Q: I'm missing paperwork in my discovery?
A: Based on what you've given me now.
Q: That's the ---
A: Because what I'm telling you is with the evidence; with the BEST bag you would have this form ---
Q: That's the form right there. That's the same form. That's the same form. I'm trying to figure out how drugs get switched? How drugs get switched?
A: As I stated, there's no switching of drugs. These are two separate drug cases. There are two separate BEST bags because there's two separate incidents.
Q: So, what's the date of this one incident? Okay, so these two incidents -- this one case right here is two incidents and just one case number.

A: This right here is a separate case because it's a different BEST bag. This right here the paperwork, the report you get from SLED it indicates L1803512.

Q: And that's on this paper right here with your name signed.

A: Yes, and as the question you asked, what do you submit; it is described right here. Now, wherever your paperwork is, I don't know what you did with your paperwork. I mean, you requested the paperwork, you should have gotten the paperwork.

Q: But, it's supposed to be an evidence bag, right? It's supposed to be an evidence bag, every case that gets turned in to you. Right here it's an evidence bag, right?

A: Yes.

Q: So, what happened to the evidence bag in this case?

THE COURT: Ladies and gentlemen, I need to have a -- take up a matter of law with the parties. If you would please retire back to the jury deliberation room. Do not have any discussions among yourself regarding anything involving the case.

REPORTER'S NOTE: (Jury retires to jury room at 2:34PM)

THE COURT: Alright. Let me make something clear. The way that I'm hearing the line of these questions is that you're trying to impeach the drug analysis or the chain of custody for the charges that you're facing today by attacking the drug analysis or the chain of custody in the charges that you're not facing?

DEFENDANT: No, sir, Your Honor. I was -- I'm attacking because they signed there stating that that's what they did.

THE COURT: In which case?

DEFENDANT: In the other case.

THE COURT: In the other case.

DEFENDANT: Yes, sir.

THE COURT: Alright. The thing that happened in the other case are not going to be a basis for finding you either innocent or guilty in this case. It is confusing. I'm sitting up here confused. I can only imagine what the jury is.

DEFENDANT: Any, Your Honor ---

THE COURT: You raised the issue of the forged, potentially forged signature of the municipal court. The State took your bait and decided to publish the affidavits that lead to the issuance of those arrest warrants in the other case. I tried to caution the State not to go down that rabbit hole. We have tried a large part of this case based on the other arrest warrants that you feel are invalid. I understand that. But, we have to get your questions, both of you, appropriately focused on this case here. Alright.

DEFENDANT: Alright, Your Honor.

THE COURT: Bring them in.

REPORTER'S NOTE: (Jury enters courtroom at 2:37PM)

DEFENDANT: May I approach the witness, Your Honor?

THE COURT: Yes, sir.

BY MR. DENNISON:

Q: So, you don't know or either the paperwork is not showing what I'm talking about.

A: I can tell you looking at this paperwork that's three separate cases.

Q: It's three separate cases?

A: Yes. No two cases will be assigned one BEST bag.

Q: That makes sense and it's three numbers in this case.

A: What I can tell you -- I can't tell you what case number this particular BEST bag is assigned to because it's incomplete. I don't have all the paperwork present before me. This here is a separate case, and this here is a separate case. Those papers match one another.

Q: Mr. Johnell, how important is your signature when you do paperwork? How important is your signature when you do paperwork?

A: My signature is everything.

Q: It's everything.

A: Yeah.

Q: It tells your professionalism. Do your signature change? How long do your -- I'm sorry. Do your signature fluctuates or scribble because what I see it looks pretty -- I can't argue that. I can't argue with your signature. That look like your signature and there was a three-month span on the

document. I'm sorry. But, I'm turning to exhibit three and exhibit nine.

THE COURT: State's or defense?

DEFENDANT: Defense, Your Honor.

THE COURT: Thank you.

DEFENDANT: I'm sorry.

BY MR. DENNISON:

Q: I'm pointing at exhibit nine. I'm just asking the date of your signature on exhibit nine. Just the date, just the date of your signature.

A: Which one?

Q: All of them you signed.

A: June 21st, the first signature, 2018. July 3rd, 2018, second signature. January 30, 2019, third signature.

Q: Okay. On exhibit three, what's the date on that? On the signature.

A: Looks like March 1st, 2018. March 9th, 2018, second signature.

Q: And pretty much your signature ain't change. Pretty much it's still the same. And then you sign with just J. Sparkman, you ain't put Johnell Sparkman. You put just J. Sparkman.

A: I alternate. As you see I have Johnell Sparkman on the first line. Johnell Sparkman on the second like. And J. Sparkman on the third line.

Q: You can't argue that, that's your signature. I can't

argue that.

DEFENDANT: I'm getting exhibits five and six and eight for the defense, Your Honor.

THE COURT: Thank you.

BY MR. DENNISON:

Q: Mr. Johnell, like I state, those signatures didn't change, they still the same. From March to June, March, April, May, June that's three months. On exhibit six, what's the date on that signature of John Gregory?

A: March 6th, 2018.

Q: March 6th. And if you flip this one, if you flip over, number six, what's the date on that one?

A: March 6th, 2018.

Q: Those are the same. The Judge signature, can you describe it?

A: It looks like MH -- the scribe looks the same.

Q: The scribe looks the same.

A: Yes.

Q: And that's 3/6. Okay, and nine days later -- I mean, 3/6 to 3/9 that six days, six days later on exhibit -- I'm sorry, exhibit five. Can you describe what that signature looks like? The one on the original copy. I need you to describe the one on the original copy first, please.

A: It looks like an H or an M, an O.

Q: Do it look like her wrote and then pick up his pen and

then write down again? I just want you to look at ---
A: Well, I mean, he would have to because there's not a carbon copy.
Q: So, he write and then pick up again. I'm talking about that one signature right there.
A: I'm not an expert as far as handwriting so, I mean.
Q: Well, I'm just talking about just form looking at it.
A: You can say that.
Q: Okay. When you flip it over how much time do he pick up his pen on that one? He write, pick up, write, pickup; how much time did he pick up in that one?
A: Again, I'm not a handwriting expert but ---
Q: It's six days later. Yours is three months later and your signature still look pretty much the same.
A: No one person, I mean, nobody writes alike.
Q: You right, nobody got the same signature. Nobody got the same signature.
DEFENDANT: Your Honor, I'm finished with this witness.
THE COURT: Thank you.
Any redirect limited to what he went in to?
MR. POWELL: No, Your Honor.
THE COURT: Thank you, sir. You may step down. Watch your step as you step down.
Is the State ready to call their next witness?
MR. POWELL: Yes, Your Honor. The State would call Doris

Yarbrough next.

THE COURT: Let the Clerk of Court swear you in, ma'am.

DORIS YARBROUGH, HAVING BEEN FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

MS. YARBROUGH: My name is Doris Yarbrough, Y-A-R-B-R-O-U-G-H.

DIRECT EXAMINATION OF MS. YARBROUGH BY MR. POWELL:

Q: Good afternoon, Ms. Yarbrough.

A: Good afternoon.

Q: Ma'am, where are you currently employed?

A: I'm employed with the South Carolina Law Enforcement Division.

Q: Is that referred to as SLED most of the time, Ms. Yarbrough?

A: Yes.

Q: How long have you worked there?

A: I've been there for 11 years.

Q: What are your duties there now?

A: I'm a forensic technician in the evidence control department. We receive, log in and store evidence for agencies throughout the State of South Carolina.

Q: Do you receive drug evidence?

A: Lots of it.

Q: If law enforcement brings you some evidence what do you do when they walk in the door?

A: They usually go to the lockers. We've been doing the lockers for about two years. They go back to a room that has lockers. We have a time stamp, they time stamp their paperwork, initial that paperwork, make sure that paperwork is signature. Then they take their evidence along with their paperwork and place it into a locker. They lock the locker and then check the locker and we have cards on the locker that say occupied or unoccupied, so we know there's evidence in those lockers. And as the -- throughout the day we go back tot eh lockers and remove that evidence to be logged in.

Q: And do you assign any kind of tracking number, SLED tracking number or anything when you start processing those items?

A: When the evidence is logged in the computer generates a distinct number we refer to as a lab number. It's a yellow sticker that goes onto that evidence whether it be a container, meaning a letter number or an items number and that matches the paperwork or receipt that is actually electronically submitted into the lab.

Q: Does the officer get that L number when they put something into the locker or how does that work?

A: No. They can go into the computer system. We call it ILab. They can look up and see when that evidence was submitted or actually logged in and they can get that L number from that time.

Q: Are you familiar with what a BEST bag is?
A: Yes, sir.
Q: Will you explain to the jury what that item is?
A: A BEST bag, we refer to it as a BEST kit, is a manila type envelope with instructions on the front. On the inside is duplicate paperwork that the officer fills out. They take their evidence and put it into a tamper evident bag. They pull off the hard copy of the three copies, slide it into the bag as well as the evidence and then it's sealed. Once it's sealed, they cannot unseal it, otherwise the seal will be distorted.
Q: If you receive something in that manila envelope which has that BEST bag inside it, what do you do? Tear the outside one open, look at the ---
A: We lift the flap on the manila type envelope. We pull the plastic bag out to check the seal to make sure that it's sealed because there have been incidents where it wasn't and if it's not we actually take photographs of it, make a note into the case, we seal it with initials and the date, photograph it again and those are scanned into that particular case.
Q: What would you do, if may have never happened, but what would your training have you to do if it came in and the plastic bag seal had been ripped open? Would you make notations of that?

A: Absolutely.
Q: Were you working at SLED back in July of last year?
A: Yes, sir. I was.
Q: Were you working on July 3rd, 2018?
A: Yes, sir.
Q: I'll ask you another question before I move on to this. Is there some kind of system at SLED that documents who handles certain evidence, like you talked about something coming in, I presume it could go somewhere else? Could you please explain to the jury how you internally track who touches it?
A: Once a lab number has been assigned to that case it's electronically -- like I log it in then I would have to can the shelf or the area in which it was going to be stored and then it would be placed in that area. An analyst would usually send, there's four technicians, send all of us an e-mail asking to pick up particular evidence. One of us would go to that evidence shelf, pull that evidence, inform the analyst that it was ready for pickup. When they come -- then we have to scan it back into our custody. When that analyst comes down then we have to scan it to there, so it's tracked every step it takes throughout the lab.
Q: Is that tracking process something that can be generated on paper?
A: It's can be printed out, it's an electronic chain.

Q: Is that commonly referred to as chain of custody?

A: It is.

MR. POWELL: May I approach the witness, Judge?

THE COURT: Yes, sir.

BY MR. POWELL:

Q: Ma'am, I'd like to hand you this and see if you might could recognize it.

A: This is what we refer to as a lab number. It's a yellow sticker. This would go on the outside of the manila envelope. Then when the analyst gets it, they open the envelope then they take the BEST bag out. The BEST bag also has a B number, it's what we refer to it, with numbers behind it. That's also scanned into the case. Actually, the agency can put it in when, what we call prelogging, they have to print out a barcoded paper and they bring it to us, we scan it and all the information that they have put in populates. We check and make sure that the information is correct before it's logged in. So, this number would match what was on the outside of that bag and this yellow number would have gone on the outside of that manila envelope. Once the envelope ---

Q: What is the --- excuse me ---

A: Okay.

Q: What's the L number on that bag?

A: The L number is L18, and that means the year 18, dash 09574.

Q: And what is the B number, the BEST bag number?
A: The BEST bag number to this on is B293893.
Q: Are you able to make any determination whether you received that on July 3rd, 2018?
A: Yes. It's on electronic chain of custody.
Q: If you looked at that would it refresh your memory if that was the day you received it or not?
A: Yes. That tells me that I'm the one who logged the particular case in.
Q: That was on July 3rd, 2018?
A: Yes, sir.
Q: Do you recall whether it had been sealed up or tampered with? Do you have any notations in your system?
A: There's no notations at all.
Q: Would that indicate that the bag was sealed?
A: Yes, sir.
Q: And not ripped open or ---
A: Or tampered with, yes.

MR. POWELL: I have no further questions of this witness, Judge.

THE COURT: Has that been admitted? Counsel, has that been admitted?

MR. POWELL: No, Your Honor. I didn't try to introduce it.

THE COURT: Okay.

MR. POWELL: Sorry, Judge. I thought you were saying something.

CROSS EXAMINATION OF MS. YARBROUGH BY MR. DENNISON:

Q: How are you doing?

A: Fine.

Q: I just want to ask about your signature. How important is your signature?

A: I have an electronic signature that attaches to each document that I sign into our lab.

Q: And the electronic signature, you sign your name and then it picks it up?

A: Correct.

Q: How long you feel your signature was the same as in, how long your signature was the same?

A: Well, at that time when I created that electronic signature it was on an electronic signature pad and as you know they're all different everywhere you go whether it be Wal-Mart or the grocery store. So, it is also if you're writing on something it depends on what the surface is underneath it you're pressing onto when you write your name so it could vary.

Q: It could vary.

DEFENDANT: Defense rests.

THE COURT: No further questions?

DEFENDANT: No further question. I'm sorry.

THE COURT: Thank you. Any redirect on what he went into?

MR. POWELL: None, Your Honor.

THE COURT: Thank you, ma'am. You may step down. Watch your step.

MR. POWELL: Your Honor, next the State would call Lynn Black. May Ms. Yarbrough be excused from her subpoena?

THE COURT: Any objection to Ms. Yarbrough being excused?

DEFENDANT: No, she may be excused.

THE COURT: Thank you, ma'am. Thank you for coming. You may be excused.

Just let the Clerk of Court swear you in, ma'am.

LYNN BLACK, HAVING BEEN FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

CLERK: Please be seated and state your full name for the record.

MS. BLACK: My name is Lynn Black.

DIRECT EXAMINATION OF MS. BLACK BY MR. POWELL:

Q: Ms. Black, what is your profession, occupation?

A: I'm a forensic scientist and I work as a drug chemist at the forensic services laboratory at the South Carolina Law Enforcement Division commonly known as SLED.

Q: How long have you worked there, ma'am?

A: I've worked there 10 years and I think 8 months, I think.

Q: What are your duties there?

A: I routinely receive and analyze substances brought in by law enforcement personnel and I determine whether they are controlled substances or not.

Q: What type of training did you have to qualify for your job?

A: Would that include education?

Q: Yes, ma'am.

A: I have a Bachelor of Science degree in Chemistry from Kentucky Wesleyan College. A Certificate of Medical Technology from the University of Louisville and Bachelor of Science degree in Forensic Science from Marshall University. Prior to my job at SLED I also worked as a project chemist at the Georgia Bureau of Investigation in Atlanta, Georgia for about eight years. Like I said before, I've worked for SLED for almost 11 years.

Q: Have you had an occasion to chemically analyze substances to determine whether that substance contains a narcotic or some type of illegal narcotic?

A: Yes, I have.

Q: Approximately how many times have you done those types of analysis?

A: I've done at SLED over 9,000 cases. At GBI I did approximately 8,000 cases and that can vary from one to, you know, numerous kinds of items.

Q: Have you ever tested something to find out whether it was

cocaine or not?
A: Yes, sir, many times.
Q: Have you ever tested something to determine whether it was heroin or not?
A: Yes, sir.
Q: How many analyses, drug analysis do you think you make in any given week?
A: It varies. My goal is to do maybe 25 cases a week. Sometimes I get there sometimes I don't, it just depends on what's going on, if I have to go to Court or some other instances of interruption.
Q: Would you say that doing these chemical analyses would be a regular part of your job?
A: Yes, it is.
Q: Have you ever been qualified as an expert witness in this forensic analysis area in General Session Court in South Carolina?
A: Yes, I have.
Q: How many times?
A: In South Carolina approximately 39 times.
Q: Did you actually testify in these cases?
A: Yes, sir.
MR. POWELL: Your Honor, at this time the State would move for this witness to be declared as an expert in the field of chemistry and analysis of narcotics.

THE COURT: Any object?

DEFENDANT: No, sir, Your Honor.

THE COURT: Alright, ladies and gentlemen, normally a person cannot give opinion testimony, normally when a person testifies, they must do so as to what they saw or heard or sensed by smell or something of that nature. However, there is an exception when someone is qualified because of education or experience. They are permitted to give their opinion in certain areas if the Court qualifies them that way. This witness will be qualified in the area of chemistry and analysis of narcotics to give opinion testimony in that area. That does not mean that you must accept the opinion, but it is evidence for you to use in any way that you see fit.

BY MR. POWELL:

Q: Ms. Black, I'd like to hand you this item and see if you recognize what it is.

A: I do.

Q: And what is it?

A: It's actually called, we call this a K pack, this outer package that lists the evidence in this particular case and inside is a BEST kit, excuse me, a BEST bag and I recognize it by the laboratory number, which is the L18-09574 that's on a barcode sticker, this yellow sticker. Also, that number is written on the BEST bag that's inside this with my handwriting and my initials.

Q: What is the BEST bag number?
A: The BEST bag number is B293893.
Q: Based on your experience and knowledge on how your office works, does SLED assign a tracking number at the very beginning of intake?
A: Yes, sir.
Q: And then you use that throughout the touching, using, storing, processing?
A: That's correct. There is a barcode on that sticker so any time it's transferred from one person to another or to a location that barcode is scanned so that our computer system captures that and then you can go in there and see where the bag is or where it has been.
Q: Are those records logged to your computer system contemporaneously with somebody transferring to somebody else?
A: Yes, sir.
Q: That's a regular part of SLED's business operations?
A: Yes, it is.
Q: So, if you wish to get a piece of evidence to test it, you have to log it out from where it's stored?
A: Yes, what happens is when this evidence is brought in it stays down in log in until I or whoever the case is assigned to goes down to pick it up. And then when I pick it up, I place it in our drug vault. But it's scanned to me though, but it stays in the drug vault in my area with other cases

until I have occasion to test it. And then when I'm finished with it, I'll take it back to that location in the drug vault and then eventually take it down to log in where it is scanned back into which ever forensic technician is receiving evidence that day. So, then the record will show it was in my possession and then it will show it was in whatever forensic technician took it from me. And then it will go into different places in that vault down there depending on what day it is and what ---

Q: Excuse me. When it's brought and logged in is it placed in a secured -- I think you just said vault downstairs. Is the item placed under lock and key when it gets submitted?

A: Correct, yeah. When the evidence technician logs it in, she'll scan it to herself and then she'll scan it to a location in a locker -- excuse me, the drug vault, and then -- so then whoever retrieves it to give it to me they know exactly where to go to get it. So, then they will scan it to themselves and then they scan it to me so that the record will show all those different transfers.

MR. POWELL: Can you mark this please?

BY MR. POWELL:

Q: Ms. Black, I'd like to hand you what's been marked for identification purposes only as State exhibit 10 and see if you recognize what this document is.

A: I do. This is a copy of the chain of custody. It's an

internal chain of custody for SLED and for this particular case.

Q: So, the item plastic bag you're holding, that document deals with that lab number, that BEST bag number, it's tracking the item.

A: Correct.

Q: Look at it one more time please, do you see whether there's any kind of alterations or writings, any additions, does it look like a complete, accurate copy? I see you brought one yourself with you.

A: I do. It appears to be a complete and accurate copy of what I brought. Yes, sir.

MR. POWELL: Your Honor, at this time we'd like to move what was previously marked as State exhibit 10 for identification into evidence as State exhibit 10.

DEFENDANT: Not object.

THE COURT: Without objection.

(STATE'S EXHIBIT TEN IS

ADMITTED INTO EVIDENCE)

MR. POWELL: Thank you, Judge.

BY MR. POWELL:

Q: When did you actually receive that BEST bag, ma'am?

A: Allow me to refer to my records. I actually received it October 9th, 2018.

Q: Does your records show who submitted it to you, logged it

out to you?
A: Charlotte Pitts, forensic technician in the log in department gave that to me, yes.
Q: I don't think I asked this question before. I apologize if this is a repeat. What condition was that bag when you received it? Was it tampered with or opened?
A: It was sealed when I received it and I can tell that by I do not have any notations on my worksheets nor on the bag. The lab number that I wrote here in purple says seal intact with the date and my initials so if this bag had not been sealed or had been tampered with in any way I would not have written that and also there would have been a notation on the report that it was not sealed when it was submitted and there's no such notation on it.
Q: Can you please explain what you did with it after you received it?
A: When I received it, generally I'm not going to analyze it right away. I usually have other cases that I'm doing before that. So, I usually take it upstairs and as I said before, place it into the drug vault that's in my department and it's a secure location. Each of us analysts have an area in there where we keep our cases. So, this would have been in a manila envelope that we call the BEST kit, excuse me, the bag inside this bag, would have been inside the manila envelope. So, I would have the whole bin of manila envelopes that are all

different cases and they would stay there until I had occasion to test them.

Q: Did you end up analyzing the items contained in that bag?

A: I did.

Q: What type of test did you do?

A: I did two types of tests. One is a chemical or a color test. The other is an instrumental test and it's a mouthful, Gas chromatography-mass spectrometry we call it GC-MS for short. So, a chemical test and an instrumental test to prove what the substances are in each item.

Q: Are these tests routinely used by you and SLED to analyze drug items?

A: Yes, they are.

Q: Based on these tests were you able to form an expert opinion as to what these items were, what they contained?

A: I did.

Q: Please state your opinion about that.

A: Would you like me to go through each item?

Q: If you would go through each item, please.

A: Do you want me to describe all of it or just the actual bags that had the substances in them?

Q: Please start out with the bags that you found substances in.

A: Okay. If it's okay, I'll say item whatever, is that alright?

Q: Yes, ma'am, that will be fine.
A: Okay. So, I have item 1.1.1 and that was a ziplock bag containing a plastic bag containing powder substance, heroin, fentanyl -- excuse me, I'll say heroin C1 and fentanyl C2 were found in the sample tested. The net weight was 0.10 grams.
Q: What do you mean by C1 and C2?
A: That's the schedule of the drug. Schedules are in the laws, they're in federal law, they're also in state law that tells what -- I'll say, they go from C1 to C5. So, the lower the number, so if you have 1 that means that substance is highly addictive, it has no current medicinal value, so it's not used in any hospitals or doctor's offices or anything and like I said it's highly addictive. If you go to C2, it's still very highly addictive but it does have medicinal value. It could, you know, some things could be used in a hospital setting. For instance, fentanyl is a C2 so it you've ever heard of fentanyl patches, some people get them for pain, and you can have them on your arm and it sends the medicine out to your body to alleviate pain. So, it does have value to it but it's still a highly addictive drug. C3 it's a little less addictive. C4 is even less, C5 is even less, and beyond that -- those are all considered controlled substances.
Q: This first item you said was heroin and fentanyl?
A: Correct.
Q: And that weight was 0.1 of a gram. A tenth of a gram.

A: Right, 0.10 grams.
Q: Please go onto the next item.
A: Then item 1.1.2 was a ziplock bag containing a plastic bag containing powder substance and this on had heroin again is C1, fentanyl is C2 and cocaine, which is also a schedule 2 drug. That was found in the sample tested and the net weight was 0.041 grams.
Q: How about the third item?
A: The third item, 1.1.3 is a ziplock bag containing a plastic bag containing powder substance. This one had heroin, schedule 1, and cocaine, schedule 2, in the sample tested. The net weight of this item was 0.056 grams.
Q: Excuse me, go ahead.
A: The next item, 1.1.4 is a ziplock bag containing a ziplock bag containing a powder substance, cocaine, schedule 2 found in the sample tested. The net weight here was 0.35 grams. Item 1.1.5 was a piece of folded paper that contained powder substance. This particular item I did not do the full testing on. It had -- I did indicative testing, which is the color test part. I explained I had the color tests and the instrumental test. I only did the color test on this one and based on the results that I saw in that, it was consistent with item 1.1.2, which was the heroin, fentanyl and cocaine. So, based on that because the weight threshold for those items has already been met with the heroin and fentanyl so according

to our policies at SLED, you know, I'm allowed to only do the indicative testing since that testing agrees with that other items indicative test as well. The net weight of that substance was less than 0.10 grams.

Q: Ms. Black, when you analyze something and do your testing and form your opinion about what the various items are, do you do any kind of written report or document that shows what those test results were?

A: Yes, I do.

Q: Is that a standard business practice at SLED and you, of course, do that?

A: Yes, it is.

Q: Are those reports done contemporaneously with you doing testing?

A: It is, yes.

Q: I'd like to hand you what was previously marked for identification only at State exhibit 11 and see if you recognize what it is.

A: I do. This is a copy of the report that I generated in this particular case.

Q: Do you see where there's been any alterations or changes or writings or anything?

A: No, sir. It appears to be a copy of the one I brought with me today.

Q: Thank you, ma'am.

MR. POWELL: Your Honor, at this time the State would move to introduce into evidence what was previously marked for identification as State exhibit 3, which is the drugs contained in the BEST bag and also the State would move to put into evidence what was marked for identification as State exhibit 11, which is the lab report that was generated by Ms. Black after her analysis was done.

THE COURT: Any objections?

DEFENDANT: No, sir, Your Honor.

THE COURT: Alright, without objection. Thank you, sir.

(STATE'S EXHIBITS THREE AND ELEVEN

ARE ADMITTED INTO EVIDENCE)

MR. POWELL: Thank you, Judge. Your Honor, I have no further questions of this witness at this time. Thank you.

THE COURT: Thank you, sir.

CROSS EXAMINATION OF MS. BLACK BY MR. DENNISON:

Q: How are you doing, Ms. Black?

A: Very well. Thank you.

DEFENDANT: May I approach the bench, Your Honor?

THE COURT: Yes, sir.

BY MR. DENNISON:

Q: Do you recognize this?

A: Yes, sir. This is a, what we call a form A or a Supplement to Analysis for Controlled Substance. It's usually the second page on the report that I would generate.

Q: And that's your signature?

A: That is my signature. Yes, sir.

Q: Alright.

DEFENDANT: Your Honor, I'd like to move -- put this in evidence for the defense.

THE COURT: Show it to counsel please. Show it to counsel.

DEFENDANT: Oh, I'm sorry. I'm sorry.

MR. POWELL: No objection to this.

THE COURT: Without objection. Let her mark it.

(DEFENDANT'S EXHIBIT FIVE IS ADMITTED INTO EVIDENCE)

THE COURT: Seven?

COURT REPORTER: Five.

THE COURT: Five.

DEFENDANT: Five for the defense.

BY MR. DENNISON:

Q: Ms. Black, how long you was doing this type job?

A: I worked at SLED for almost 11 years and I worked in Georgia for almost 8 doing this same job.

Q: So, about 19 years.

A: Just about. Yes, sir.

Q: Did your signature ever change?

A: It's changed a little bit over the years, yeah, as I've gotten older, yeah.

Q: So, if a person were to look at those that are older would they see anything distinctive in them?

A: There's some still distinctive marks, you know, my L's and my B's look about the same. The rest off if I think has fallen off.

Q: Ms. Yarbrough, you worked with her for how many years?

A: She's been at SLED just a little bit longer than me. So, almost 10 years.

Q: And y'all see each other's signature?

A: I can't say that I've seen her signature very often. No, sir.

Q: Oh.

DEFENDANT: No further questions.

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

MR. POWELL: None, Your Honor. We would ask if this witness could be released from her subpoena.

THE COURT: Any objection?

DEFENDANT: No, sir.

THE COURT: Ma'am, thank you for coming. Please watch your step as you are stepping down, but you may be excused.

MS. BLACK: Thank you, Your Honor.

MR. POWELL: At this time the State rests, Judge.

THE COURT: Ladies and gentlemen, this is one of those times where I have to take up some matters of law with the parties and so I remind you not to have any discussions among

yourselves about anything involving the case. Please retire back to the jury deliberation room and we'll get you back shortly.

REPORTER'S NOTE: (Jury retires to jury room at 3:15PM)

DEFENDANT: Your Honor, I'm making a motion for a directed verdict of not guilty.

THE COURT: Okay.

DEFENDANT: And for the evidence not sufficient for the indictment to give the case to the jury. I'm sorry, Your Honor.

THE COURT: No need to apologize.

Yes, sir.

MR. POWELL: Your Honor, the State's position is that this motion for directed verdict should be denied. I believe there has been at least some evidence on every element of both charges. But, obviously the motion for directed verdict doesn't go to the weight of the evidence, it goes to whether there was any evidence that could go to the jury on each element where the jury could make their decision about whether all that was proved beyond a reason doubt. The State believes that there has been some evidence that goes over all the elements of both charges.

THE COURT: Do you wish to reply in any way?

DEFENDANT: No, sir.

THE COURT: Alright. At this juncture the Court is

required to view the evidence in the light most favorably to the nonmoving party, that would be the State. So, it having done that, I would have to deny the motion. Alright. Have you decided whether you are going to testify or present evidence?

DEFENDANT: I have the witness Abby Porter. I will have her here.

THE COURT: Did you subpoena her?

DEFENDANT: Yeah.

THE COURT: Is she ---

DEFENDANT: I don't know ---

MR. HAZZARD: I will address that with the Court's permission. Ms. Porter, to my understanding has indeed been subpoenaed. She has provided a telephone number to my staff and can be called. I was not aware with where the State stood with their case. But, with the Court's indulgence we will contact her and see if she ---

THE COURT: Is she a long way away or right around the corner?

MR. HAZZARD: I would not think so. I would think that she would be out at the detention center which is approximately six miles away.

THE COURT: She's an employee?

MR. HAZZARD: Yes.

THE COURT: Oh, okay. Let's try to at least get that

done. Now, have you decided whether you're going to testify or not?

DEFENDANT: No, sir, Your Honor.

THE COURT: You have not decided?

DEFENDANT: No, sir.

THE COURT: Okay.

DEFENDANT: I'm sorry. I'm not gone testify.

THE COURT: Okay. What we'll do is we'll get Ms. Porter, hopefully get her here. Do you anticipate her being a long witness?

DEFENDANT: Say that again.

THE COURT: You think she's going to be a long witness?

DEFENDANT: Oh. No, sir. No, Your Honor.

THE COURT: Okay. Then after she testifies, I have some questions I have to ask you on the record. Depending on what Ms. Porter says, does the State intend to call any reply at this time?

MR. POWELL: Your Honor, I presume from comments made yesterday the expectation is she will testify about some withdrawal symptoms from heroin issues while he was in county detention center. If that's all she testifies to we're not going to call any rebuttal or reply witnesses.

THE COURT: Okay. The -- alright, Mr. Dennison, the reason I ask those questions, I have the responsibility for scheduling as well as making rulings on matters. So, what I

would -- based on the response to the questions, what I would suggest we do is we take a break, see if we can get her here and then you had indicated that you were going to waive your opening statement and do it at the beginning.

DEFENDANT: Yes, sir.

THE COURT: Do you still intend to do an opening statement?

DEFENDANT: Yes, sir.

THE COURT: Alright. With your opening statement it would be very limited in what you could say. You could not argue facts to the jury. Opening statements are meant for you to actually present what the issues are. So, you would have to keep it relatively concise. Can you do that?

DEFENDANT: Yes, sir.

THE COURT: Now, with that being said, you will have an opportunity to make a closing statement. Closing statements are very different. Closing statement gives you an opportunity to address all of the legal issues and factual issues in the case. So, they are two different things. Do you understand that?

DEFENDANT: Yes, sir.

THE COURT: Alright. If you have any questions about the difference, please speak with your counsel who has been kind enough to lend his time to us. Okay. We'll step down and keep me updated about where she is at some point.

MR. HAZZARD: Give me about 10 to 15 minutes, Your Honor, if this could be the afternoon break, and I will go downstairs and check.

THE COURT: okay. Alright. We'll step down.

(RECESS)

THE COURT: Alright. The plan will be to bring the jury back in and I will inform the jury that they will now receive the opening statement from the defendant and I will remind them that the opening statement is not -- it gives the defendant the opportunity to explain the issues or at least what he believes the issues are in the case. But, that the opening statement is not evidence in the case.

DEFENDANT: Your Honor, can I speak?

THE COURT: Yes, sir.

DEFENDANT: I'm going to waive my opening case. I'm gone waive it.

THE COURT: Okay. That might be best because it will get a little confusing for them. Alright, then what we'll do is we'll bring the jury back in and you may call your witness. Okay. Have you -- you're still not going to testify?

DEFENDANT: No, sir, Your Honor. I'm not.

THE COURT: Okay. The only reason I ask is I'm trying to make it flow easy because I've got to ask you a series of questions and so what we'll do is get the witness done and then I'll ask you the questions and then -- I tell you what,

let me go ahead and ask you the questions. If you change your mind while the witness is testifying just let me know. Okay. But I'm going to go ahead. If you would just raise your rand right now and let the clerk swear you in.

CARLOS ANTOHNY DENNISON, HAVING BEEN FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

THE COURT: Mr. Dennison, this is the time that I'm going to explain to you certain of your rights. If you do not understand anything that I say, please let me know. And if you want me to explain anything to you in more detail to you, please let me know that as well. Do you understand that?

DEFENDANT: Yes, sir.

THE COURT: Alright. Mr. Dennison, we have now reached the stage of the trial where you may present a defense and you have the right to claim the protections give to you be the fifth amendment to the Constitution of the United States. This amendment states in part that no person should be compelled in any criminal case to be a witness against himself. This means that you cannot be required to testify in this case. You have the right to testify on your own behalf, however no one can make you testify. This is a personal right, and no one can waive this right except you. If you decide to testify, you'll be subject to the same rules that govern other witnesses and you may be examined and cross examined on any relevant issue in the case. In addition, if

you have any convictions involving dishonesty or false statements or for crimes punishable by imprisonment for more than one year and this Court determines that the probative value of admitting the evidence outweighs it's prejudicial affect to you the solicitor will be able to introduce your record to attack your credibility. If you decide to testify, this decision on your part must be freely, voluntarily and intellectually made with the knowledge of the protections given to you by the fifth amendment and the consequences of your decision to testify. If you decide not to testify, I will instruct the jury that they cannot give that fact that you did not testify any consideration whatsoever and that there is to be absolutely no prejudice to you because you did not testify. It is left entirely up to you whether or not you testify. You may talk with anyone about this. You can talk with standby counsel, you can talk with your family, you can talk with your friends, you can talk with anyone else. But, Mr. Dennison, the final decision will be left entirely up to you. Now, Mr. Dennison, do you understand what I've just explained to you?

DEFENDANT: Yes, sir, Your Honor.

THE COURT: Do you have any questions about what I have explained to you?

DEFENDANT: No, sir.

THE COURT: Have you -- do you feel the need to want to

discuss this decision whether to testify or not to testify with anyone else?

DEFENDANT: No, sir.

THE COURT: And, Mr. Dennison, I ask again, do you wish to testify in this case?

DEFENDANT: No, sir.

THE COURT: Alright. Ms. Dennison, has anybody, in making that decision not to testify, has anybody perhaps come to you and threatened you in any way or have they made you any promises in order to get you to make the decision to get you not to testify?

DEFENDANT: No, sir.

THE COURT: Am I correct to conclude that your decision not to testify, that it is a free and voluntary decision on your part?

DEFENDANT: Yes, sir.

THE COURT: Alright. Thank you, Mr. Dennison. I will accept your decision being a free, voluntary, and knowing decision. We will, Mr. Dennison, what we will do is we'll proceed, bring the jury back in, you can present your witness. If during the course of the testimony of a witness or after you decide to change your mind, you just let me know. Okay.

DEFENDANT: Alright.

THE COURT: Thank you, Mr. Dennison.

Alright, let's bring the jury in.

REPORTER'S NOTE: (Jury enters courtroom at 3:53PM)

THE COURT: Is the defense ready to call their first witness?

DEFENDANT: Yes, sir, Your Honor. I call Abby Porter.

THE COURT: Alright, Ms. Porter, just come right up here. We'll let the Clerk of Court swear you in.

ABBY PORTER, HAVING BEEN FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

CLERK: Please be seated and state your full name for the record.

MS. PORTER: My name is Abby Porter.

DIRECT EXAMINATION OF MS. PORTER BY MR. DENNISON:

Q: Ms. Porter, where do you work?

A: I work at Georgetown County Detention Center.

Q: And what do you do?

A: I am the medical team administration for Southern Health Partners.

Q: When an inmate come in with withdrawal symptoms do y'all give them medicine?

A: We treat per symptom, per case. It depends on the patient.

Q: Are you familiar with me?

A: You've been in the facility over a year. I don't remember the day that you came in.

Q: Do you know what kind of medication I was taking for

withdrawal?

A: Not off hand. It's been over a year.

Q: What kind of medication do y'all give for withdrawals?

A: Depending on what drug of choice a patient comes in with.

Q: If he's in for heroin.

A: Depending on the symptoms: stomach cramps, Bentyl 20 milligram; nausea, Phenergan 25 milligrams, ibuprofen for the pain, Imodium for diarrhea.

Q: I got the records over here. I'm sorry.

DEFENDANT: No further questions, Your Honor.

THE COURT: Okay.

DEFENDANT: No further questions.

MR. POWELL: The State has no questions for this witness, Judge.

THE COURT: Thank you, ma'am. You may step down. Any reason why the witness cannot be excused?

DEFENDANT: Yes, she may be excused from her subpoena.

MR. POWELL: That's fine, Judge.

THE COURT: Thank you.

DEFENDANT: Your Honor, there's no other witnesses. The defense rests.

THE COURT: Alright. Thank you, sir. Does the State intend to call any reply?

MR. POWELL: No, Your Honor.

THE COURT: Alright. Ladies and gentlemen, this is again

one of those time when I have to take up several matters with the attorneys. Given the hour that it is we're going to call it a day for y'all. I've got several matters I have to take up with the attorneys -- with the parties, I'm sorry. And I would ask if you would to be back in the jury deliberation room let's say by 10:00 in the morning and we will resume with the trial of the case. But, again, I need to remind you of your instruction. Do not have any discussion with anyone about anything involving the case. Do not do any type of independent research or investigation about anything involving the case that includes even a term that you've heard. Do not even pull Webster's Dictionary off the shelf. But, I hope that you have a great evening and we will see you in the morning.

REPORTER'S NOTE: (Jury retires for the day at 3:58PM)

THE COURT: Anything further?

MR. HAZZARD: Court's indulgence.

THE COURT: Okay.

DEFENDANT: Can I make a -- I renew my motion, I'm sorry, for directed verdict, not guilty on the basis of evidence not sufficient to submit to the jury.

MR. POWELL: We would make the same objection that we made earlier, Judge. The State believes that there has been evidence submitted on each of the elements.

THE COURT: Alright, and I have not heard anything that

would have the Court to change its prior ruling, but you are protected on the record.

MR. POWELL: Your Honor, can I just make one inquiry of the Court?

THE COURT: Uh-huh. (Affirmative response)

MR. POWELL: The defendant entered five exhibits, matters of evidence, into the record during the case. I'd like to make an inquiry as to Your Honor's position on closing arguments order. Some case law seems to indicate that that's is done, the State gets to open on the law and do a reply to the defendant's closing argument. So, I'd like to plan for tomorrow morning and be ready ---

THE COURT: Did -- so Beaty only applied to situations where the defendant did not present evidence?

MR. POWELL: I thought there was in there that they talked about if evidence was present, Judge. I could be wrong. This hasn't come up in a long time for me.

THE COURT: Yes, it's only come up, I mean, every -- this is the first criminal trial I've done in some time where evidence was actually presented by the defendant and other evidence was not presented. I believe that, I mean, my recollection is that, is that the State would open in full, the defendant would then present his closing in full, then the State would then reply.

MR. POWELL: That is what I thought it was if the

defendant entered evidence.

THE COURT: Yeah.

MR. POWELL: We could address that in the morning if you'd be better prepared to talk about it.

MR. HAZZARD: Your Honor, may I and Mr. Powell approach?

THE COURT: Yes, if y'all would approach.

MR. POWELL: Your Honor, I have an issue with Mr. Dennison not being able to approach.

THE COURT: Alright.

MR. POWELL: I don't know what ---

THE COURT: Well let's meet down there then if he's ---

MR. POWELL: I don't know what he's going to say. I'm not imputing Ron whatsoever; I just don't want there to be some issue. Ron's smarter than me.

REPORTER'S NOTE: (Bench conference)

THE COURT: Alright. On the issue of the jury charges, we are -- my law clerk has sent them to the clerk's office, the clerk's office was kind enough to print them off. But, unfortunately part of them did not print off, the verdict form, so he's going to be resending you the verdict form.

CLERK: Okay.

THE COURT: I am, Mr. Dennison, I am including the lesser included offense charge with the possession of heroin with intent to distribute. So, you be -- if you need to argue that, you do. I'll start with closing arguments, and I'll try

to get y'all hard copies of all these in the morning. Closing arguments are where I explain to them that the closing arguments -- it's now time for the parties to make their closing arguments but the closing arguments are not evidence in the case and that they should disregard any argument that is not supported by the evidence, they should disregard any remarks, statement or argument which is not supported by the evidence presented in the trial or the law that I tell you afterwards. Then I explain to them what the charge, the arrest, that the defendant was charged, arrested and indicted and those are not evidence. I tell then, explain to them what the presumption of innocence is. I use both short version of the presumption of innocence. I do the presumption of innocence is like the robe cloaked around the defendant until stripped away by proof beyond a reasonable doubt. Then I explain both reasonable doubts, I do both that a reasonable doubt is a person who hesitates to act as well as the firmly convinced argument of what reasonable doubt is. Duties of the trial judge and trial jury. The direct and circumstantial evidence charge. The credibility of witnesses. I will be charging them that the failure of the defendant not to testify should not be considered against the defendant. Then I go into the substantive charges of possession of cocaine. It's just the straight simple possession, I mean, straight possession of cocaine. I do include the -- I do the

possession of cocaine, then I do -- I'm sorry. I'm going to have to fix this. He included, he included possession of heroin as a lesser included offense of cocaine, so I'll have to fix that. But, I will do the possession of cocaine, I'll do the possession of heroin with intent to distribute, then I'll do the lesser included offense of possession of cocaine. I do include the section of law that the State included that it is the law of South Carolina that the weight of either cocaine or heroin is -- that the weight of the heroin is the weight of the substance in pure form or any compound or mixture thereof. Alright. The verdict form, I let them know that the verdict has to be unanimous. Cannot be arbitrary or capricious or based upon passion or prejudice. And then the verdict form will be divided into the possession of cocaine, we the jury unanimously find Carlos Anthony Dennison not guilty or guilty. And then we'll have a number two area where as to the charge of possession of heroin, we the jury unanimously find Carlos Anthony Dennison not guilty or guilty. If you the jury find that the defendant is not guilty of the charge of possession of heroin, if you find the defendant not guilty of the charge of possession of heroin with intent to distribute you may consider the following charge and then that's where we've got cut off. I'll have hard copies for y'all in the morning for y'all to look at. So, if you want to suggest anything else, let me know. Okay.

MR. POWELL: Sounds great, Judge.

THE COURT: Thank y'all very much. See y'all at 9:30.

I do not let the indictments go back. I haven't done that for decades, but in the events that y'all ---

MR. POWELL: That's what we're accustomed to.

THE COURT: Okay.

(RECESS)

THE COURT: What we'll do -- anything else before -- the jury is not here yet; they're not coming in until 10. So, what I'll do is I'll just step down and come back when the jury is all present. What we'll do is the State is going to open in full and then after the State opens then you have the opportunity to stand and argue to the jury. State under the rules has the right to issue are reply. He has the opportunity to reply to anything that you say. You do not have the opportunity to reply to what he says. So, I want to tell you that, I don't want you to be surprised that he gets to argue twice, and you get to only argue once. And then I'll charge the jury, after I charge the jury they will go out and then we'll just sit and wait for a verdict. Okay.

MR. POWELL: Sounds good, Judge.

THE COURT: Alright. We'll come back.

(RECESS)

THE COURT: We've been informed that all the jurors are present. Anything before we bring the jury in?

DEFENDANT: No, sir, Your Honor.

MR. POWELL: No, Your Honor.

THE COURT: Alright, let's bring them in.

MR. HAZZARD: Oh, Your Honor ---

THE COURT: Hang on one second.

MR. HAZZARD: As standby counsel, I wanted to place on the record based on the Court's statements yesterday, I noticed the Court obviously had some concern regarding State's exhibits five and six. Those being the warrants regarding alleged drug distribution from March of 2018 that are unrelated to this charge that -- these charges that are before the Court in this trial. I wanted to place on the record that this morning I spoke with Mr. Dennison at length and as the Court will recall he made an objection to the warrants being admitted into evidence, exhibits five and six of the State contemporaneous with those being admitted. I spoke with him this morning regarding the possibility of renewing that objection, renewing it under Rule 402 regarding the fact that the defense would think that those are not relevant to this case and under Rule 403 with regard to prejudice, confusion, waste of time to the jury. Also, with regard to, under the fifth and fourteenth amendment to the United States Constitution regarding his due process rights. After that discussion it is my understanding that he chooses not to renew that objection and I would ask the Court to have a brief

colloquy with the defendant and confirm that decision.

THE COURT: Alright. Mr. Dennison, you understand that you remain under oath?

DEFENDANT: Yes, sir, Your Honor.

THE COURT: Okay. And, Mr. Dennison, you were able to hear what standby counsel was able to relate to me concerning those issues?

DEFENDANT: Yes, sir, Your Honor.

THE COURT: Alright. And do you have any questions about what standby counsel has stated to me?

DEFENDANT: No, sir, Your Honor.

THE COURT: Alright. Do you -- does standby counsel appropriately and properly state your position?

DEFENDANT: Yes, sir, Your Honor.

THE COURT: Alright. So, you do not wish to renew those motions related to those items?

DEFENDANT: No, sir, Your Honor.

THE COURT: Okay. And do you feel the need to want to talk with standby counsel any further about those issues?

DEFENDANT: No, sir, Your Honor.

THE COURT: Okay. And has -- am I correct to conclude that your decision on making -- that your decision related to what standby counsel has stated to me is a free and voluntary decision by you?

DEFENDANT: Yes, sir.

THE COURT: Okay. Alright, do you have any questions of me about what standby counsel just stated?

DEFENDANT: No, sir, Your Honor.

THE COURT: Alright. Thank you, Mr. Dennison.

Alright, we will bring in the jury.

REPORTER'S NOTE: (Jury enters courtroom at 10:07AM)

THE COURT: Good morning, ladies and gentlemen. Ladies and gentlemen, the parties have now presented their evidence in this case and it is now time for the parties to make what is known as their closing arguments to you. I remind you that the arguments of the parties are not evidence in the case. Their statement and their arguments are meant to help you understand the evidence and apply the law to the evidence. You should disregard any remark, statement or argument which is not supported by the evidence presented during the trial or the law that I will explain to you after their arguments. But, at this time we will receive the closing arguments from the parties.

MR. POWELL: Thank you, Judge. Good morning, folks. Ladies and gentlemen, when I first had the chance to talk to you and make my opening statement, we talked about the fact that the State of South Carolina has to prove to all 12 of you who get to make the decision, that the defendant is guilty beyond a reasonable doubt of possession with intent to distribute the heroin we've been discussing and possession of

the cocaine that we've been discussing. Let's go over and maybe discuss a little bit of things that might make this process easier to you. Some of you may have been on a jury before and some of you may not have done this. Some of you may feel totally confident, some of you might be a little nervous about how to do everything. First of all, there's no special skills that any of us need to sit on a jury and the reason for that is every one of you, everybody in this courtroom has common sense. We use it every day. We meet people, we decide whether we like them, we decide whether we believe somebody. We all have a friend who talk about catching fish every time he goes. It might be humorous, but we don't believe him, it's not serious. But, we use common sense in our lives for so many different things and every one of us have that. You have it right now today. You haven't let it at home or at work this week when you came here. You didn't forget it and leave it out in your car or truck or what you came here in. The sheriff's deputies downstairs when you walked through that metal detector they didn't somehow take your common sense away from you. So, every one of you has it so you'll be able to make a decision. You'll be able to discuss and deliberate whether the State proved to you beyond a reasonable doubt whether these two crimes existed. So, please feel comfortable you will definitely be able to do your job because you have that common sense. So what are crimes?

Lawyers are very specific, laws are very specific, judges are very specific. That's one of the things lawyers are trained to do. We might talk -- you might talk about A, but lawyers might talk about A.1, A.2, A.3 because they're trying to be very specific about things. And when you're here in court this week or you're ever dealing with lawyers or judges or courts you're going to obviously hear lawyer words, you're going to hear court words. If I went to a mechanic and I hear a mechanic talk about things like timing I don't really know what that is, you who are mechanics have learned to do those things, you know those words. Some of the court words you may not be familiar with but when you talk about crimes how lawyers, judges, politicians that pass these laws they're trying to be specific. They define a crime by talking about the elements of the crime. There's four or five elements for a certain crime, that's why the State has a trial, puts up evidence, puts up testimony and gives evidence. All of those elements, each one of them for that crime has to be proved beyond a reasonable doubt. You have to at the end of the day be firmly convinced that all of those elements were proven. Elements are nothing more -- this is an example I use -- elements are nothing more than like a recipe for something. If there was a peanut butter and jelly sandwich crime the elements of that would be two pieces of bread, peanut butter and jelly. All four of those things would have to be proved

to you beyond a reasonable doubt. So, elements are how crimes are defined and those are things that have to be proved to you but it's not some, you know, unusual thing that you can't grasp. So, the two crimes that we have, we have possession with intent to distribute heroin. Our laws are passed that makes it illegal to distribute illegal drugs to someone. We normally talk about selling the drugs, but the word distribute can include giving it to somebody as well as selling it to somebody. So, the law itself is talking about it's illegal to distribute illegal narcotics to someone else. It's illegal to possess illegal drugs with the intention to distribute it to somebody else. So, it's illegal to possess heroin with the intent to sell it to somebody. You have to knowingly possess the heroin and intend to distribute it to somebody. That's what possession with intent to distribute heroin in. The Judge will read you the law, apply that when he says it. That's basically what we're talking about. Possession of cocaine does not have that extra element of intent to sell it, give it, distribute it to somebody. It's knowingly possessing cocaine, having on you, knowing you have it with you. Both the crimes have to take place in Georgetown County. The crime you did at a certain place, you have to be charge at that place, in that county, you have a trial and you have to go to court in the county the crime takes place. So, that's the extra thing that applies to any charge, it has to take place

in Georgetown County for it to be here. So, those are the two charges. Those are the elements that we have to prove beyond a reasonable doubt to you on both of these crimes. You have to be firmly convinced that the evidence is there that proves those two crimes to you. How does the State present a case to you? It gives you evidence. Someone can come in and testify. There can be a bag provided, paper provided, drug evidence provided. You have certain things this week that have been shown to you. Evidence is basically two types of things, something can be direct evidence, something can be circumstantial evidence. And example I use is, if you're having to prove that it snowed last night there could be direct evidence of that, there could be circumstantial evidence of that. If I get ready to go to bed one night, walk my dog before I go to bed, I walk outside and it's snowing. I go to bed and wake up in the morning, there's snow on the ground I saw it snowing before I went to bed. When I see the snow out there, I don't have to guess or think twice about it because I know I saw it and that's certainly going to prove it snowed that night. But, if you walk the dog before you went to bed, it's clear, no snow coming down, no snow on the ground. You go to sleep; you wake up and there's snow on the ground. You didn't see it snow, but you know it snowed that night because common sense tells you that. You don't always have to see what takes place, that's what circumstantial

evidence is for. There's things there, there's things that exist that proves to you, proves to that common sense that something did take place and something did happen. Let's maybe try to narrow some of these elements down, what the issues are. Is there really any doubt that on June 20th, 2018 this incident took place in Georgetown County. Do you really have any doubt about that? Is there really any doubt that heroin was found on the defendant that day? You had officers testify that they arrested him for something else, that when they searched him, they found the heroin and the cocaine in his pants. There isn't really a question about that. The chemist testified and said that some of the drugs was heroin, some of the drugs was cocaine. So, you've got a chemist trained to analyze and scientifically know what something is testify about that. So, is there really any doubt that, much less a reasonable doubt, that the heroin was there, and the cocaine was there. Is there any doubt that the defendant knowingly had those drugs, that it was in his pants pocket? Does it make common sense that he had to know he had it. And it's not an element of the crime but is there any doubt that the defendant probably is a heroin addict, that sort of came out in the trial. It's not an element but seems to be the case. So, I think maybe the real question comes down to possession with intent to distribute heroin. What evidence was there to prove beyond a reasonable doubt to leave you

firmly convinced that Mr. Dennison intended to distribute that heroin to somebody, to sell it to somebody? Let's talk about the evidence that we got at trial. We had multiple officers testify about the heroin that was found, the multiple baggies. The multiple baggies containing that drug. That was a sign of a drug seller, having multiple packages. Doesn't it sort of make sense, someone who wants to sell something is going to have an inventory to sell. When you deal with a seller, they hardly ever have one thing on them, they have an inventory. Now, does that make sense? They talked about a bunch of lotto slips. They talked about paper being used to package heroin and one of the things they found when they searched him, there was this blue tote bag, backpack, what you want to call it and what did they find in it? We talked about lotto slips; I didn't hand them to you I don't know if you ever got to see how many there were. But, that's a lot of slips just to be on your person. Does it make sense that if somebody was going to distribute heroin, needs to package some heroin -- I don't know if any of you play the lotto, I play every once in a while. But, you've probably been somewhere in a convenience store and you've seen that green kiosk, those little slips are all up there in those little slots. If I don't want to spend any money to go buy paper to package something for sale, any day of the week I can walk in there, grab me a handful of lotto slips and have them to use. So, maybe that goes to that

common sense, something that proves the heroin was there with the intent to be distributed to somebody. I think they even testified that there was one folded up lotto slip with some powder in it. I think the chemist stated she didn't test that because she had tested all of those other things. But, there was a lotto slip, for whatever it means to you, with some powder in it that was found with all of those drugs and stuff there together. So, maybe that makes sense. The officers also testified that a drug user normally had one dosage on them, maybe two, never had more than that. That would be too much for them to do. There were more than two packages of heroin found. That came out in the testimony. So, maybe that makes common sense that this heroin was being possessed by this defendant for the intent to distribute it to somebody. Once again, you don't have to be there, you don't have to see it, you didn't have to be present. You've heard evidence given to you that shows that all of these elements are present today. And what I'll leave you with, distribution of heroin, selling heroin it doesn't equate, it doesn't equal getting rich off of it. It does provide somebody with heroin to use. It gives you multiple bags of heroin, remember the officer talked about one of those baggies had that full dose amount in it, the other one was less. It gives you multiple baggies, you can pinch some out, you can do it and you can sell it to somebody and get your money back, start the process all over

again. Go buy it again, you've got the same amount of money when you get rid of it than you paid for it when you got it and you're able to start that process over again. So, it doesn't mean you're a rich person, it doesn't mean you have a big pocket of case on you. That's not what distribution always is. You've got people who sell a little bit, people who sell more than that, all the way up to people who sell a whole lot. Yes, there are people who have fancy cars and things, they've made a bunch of money. But, distribution does not equal getting rich. Basically, I think what the evidence shows you today are all these elements have been meet. I think it shows you that this defendant is a heroin addict, yes. But, he's a heroin addict who has heroin, sells it to have heroin to use again and that was the reason he had the heroin on him that day. June 20th last year here in Georgetown he had the cocaine on him, and he had the heroin on him and with regards to the heroin he intended to sell it and distribute it to somebody. And most importantly being a heroin addict is a bad thing, it's unfortunate, you might feel sympathy for somebody but it's not an excuse in and of itself to having heroin on you with the intent to distribute it. Please find him guilty of both charges and most importantly please find him guilty of both charges because the evidence proves that he was. Thank you.

THE COURT: Yes, sir, Mr. Dennison.

DEFENDANT: Good morning, good morning, good morning. I'm sorry I'm nervous. We all here today because of my charges. I'm here without a lawyer. He is helping me but I'm leading my own case because of what I was advised to. I was advised to be a confidential informant. I get caught with the drugs, I'm never arguing that.

THE COURT: Mr. Dennison, you're going to need to speak up a little bit. I can't hear you over here too.

DEFENDANT: I'm sorry.

I'm never arguing that I had the drug. I had the drug, but I'm gone -- I'm sorry. I'm sorry. Well, the other lawyer I had wanted me to do the same thing, so I took it upon myself to represent myself. And why I'm representing myself is because when I try to get advice from the lawyer, I told them about the signatures on the warrants. They all look at the signatures and look at me and tell me their opinion, I shouldn't worry about the signatures. One tell me that the signatures are clerk stamped and they have to be clerk stamped. I'm sorry. I'm sorry I'm representing myself. Yes, I had the drugs and I work. I work. You can have -- well, not legally, but heroin when you go the drug and you working you don't want to run out. I was employed at Drunkin' Jacks but I also like painted, labor, carpentry, stuff like that. So, I can be on one job and work from 8 in the morning until about 3:00 and then go to a night job. Now, between that I

don't want to go and, I'm sorry, hassle my dealer for some more heroin so I can stay being able to work. That's an illegal drug, I'm sorry. Yeah, they got me with the drug and bookbag. But, that bookbag I have hygiene items. I cut grass and all, so I keep t-shirts in there too, but I probably didn't have none in there that day. I had my check stub in there. I had my bank card from Wells Fargo in there. I don't know where them stuff at. I'm not making a big issue of it, but I work. My addiction been 1997 with just cocaine, just cocaine. And I guess I went up a little higher with heroin. Heroin keeps my paranoia down, it does. Cocaine, like I said -- and I'm sorry for being vague if that's the right word. Cocaine kind of stopped me from sleeping and you've probably heard of addicts, heroin addicts they get high and they start leaning and all that. To me that's sloppy, that's sloppy. When I go through that phase I put my head down like I got something to think about. But, I always did a good job and have you noticed out there? There's nobody here for me. Nobody here for me. I got people though. I'm still incarcerated. I'm still incarcerated. But, I'm alright. I have a sister she worked with me but my addiction kind of get her to fall back from me, but she would help me out. She let me stay with her in Maryland before. I did good but I did burn my bridge. Not by stealing from her or anything, but I did got high and I had to move out. But, I had money to move

out. So, I say that to say what kind of addict I am. I wasn't on heroin then. I wasn't on heroin then. I was doing alright still. Meet this girl and move in with her. We break up eight months later because her brother moved in. So, now I'm on my own ---

MR. POWELL: Sorry, Your Honor. I hate to object during closing, but I have an objection I need to make.

THE COURT: Alright, ladies and gentlemen, I need for you to please retire back to the jury deliberation room. Do not have any discussions with anyone about anything involving the case. We'll get you back shortly.

REPORTER'S NOTE: (Jury retires to jury room at 10:24AM)

MR. POWELL: Your Honor, it's the State's position I believe that the defendant continues to testify and bring up things that were not discussed or came out in the trial in any manner, shape or form. It's not just spinning the evidence; you're giving opinions about implications of things that come up about the evidence presented. He keeps talking about things that just did not come out in trial. I think the last thing he was talking about was his sister doing something. That certainly wasn't discussed during the trial. It seems to me that he keeps doing that and I felt like I needed to complain about it.

DEFENDANT: Your Honor, my sister helped me out. I'm explaining my character as an addict, that's all I'm doing.

I'm explaining my character as an addict. He say I possessed the drug with intent to distribute. I'm saying I work and I got drugs on me that help with my addiction to keep working. That's all I'm arguing. That's not out the frame of possession with intent to distribute. I'm just trying to say, look I got the drugs to possess. That's what I'm trying to get to the jury.

MR. POWELL: Your Honor, I don't think there was any evidence that he had a job during the course of the trial. To me, he just keeps talking about things that were not put in front of the jury.

THE COURT: Alright. I have instructed the jury prior the arguments being made that the arguments of the parties are not to be considered as evidence in the case. I've also instructed them that they should disregard any remarks, statement or argument which is not supported by the evidence presented during the trial or the law that I will explain to them afterwards. Y'all should do medical malpractice work on the civil side and hear the closing arguments that attorneys representing injured parties, or the doctors make in their closing arguments if you want to hear facts argued that never got presented. I sit back in amazement and believe that I don't hear that objection that you just made. But, Mr. Dennison, the purpose of the closing argument is to summarize what the evidence has shown. It's not an opportunity to

present new evidence to the jury. So, you can argue in full and then if you argue things that are outside of the evidence, counsel for the State is going to have the opportunity to stand up and point out, however he wants to do it, that you've argued things that are not in evidence and listen to the Judge, the Judge is going to tell you that, you know, to base your decision based solely on the evidence that was presented. So, I would encourage you to try not to argue new facts that have not been presented during the trial of this case. I'm not going to agree with counsel from the State that there was no evidence that you were not employed because I believe you did bring out through your presentation for trial that you had a paystub there.

DEFENDANT: Yes, sir. Yes, sir.

THE COURT: But, do not wander off on things like your character. There was no evidence presented that relates to your character as part of the evidence. So, just sort of tailor your argument to fit the evidence that was presented. Okay.

DEFENDANT: Your Honor.

THE COURT: And if you would also, the court reporter keeps looking at me. She can't hear you, so really speak up so we can hear you.

DEFENDANT: Your Honor, Officer Don speak of me as a thief, as a thief. That's what I'm backing that up. He said

that all addicts steal. We get the drug and we just want to take the drug and go this way and rip the person off. So, I'm trying to let them know I am an addict that works. I don't steal. So, that's what I'm saying. I go to work. My sister gave me a chance and I messed up. So, I don't see no where -- I'm sorry. I don't see no where were I'm out and in with a new fact, evidence or ---

THE COURT: Well, let me give you an example of what you just stated to me. I never heard during the course of this trial any mention of a sister. So, that's a new fact that you're introducing, in my opinion, in the course of your closing argument. Okay.

DEFENDANT: I'm sorry. That makes sense.

THE COURT: Alright. Okay. Now, are you ready to continue?

DEFENDANT: Yes. Yes, sir.

THE COURT: Okay. Alright, let's bring them back in.

REPORTER'S NOTE: (Jury enters court room at 10:29AM)

THE COURT: Mr. Dennison, are you ready to continue?

DEFENDANT: Yes, sir.

THE COURT: Yes, sir.

DEFENDANT: I apologize. Like I say, I work. I work. Sometime I can have a half a gram of heroin. A addict don't want to wake up sick. Normally, my schedule is probably 7 in the morning. A guy I work for doing landscaping, I can work

for him in the morning and I just started that job at Drunkin' Jacks. I think I got like 30 days over there before I got arrested. But, I can start my morning off working with him and then work at Drunkin' Jacks. The Drunkin' Jacks job was Thursday, Friday, Saturday, Sunday. Monday, Tuesday and Wednesday that's when I work doing landscaping work or doing carpentry work. I'm sorry. Mr. Don, he testified that addicts steal, addicts they don't want to work, and I respect that a little bit but I'm a different addict. I'm a different addict. I care. I care about myself. The police officer they said four baggies, four baggies, a half a gram. Four baggies, the four bags that they say I had, which I had, two of them they ain't really had nothing in there. And I believe I said it earlier during trial that like bubble gum you got in your mouth, you know, I'm sorry. But, you can get the residue and it's almost equivalent to a bag and it take the sickness away. And Mr. Don testified that a addict only have one bag or a tenth of a gram. I'm sorry I'm a addict, man you can do two bags and you might be going through withdrawal later on that day. You might take it say around 10 in the morning. You can probably get to 6:00 in the afternoon, you need more because of your addiction, your tolerance can change. And while you working, you know, you seat out, you seat out. So, a addict who work, you want more cause you don't want -- if somebody call you, look man I got a job for you. I want you

to paint this house. You don't want to call and say, man can you look out for me because it happens. Can you credit me something til later? It happens. It happens. So, that's me with heroin. Cocaine is speedball. Like I said, it picks you up. It stop you from leaning, looking all crazy in public. You want to be able to stay alert. You don't want people bothering you because of how you is. You want to still within professionalism, even if your professionalism is just a label. You still want people to call you and say, hey I got a job, you know. Some might not even know you a addict. Some might not even know it. But, when Mr. Don say that, I really had to stand up for myself. And that's what I'm doing today because I'm not backing down. I'm not backing down. And I know throughout that trial I may look silly, you know, stupid. But, at least I can say that about myself. These are -- is it alright if I -- the evidence. I just want to speak to professionalism to some people. That's what I'm doing. I'm trying to speak about a solicitor Paul Burger. Paul Burger, a defense lawyer and former federal prosecutor who was sentenced to six life sentences. This is a prosecutor. Paul Burger began his career as a federal prosecutor then he -- I'm sorry. He began representing drug kingpins, wrappers and Italian mobsters. He became the New Jersey lawyer that would lead a case ---

MR. POWELL: I've got a matter of law I need to bring up,

Judge.

THE COURT: Alright. Ladies and gentlemen, I'm going to ask you to retire back to the jury deliberation room. Please do not have any discussion among yourselves about anything involving the case. We'll get you back shortly.

REPORTER'S NOTE: (Jury retires to jury room at 10:36AM)

THE COURT: Yes, sir.

MR. POWELL: Your Honor, it appears that the defendant is attempting to read some newspaper article, internet article, made up article about some prosecutor being a criminal. I find that objectionable in a lot of different ways. I don't think it's relevant. I don't think there's any authentication and certainly wasn't introduced at trial. I just don't see how he could possibly go into that with the jury in his closing argument.

DEFENDANT: Your Honor, I'm about to talk about those signatures and I'm gone talk about professionalism within people career, even though they might be a solicitor or a police officer. I'm going to talk about the professionalism in they career.

THE COURT: Are you going to suggest that the police officers or the prosecutors that handled this case were a criminal?

DEFENDANT: No. I'm just saying what people of their nature of capable of. They, even though they are who they

are, that don't mean crime cannot be committed. That's all I'm saying. Not every police officer commit crime. Not every solicitor commit crime. I'm just wanting them to know that even though they are who they are, they can commit a crime and that's ---

THE COURT: But, are you suggesting that a crime was committed in this case by the solicitor's or the police?

DEFENDANT: No. I'm just trying to argue what I -- I'm sorry. I'm just trying to argue my warrant.

THE COURT: Alright. I understand and listened very closely to your -- the trial and your position concerning the warrant. But, the argument that I'm hearing that you're making would be highly prejudicial to the State, especially given the fact that I view that the probative value even if you are able to convince the jury of this idea that you have that that signature is somehow improper or forged and it far outweighs any probative value of that fact that you want the jury to believe. I believe it's an improper argument.

DEFENDANT: Alright, Your Honor.

THE COURT: I'm not saying you cannot argue the signature. But, to link the signature to a drug kingpin that used to be a former federal prosecutor I think goes out of bounds.

DEFENDANT: Yes, sir, Your Honor.

THE COURT: Anything? I mean, do you have any questions

about what ---

DEFENDANT: No, sir, Your Honor.

THE COURT: Okay. Anything else from the State?

MR. POWELL: No, Your Honor.

THE COURT: Alright. Thank you. Let's bring them back in. Hang on one second. Wait.

Would you like to proffer that article and make it part of the record of the case, meaning that it will become a record of the case for some other Judge to take a look at but yet the jury will not see it?

DEFENDANT: No, sir, Your Honor.

THE COURT: Are you sure?

DEFENDANT: Yes.

THE COURT: Do you want to ask your counsel what that means?

DEFENDANT: No, sir.

THE COURT: Okay. Alright, bring them on in.

REPORTER'S NOTE: (Jury enters court room at 10:39AM)

THE COURT: Yes, sir, Mr. Dennison.

DEFENDANT: I'm sorry again, but I really wanted to let y'all know I only possessed it because I'm an addict. The State claims inventory. Inventory that's a big word, four bags, two of them empty for residue. The other two I don't know how much but after they came from chain of custody from Columbia it was only, if you add it all together it was only

0.197, that's not much. That was something I was inhaling and again I can't say that the fentanyl been in there because of me, but I've not inhaled fentanyl and I had a moment. I had a moment. But, what I get from my dealer and normally I trust him. I trust him. I trust him because I look at it like if you don't do me wrong, I'm not gone do you wrong. But, that's basically what it is, my addiction. I work. I get buzz up. That's the word we use, buzz up. The fellows who I hang with, it's about anywhere between 10, 16 of us. We get buzz up. We talk, laugh, go to work, no burglaries, no robberies, and some people they let us in they house to work, fix a floor. They cell phone right there, ain't go nowhere. Ain't go nowhere. We ain't take nothing because we know we want them to tell other people, that's work. Yes, we do what we do but, but I'm an addict. Even though I'm an addict I got rights. We all got rights. We all got rights. Because she's a prostitute, she got rights. Because someone homeless, they got rights. They got rights. We all somebody, and I'm sorry I got to read, but we all somebody. We all somebody. Officers arrest me with warrants that are defective on June 20th. A defective warrant is a not proper -- I'm sorry, a defective warrant is a warrant that is not properly made by statutory law. As you noticed through the trial I stay speaking about that signature. I stay speaking about it. I wouldn't shut down for nothing not matter stupid, the word I use, I looked. I

ain't backing down. I'm not backing down. We don't like bullies. Well, the way I was raised, we don't like bullies. Robert O'Donnell, the Judge, his signature -- I'm sorry, his signature, these -- in jail when we get to help represent ourselves. We get legal work and they give you cases. Normally you want South Carolina cases because we're in South Carolina. But, they tell you about constitutional rights, what is the right of the Judge, police officer, everything by law, by law. One second. This I had written down came out of my notes, reading from those my eyes, 43 years old, ain't as good. But, in this book it's a trial handbook from South Carolina by Alexander Sanders and John Nichols, chapter 30, page 37, line 33 to 38. There are several public policy considerations to support the requirement that the warrant be signed prior to a search. It impressed upon a magistrate the importance of this action in issuing a warrant. It discourages police misconduct by dictating that officers cannot reasonably rely on an unsigned document as an authority for conducting a search and by requiring officers to take corrective measures before they conduct a search. And it provides needed protection and assurance to person in control of the property to be searched that the search has been authorized. Meaning, okay I do drugs. I do drugs. But, I got rights. So, the police officer cannot come upon me just because they want to or because they make they warrant the way

how they want to to come get me. And you will see. You will look at these warrants and look at the signature. Signatures are, like I say, y'all hear me complaining the whole time. Signatures are -- they are very important. In the law it's a special element. When you look at a warrant, when you look at the Judge signature on these warrants they supposed to match, not exactly, not exactly. They supposed to match and then it's a Judge signature, they supposed to match. Now, Judge O'Donnell came here, I'm sorry. Judge O'Donnell came here, the State say when you sign the original copy you sign the defendant copy. He say I sign in like this, like this. So, that means your signature shouldn't change. If you sign it and then what a presecond after, it shouldn't change. The date on the signature, that's why I was asking, I'm sorry, Johnell Sparkman about the dates of his. I never complain about theirs. I never complain about theirs. The only person I'm complaining about is Robert Harry O'Donnell's signature, which a Judge must sign. I'm sorry, one second. I notice these signatures in October of 2018. My mind about spin out my head, I'm sorry, from the beginning, as I said, I complain and I complain and I complain. And he testified and he testified. And I, you know, I'm nervous. I'm sorry. But, ladies and gentlemen of the jury, I'm sorry, Judge's has responsibilities to help run this nation. They professionalism must be finely tuned for the duty that they

serve for the people. Judge O'Donnell's signatures(sic) are not to leave his office without his signature on them. The Judge, I'm sorry here I go again. Here I go again. But, this is another, this is another one, another, this is what the South Carolina Supreme Court say, we think it would be very dangerous to the peace of society for the Court to hold that a paper which shows on its face that it's an unfinished paper would be sufficient justification for an arrest. Also, a warrant must not be issued until signed to confirm but an appropriate magistrate, municipal judicial officer, or judge of court recorded, not the judge's wife, not the judge's clerks, not a police officer, none of them. Now, we saw on the news, we saw on the news it was a couple they was coming out the store. The police officers assume that they did a crime. The police officer kicked his leg from under him. I'm assuming some of y'all probably seen that. But, that's what we see from officers being on the job and what they capable of doing. Now, if a officer goes with a warrant that is not by statutory grounds and say the guy who they go and arrest have a gun and now the police and the guy having a shootout. Let's say the guy get killed, let's say feds came in and they find out the warrant is not proper, not validated. I mean, now who you look at, who you look at? That's what I'm here fighting for. And you hear it a lot, it could be me, you, your mother, anybody. You could be in a situation like that. You got to

stand up, you can't just sit back and fold. You got to stand up. You can't let them do what they want to do. Like I said, nobody here to support me, nobody. All of them with the State, I'm in that jail cell so I don't know what going on. They came, put they hand on the Bible, they say those signatures are the same, the same, the same. Police officer, solicitor, excuse me, buddy buddy system. They gone have each other's back. Do I blame them? At a degree, I understand, but in certain you can't -- or at least it's time for it to fall. It's time for it to fall. It's wrong, it's not right. Anybody can get hurt behind something like this. They can get hurt. It's supposed to be the Judge signed the warrant and it can be issued. Signatures supposed to be distinctive, it shows that it's the same person. Now, like I say, I'm sorry, Judge O'Donnell say he sign it and he sign it again right back to back. Barnes and Nobles, a famous book writer might come there and a line from about right here. How much people can fit right here to right there? About 8, 10 people. He sign all these, sign, sign, sign. Now, if you go back to them same people and look right at them same signatures how much are them gone change? How much are them gone change? How much are those signatures gone -- one minute it's like this, and then the next minute it's like this. They ain't no way. I'm sorry. They ain't no way possible. Distinctiveness, you supposed to see it. It ain't no way. It ain't no way. Like

me being an idiot, me and three other guys, one of them light skin. We going to my girlfriend house. I see this dude leave from my girlfriend house. I get mad, jealous. Two days later me and my home boys we see him, and we go beat him up. Now, I'm over him, get away from my girl, get away from my girl, don't ever. Now, this lady see us, she call the police. We get away. Dude in the hospital, he hurt. He finally come to his sense; police question him. Who was it? He say he don't know, he don't know. Were they black, white, whatever. He say they black, okay. Well, what did you notice about them? I don't know. So, police give them a card and I guess he's laying down still healing. Say 10 hours later he call the police, can you come back to the hospital? I've got to talk to you. Okay. What did you find out? One of the guys tooth missing. Distinctiveness, something that they can see that they know that, you know what, that's that person. Judge O'Donnell's signature and all of them, and all these signatures I never complain about any of them, just that one. Look at the dates. I'm not saying Judge O'Donnell, I know he can go it, now that he came and testified so he have knowledge now, but I was looking at his -- well, to me it look like the people was comfortable. You know how you watch 20/20, 48 hours? Sometimes you hear them say the person who did it was comfortable. They look comfortable in doing it. Those signatures look like, yeah, oh yeah because we been doing it.

You know what, that's what they look like. Like I said, I'm in jail. Certain set of people I showed them the signatures, I showed them to make sure I'm not stupid because by law they not supposed to do it and this is the Judge, this is the Judge. When he was here I was so nervous because he's a Judge but that's human, we look at he got power and he do, but he human first and that's why, I'm sorry. But, ladies and gentlemen, it's beyond reasonable doubt. Those signatures are not right. By law they have to be signed by a Judge. They can't be signed by his wife, cannot be signed by a police officer, and they cannot be signed by nobody else. But, the police officer I was not backing down from him, yeah they get me. I'm in jail, I'm by myself. To me they are bullies, they wanted to fight, they keep fighting, bullies. I ain't running. I stand my ground and I still standing my ground right here. I ask that y'all please look at them signatures. They are not consistent. They not distinctive. You will see distinctiveness. A football player he comes, he comes, I'm sorry. But, a football player you can tell his signature is goes to get a little -- even a book writer, these people signing people autographs, so your signature is gone change but it's gone be distinctiveness you gone see in that signature. These signatures look so unprofessional. This is a Judge we talking about. Police officers can take that signature and do what they want because they got the power.

Mr. Noel Smith is the head, the head investigator of this and many other charges. And, like I say, they ain't no telling how many warrants already out like this. I don't care. I just care about mine, with respect. But, as I say, this stuff can go on out there easy, easy. But, I'm trying to fight my way out of this and I'm trying to get y'all to understand because by looking at warrants, I mean looking at signatures like that it's like you allowing them to just do anything. If somebody take your checkbook and sign your name and it look all raggy, but they still get to get away with the crime because you allowing ugly signatures to be passed. You cannot allow signatures like these to pass. This one is this, this signature is this. Now, Judge O'Donnell said, sign right there, because the State asked him how he signed it. He signed the original and then I signed this one. How you get this? How do you, how do you get that signature? How do you, I'm sorry, I'm sorry, but how do you get a signature like this? That's why I would not be up here to fight something like this. If Noel Smith was the Judge and he signed like how he signed this I wouldn't be here doing this. I would not. I would probably plead guilty. No, I'm not going to contradict my life. I'm sorry, y'all. I appreciate your time. I appreciate your time. I'm sorry. I'm sorry. I appreciate your time. But again, beyond a reasonable doubt. If y'all have a doubt that those are not his signatures, let me go back

home. Let me go back home. Let me go. I don't bother nobody. I get high, yes, I do. Let me go back home. Let me go back home. I'm sorry, I'm done. I'm done. Defense rest, Your Honor.

THE COURT: Thank you, sir.

Any reply from the State?

MR. POWELL: Brief reply, Judge.

Folks, one thing that I don't if it totally came out is that when he was arrested back in June of last year, we talked about those outstanding warrants and that's what he's talked about, these signatures consistently all through this trial. Those warrants being signed by Judge O'Donnell, like Judge O'Donnell said he did. Those warrants being the one warrant that Officer Gregory presented that he said he saw Judge O'Donnell sign. Those two warrants had to be active. The defendant is totally right, those had to be signed by a Judge and issued on June 20th for him to have been arrested and for the police to have the right to search him. You arrest somebody, you search them for guns, search them for contraband. But, that's part of his right. What I want you to do when you go back to the deliberation room is make sure you consider all of the evidence before you make up your mind, because like I said, don't fall into a trap for having sympathy for a drug addict rule to day because being a drug addict is not a defense to possessing heroin with the intent

to sell it. So, make sure you look at every bit of the evidence. And one other thing I would like you to think about, I normally sign my name where if you look at it close, I'm William Keith Powell. My parents called me Keith for some reason. I don't really understand it. My father was William Clinton Powell and he was called Clinton. They never called me William, they never called him William. It used to be a big mess for me because I'm called Keith all the time and I'd go to school and they'd say William Powell I wouldn't know who it was. But, a lot of businesspeople do first initial middle name, so I because W. Keith Powell when I became a lawyer. And if you really look at that you can sort of see a W and a K and figure out it's Powell. That's pretty close to what I normally do but I don't know about any of you, if I'm in a bad mood that becomes my signature. Maybe one of you is like that, maybe all of you is like that. I know when I was younger, I was taught how to write clearly in school. We were taught how to print and write in cursive and they drilled into you to write very clearly. So, that does happen with folks. It happens with me, perhaps it happens with some of you, that's something for you to talk about when you go back to the deliberation room and think about this. But, Judge O'Donnell specifically said he signed all of those warrants, original copy, defendant copy on one; original copy, defendant copy on both. He testified that signed, I think he said 250,000. It

was a humongous number of warrants he said he signed in his life. I think it's pretty sensible that ends up scribbling something. I think we've all gone to a doctor and you can't read the prescription much less the doctor's signature on it. So, he doesn't have a nice signature you might have where you can read your name. All he does, he gets handed up, hey Judge sign this, he reads it, signs it, he scribbles his name. And I think what we're seeing is just like he said, the signature changes from time to time. So, make sure you think about those things. And I think what you also need to think about is we've got evidence you're going to take back with you. You've got bookbag, you've got drug evidence, you've got lotto tickets, you've got he prior warrants, you've got a lab report from a doctor, you've got a chain of custody where the police officer said I got this, turned it into the evidence room, the evidence guy took it Columbia, the lady said they got it in Columbia at SLED, it got signed over to the chemist. You've got all of that evidence. It's sort of laid out here in front of you. And when all of those facts are there, the evidence there what frequently happens at a trial is you've got all this stuff here at eye level, you start talking about this, look at this pen up here, watch this, and you don't look at all the evidence. So, make sure when you go back into the deliberation room, talk about the evidence that is there. Think about whether your signatures are always the same every

single time you sign your name. Think about those type things. Use your common sense. We believe once again that you'll come back with a verdict of guilty on both charges. Thank you.

THE COURT: Ladies and gentlemen, it's now my opportunity to instruct you on the law that you will apply in this case. Ladies and gentlemen, the indictments charge the defendant with possession of cocaine and possession with intent to distribute heroin. I remind you the fact that the defendant was arrested, charged and indicted in this case is not evidence in this case. It cannot be considered by you as evidence of guilt in this case -- in this case nor does it create any presumption or inference of guilt. These documents are simply the formal written instrument which bring the charges made against the defendant. These are the formal documents which this case is brought into Court. The defendant has plead not guilty to these indictments and that plea puts the burden on the State to prove the defendant guilty. A person charged with committing a criminal offense in South Carolina is never required to prove himself innocent. I charge you that it is an important rule of law that the defendant in a criminal trial, no matter what the seriousness of the charge may be, will always be presumed to be innocent of the crime for which the indictment was issued unless guilt has been proved by evidence satisfying you of that guilt

beyond a reasonable doubt. This presumption of innocence does not end when you begin your deliberation, but it accompanies the defendant throughout the trial until you reach a verdict of guilty based on evidence satisfying you of that guilt beyond a reasonable doubt. The presumption of innocence is like a robe of righteousness placed about the shoulders of the defendant which remains with the defendant until it has been stripped from the defendant by evidence satisfying you of the defendant's guilt beyond a reasonable doubt. The presumption of innocence is not mere legal theory. It is not just a legal phrase. It is a substantial right to which every defendant is entitled unless you, the jury, are satisfied from the evidence of the defendant's guilt beyond a reasonable doubt. What is reasonable doubt in the law? A reasonable doubt is the kind of doubt that would cause a reasonable person to hesitate to act. The State has the burden of proving the defendant guilty beyond a reasonable doubt. Now, some of you may have served as jurors in civil cases where you were told it was only necessary to prove that a fact is more likely true than not true such as by the greater weight or preponderance of the evidence. In criminal cases the State must prove -- the State's proof must be more powerful than that, it must be beyond a reasonable doubt. Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. There are very few things in this world that we know

with absolute certainty and in criminal cases the law does not require proof that overcomes every possible doubt. If, based on your consideration of the evidence, you are firmly convinced that the defendant is guilty of the crime charged you must find the defendant guilty. If, on the other hand, you think there is a real possibility that the defendant is not guilty you must give the defendant the benefit of the doubt and find him not guilty. Now, I remind you that during this trial you and I have certain duties to perform. As the trial Judge it is my responsibility to preside over the trial of the case and I also have the duty to rule on the admissibility of evidence offered during this trial. You are to consider only the competent evidence before you. You are to consider only the testimony which has been presented from the witness stand and any exhibits which have been made part of the record of this case. I have the additional duty to charge you the law applicable to this case. As the presiding Judge I am the sole Judge of the law of this case and it is your duty as jurors to accept and apply the law as I now state it to you. If you already have any idea as to what the law is or what the ought to be and it does not agree with what I now tell you the law is you must abandon this idea because you were sworn to accept the law and apply the law exactly as I state it to you. In every case tried in this Court before a jury, the jury becomes the sole and exclusive judge of the

facts in a case. The trial Judge cannot intimate, state, comment on, or make any statement to a trial jury about the facts in the case since you the jury are the sole judge of the facts in this case. You are not to infer from what I have said during the progress of this trial in ruling upon the admissibility of evidence or otherwise or anything that I say during the course of this instruction to you that I have any opinion about the facts of this case. The law does not allow me to have an opinion about the facts in this case. This is a matter solely for you the jury to determine. As jurors it is your duty to determine the effect, the value, weight, and truth of the evidence presented during this trial. Now, there are two types of evidence which are generally presented during a trial, direct evidence and circumstantial evidence. Direct evidence is the testimony of a person who claims to have actual knowledge of a fact, such as an eyewitness. Now, circumstantial evidence is evidence -- is proof of a chain of facts and circumstances which indicate the existence of a fact. The law makes absolutely no distinction between the weight or value to be given to either direct or circumstantial evidence, not is a greater degree of certainty required of circumstantial evidence than of direct evidence. You should weigh all of the evidence in this case. After weighing all of the evidence if you are not convinced of the guilty of the defendant beyond a reasonable doubt then you must find the

defendant not guilty. Now, necessarily, ladies and gentlemen, you must determine the credibility of witnesses who have testified. Credibility simply means believability. It becomes your duty as jurors to analyze and evaluate the evidence and determine which evidence convinces you of its truth. Determining the believability of witnesses who have testified in this case, you may believe one witness over several witnesses or several witnesses over one. You may believe a part of the testimony of a witness and reject the remaining part of the testimony of that same witness. You may believe the testimony of a witness in its entirety or reject the testimony of a witness in its entirety. You may consider any witness, whether any witness has exhibited to you any interest, bias, prejudice or other motive in this case. You may also consider the appearance and the manner of the witness while on the witness stand. Now, ladies and gentlemen, I instruct you and emphasize the fact the defendant did not testify is not a factor to be considered by you in any way in your deliberations and in your consideration of the question of guilt or innocence of the defendant. It must not be considered by you in any manner whatsoever. A defendant has the constitutional right to remain silent and the assertion of this right must not be considered by you in your deliberations. I repeat, under your oath you are to draw no conclusion whatsoever from the fact that the defendant in this

case did not testify. The fact that the defendant did not testify should not even be discussed in the jury room. The burden of proof, as I have stated to you, is on the State. The defendant is not required to prove his innocence. The burden of proof remains on the State to prove guilt beyond a reasonable doubt. The rules of evidence ordinarily do not permit witnesses to testify to opinions or conclusions. An exception to this rule exists for witnesses we call expert witnesses. A witness who by education or experience has become an expert in some art, science, profession or calling may state an opinion as to relevant and material matter in which the witness claims to be an expert and may also state the reason for that opinion. You should consider any expert opinion received in evidence in this case and like any other evidence give it the weight that you think it deserves. If you believe that the opinion of the expert witness is not based on sufficient education and experience or if you conclude that the reasons given in support of the opinion are not sound, or that the opinion is outweighed by other evidence you may disregard the opinion entirely. An expert witnesses' testimony is to be given no greater weight than that of other witnesses simply because the witness is an expert. Further, you are not required to accept an expert's opinion even though it is not contradicted. Ladies and gentlemen, the defendant is charged with possession of cocaine. To prove possession of

cocaine the State must prove beyond a reasonable doubt that the defendant had both the power and intent to control the disposition or use of the cocaine. Possession may be either actual or constructive. Actual possession means the cocaine was in the actual physical custody of the defendant. Constructive possession means that the defendant had domain or control or the right to exercise domain or control over either the cocaine itself or the property in which the cocaine was found. Mere presence at the scene where the drug was found is not enough to prove possession. Actual knowledge of the presence of the cocaine is strong evidence of the defendant's intent to control its disposition or use. The defendant's knowledge and possession may be inferred when a substance is found on the property under the defendant's control. However, this inference is simply an evidentiary fact to be taken into consideration by you along with the other evidence in a case and to be given the weight that you decide it should have. Two or more persons may have joint possession of a drug. Now, ladies and gentlemen, the defendant is also charged with possession with intent to distribute heroin. The State must prove beyond a reasonable doubt that the defendant possessed heroin with the intent to distribute it. To prove possession the State must prove beyond a reasonable doubt that the defendant had both the power and intent to control the disposition or use of the heroin. Possession may be either

actual or constructive. Actual possession means that the heroin was in the actual physical control of the defendant. Constructive possession means that the defendant had domain and control or the right to exercise domain and control over either the heroin itself or the property in which the heroin was found. Mere presence at the scene where the drug was found is not enough to prove possession. Actual knowledge of the presence of the heroin is strong evidence of the defendant's intent to control its disposition or use. The defendant's knowledge or possession may be inferred when a substance is found on the property under the defendant's control. However, this inference is simply an evidentiary fact to be taken into consideration by you along with the other evidence in the case and to be given the weight you decide it should have. Two or more persons may have joint possession of the drug. Now, the State must also prove beyond a reasonable doubt that the defendant intended to distribute the heroin. Distribution means to deliver other than by administering or dispensing a drug. Intent may be shown by acts and conduct of the defendant and other circumstances for which you may naturally and reasonably infer intent. Determining whether the defendant had the intent to distribute the heroin. You may consider the circumstances surrounding the defendant's alleged possession. You may consider the amount of the substance alleged to have been possessed. The

manner in which it was allegedly possessed, the place where it was allegedly possessed and other factors which you consider to be important. You must find that the defendant did not intend to have the heroin solely for his own use. Possession of more than two grams of heroin creates the inference that the defendant possessed the heroin with the intent to distribute. This inference does not relieve the State from proving beyond a reasonable doubt that the defendant had the intent to distribute. It is simply an evidentiary fact to be taken into consideration by you along with other evidence in the case and to be given the weight that you decide that it deserves. It is the law of South Carolina that the weight of heroin is the weight of that substance in pure form or any compound or mixture thereof. If you find that the State has failed to prove beyond a reasonable doubt that the defendant is guilty of possession with intent to distribute heroin you may consider whether the State has proved beyond a reasonable doubt that the defendant is guilty of simple possession of heroin. Simple possession does not require an attempt to distribute heroin. To prove possession the State must prove beyond a reasonable doubt the defendant had both the power and the intent to control the disposition or use of the heroin. Possession may be either actual or constructive. Actual possession means heroin was in the actual physical control of the defendant. Constructive possession means that defendant

had domain and control or the right to exercise domain and control over either the heroin itself or the property of which the heroin was found. Mere presence at the scene where the drug was found is not enough to prove possession. Actual knowledge of the presence of the heroin is strong evidence of the defendant's intent to control its disposition or use. The defendant's knowledge and possession may be inferred when a substance is found on the property under the defendant's control. However, this inference is simply an evidentiary fact to be taken into consideration by you along with the other evidence in the case and to be given the weight that you decide it should have. Two or more persons may have joint possession of a drug. Mr. Foreman, ladies and gentlemen, there are two verdicts to each of the offenses that the defendant is charged and there is no importance in how that I have prepared the verdict form for your use. It's simply that I had to put one before the other. Ladies and gentlemen, Mr. Foreman, your verdict must be unanimous. All 12 must agree. Your verdict cannot be based -- your verdict must be based solely on the evidence that was presented during this trial. Your verdict cannot be arbitrary, it cannot be capricious, it cannot be based on passion or prejudice. Mr. Foreman, you are to conduct the deliberations when all 12 members of the jury are present. If one of them has to leave for a bathroom break or telephone call or something you need to stop the

deliberations and not begin them again until all 12 members are present. Once you have made the decision and all 12 members agree then I need for you to complete the verdict form accordingly and sign and date it. There's one more very important thing that you must do, knock on the door and let the bailiff know because I had a jury one time in what we thought was a very short case and they were back there for hours and hours and hours. Finally, we just said what's going on and they said well you didn't tell us what to do once we reach a verdict. So, please once you reach the verdict please let the bailiff know and they will let us know. But, Mr. Foreman, ladies and gentlemen, I'm going to ask if you would to retire back to the jury deliberation room. Do not begin your deliberations until the bailiff has brought you the evidence and told you to begin your deliberations. Thank you very much.

REPORTER'S NOTE: (Jury retires to jury room at 11:21AM)

THE COURT: Anything from the State concerning the charges?

MR. POWELL: No, Your Honor.

THE COURT: Anything from Mr. Dennison?

DEFENDANT: No, sir, Your Honor.

THE COURT: Alright. If y'all would just be sure that y'all agree as to the exhibits that are going back. Check them out to be sure that we've got them, and we don't put in

any Court's exhibits or anything. So, come up her Mr. Dennison and take a look with counsel.

DEFENDANT: Your Honor, why these can't go in there with them?

THE COURT: They were not presented as part of the trial. They were presented as part of pretrial motions.

DEFENDANT: Even though they were put in as evidence?

THE COURT: They were not put in as evidence as part of the trial.

DEFENDANT: I did put them into evidence.

THE COURT: No, sir. You put them in, you used them as part of a pretrial motion. You did not put them into evidence as part of the trial.

MR. POWELL: I think he talked about them during the trial, but he did not put them into evidence.

THE COURT: He did talk about them, but he did not present them into evidence.

DEFENDANT: Well, why they stamped? Why the stamp on there as evidence?

THE COURT: Because the evidence is part of the pretrial hearing, not as part of evidence of the trial.

DEFENDANT: I'm sorry. I'm not trying to get you mad, Your Honor.

THE COURT: I'm not getting mad. I'm just trying to explain it to you.

MR. POWELL: As far as I'm concerned, they're correct, Judge.

THE COURT: Alright.

Mr. Bailiff, if you'll take the evidence back and also give them the verdict form.

Now, the alternate, any -- what do y'all want to do with the alternate?

MR. POWELL: Judge, I lost a long trial because the alternate was still in the jury room. I'd like the alternate removed.

THE COURT: Well, I understand that. What are we going to do with the alternate? Do y'all want me to have her held --

MR. POWELL: They can be excused as far as I'm concerned.

MR. HAZZARD: Court's indulgence, Your Honor.

DEFENDANT: I want them to remain, Your Honor.

THE COURT: Okay. Alright, do y'all have some place that you can put the alternate while they engage in deliberations?

BAILIFF: Yes, we do.

THE COURT: Okay. Tell the 12 to begin their deliberations and place the alternate someplace outside the jury deliberation room.

REPORTER'S NOTE: (Jury begins deliberation at 11:27AM)

THE COURT: Alright. Anything before I step down?

DEFENDANT: No, sir, Your Honor.

(RECESS)

THE COURT: Alright. Given the hour that it is, I enquired of the clerk's office about the possibility of having lunch for the jury and the clerk's office informed me that it takes at least an hour to get lunch. So, what I would propose is to let's wait until about 20 minutes after 12 and if we have not received a verdict or some type of question before then from the foreperson, I would like to bring the foreperson out and tell the foreperson the lunch arrangements and tell them that we would need an hour and get an update -- let us then at that juncture take the order from the jury and let them resume deliberations while we get them lunch.

MR. POWELL: That's fine with the State, Judge.

DEFENDANT: Alright, Your Honor.

THE COURT: Okay. Alright, then we will step down and that will be the game plan, and do I mentioned that so if y'all leave -- well, if you leave or something just be sure that you come back about then. Alright. We'll step down.

(RECESS)

THE COURT: Alright. We have a question from the jury. Is two grams or .2 grams the "automatic" intent to distribute threshold? Some jurors would like to know the legal definition of "intent" in the charge "intent to distribute".

What I would propose and will definitely take suggestions, is that I bring the foreperson out, thank him for

his note and offer to reinstruct the jury on the law related to possession with intent to distribute.

COURT'S EXHIBIT NUMBER THREE

IS MARKED FOR IDENTIFICATION)

DEFENDANT: That will be a fair way of doing it.

MR. POWELL: I believe that's routinely done.

THE COURT: Alright, and I'll -- the reason I'm bringing the foreperson out alone to begin with is that I will also inquire as to the lunch issue as well. Okay.

Do you want to bring the foreperson out?

REPORTER'S NOTE: (Foreperson enters courtroom at 12:29PM)

THE COURT: Alright, Mr. Foreman, thank you for your note. I have it. I have two questions for you. What I can do in response to the question is I can bring the jury back out here and reinstruct them on the law that deals with possession with intent to distribute heroin. Do you think that would resolve the -- do you think that would help answer the questions that the jurors are having?

FOREPERSON: Yes.

THE COURT: Okay. The other question that I have for you is that we're at the time of day that it is, traditionally we would try to order lunch for the jury. It takes about an hour for it to get it. So, if you feel that would be appropriate, I would like to send the clerk back before we bring the jury

back in to take it or to do whatever arrangements are made for lunch and then we'll bring the jury back in and I'll reinstruct them on this particular law.

FOREPERSON: Okay.

THE COURT: Okay. Thank you, sir.

What do they usually do here for lunch?

MR. POWELL: They order out is my understanding.

THE COURT: I mean, some counties tell me, we order pizza. Other counties actually take individual orders from places. Do you know what they do?

MR. POWELL: The bailiff might know, Judge.

BAILIFF: Normally, she just orders lunch for them of her choice.

THE COURT: I mean, individual lunches.

BAILIFF: Yes, individual lunch of her choice. It could be a dinner or a sandwich, usually subs.

THE COURT: Okay.

BAILIFF: Or salad.

DEFENDANT: Your Honor, I would ask if you could mark that question as a Court exhibit.

THE COURT: Alright. I plan to. Thank you.

DEFENDANT: Alright.

THE COURT: Let's bring the jury in.

REPORTER'S NOTE: (Jury enters courtroom at 12:36PM)

THE COURT: Mr. Foreperson, ladies and gentlemen, in

response to the question I am going to recharge you on the law related to possession with intent to distribute heroin. The defendant is charged with possession with intent to distribute heroin. The State must prove beyond a reasonable doubt that the defendant possessed heroin with the intent to distribute it. To prove possession the State must prove beyond a reasonable doubt that the defendant had both the power and the intent to control the disposition or use of the heroin. Possession may be either actual or constructive. Actual possession means that the heroin was in the actual physical custody of the defendant. Constructive possession means that the defendant had domain and control or the right to exercise domain or control over either the heroin itself or the property on which the heroin was found. Mere presence at the scene where the drug was found is not enough to prove possession. Actual knowledge of the presence of the heroin is strong evidence of the defendant’s intent to control its disposition or use. The defendant’s knowledge or possession may be inferred from a -- when a substance is found on a property under the defendant’s control. However, this inference is simply an evidentiary fact to be taken into consideration by you along with the other evidence in the case and to be given the weight you decide it should have. Two or more person may have joint possession of a drug. The State must also prove beyond a reasonable doubt that the defendant

intended to distribute the heroin. Distribute means to deliver other than by administering or dispensing a drug. Intent may be shown by acts and conduct of the defendant and other circumstances from which you may naturally and reasonably infer intent. In determining whether the defendant had the intent to distribute the heroin you may consider the circumstances surrounding the defendant's alleged possession. You may consider the amount of the substance alleged to have been possessed, the manner in which it was allegedly possessed, the place where it was allegedly possessed and other factors which you consider to be important. You must find that the defendant did not intend to have the heroin solely for his own use. Possession of more than 2 grams of heroin creates an inference that the defendant possessed the heroin with the intent to distribute it. This inference does not relieve the State of proving beyond a reasonable doubt that the defendant had the intent to distribute. It's simply, it's simply an evidentiary fact to be taken into consideration by you along with the other evidence in the case and to be give the weight you decide it should have. It is the law of South Carolina that the weight of the heroin is the weight of that substance in its pure form or any compound or mixture thereof.

Alright, Mr. Foreman, ladies and gentlemen, y'all may return back to the jury deliberation room.

REPORTER'S NOTE: (Jury retires to jury room at 12:36PM)

THE COURT: Any exceptions to the charge I just gave them?

MR. POWELL: Your Honor, I had a light bulb sort of go off in my mind and I have a drug litigation book that I look it. I don't have the statute book in front of me but it talks about PWID statutory amounts in the book and it says 2 grains of heroin. Can we perhaps have a minute and find the statute and make sure it isn't 2 grams? I just had a light bulb go off that it might be 2 grains, that is what my book says. I would hate for it to be that wasn't his fate. I just didn't bring my statute book with me.

THE COURT: Well, until I'm presented with something, we go with what you presented us.

MR. POWELL: I will go downstairs and get the statute.

THE COURT: Alright. We will step down.

(RECESS)

MR. POWELL: Your Honor, I went downstairs and grabbed my statute's book and what I'm reading, section 44-53-370, subsection D, subsection 4 it states possession of 2 grains of heroin is prima facie guilty in violation. Unless I'm not finding the correct thing, the statute seems to say 2 grains, not 2 grams.

THE COURT: Where ---

DEFENDANT: Your Honor, I would appreciate it if I could

get some advisement.

THE COURT: Sure. Certainly. Well, we'll wait until he comes back. Okay.

MR. POWELL: Your Honor, the State would like to request that the jury be asked to stop deliberations until we get Mr. Hazzard back up here to address it.

THE COURT: I can't do anything without counsel being present.

MR. POWELL: Yes, Your Honor.

THE COURT: Okay. We'll come back.

(RECESS)

THE COURT: Alright. Tell me again what it is that you have revealed.

MR. POWELL: Your Honor, I've got a copy of the South Carolina Statute Book 44-53-370, Subsection D (4) says the threshold weight of heroin is 2 grains the 2 grams that was in the jury charge. If that is correct, then we would request to recharge the jury.

THE COURT: Have you been able to take a look at the statute, Mr. Dennison?

DEFENDANT: No, sir, Your Honor.

MR. HAZZARD: Court's indulgence.

THE COURT: Uh-huh. (Affirmative response)

MR. HAZZARD: I apologize, Your Honor. Court's indulgence.

THE COURT: Take your time.

Yes, sir.

DEFENDANT: Your Honor, I ask that the charge stay the same, if not I move for a mistrial if it's a mistake made by the Court. I'm sorry, Your Honor.

MR. POWELL: Your Honor, it's the State's position that the statute shows 2 grains as was just discovered. I believe the jury has not reached a verdict at this point in time, at least it appears that way with the light indicator. We think that the State is entitled to request a correct charge with the 2 grains versus the 2 grams, technically since the jury came back with a question that specifically addressed that weight we think in order to get a verdict they're intitled to get a correct charge. They haven't reached a verdict; we think there's still time to do that.

THE COURT: Alright. Let's do this. I'm going to ask the bailiff to bring the foreperson out here and instruct the foreperson to instruct the jury to stop their deliberations and then we'll put him back with the jury and then we'll come back and make a decision.

MR. POWELL: Yes, Your Honor.

THE COURT: I need to take a look at a few things.

REPORTER'S NOTE: (Foreperson enters courtroom at 12:57PM)

THE COURT: Mr. Foreman, thank you for stepping out. I

need to -- I'm going to instruct you to tell the jury that y'all are to cease deliberations at this point. I've got to take a look at something and so do not have any more discussions about your deliberations in this case until I instruct you further.

FOREPERSON: Okay.

THE COURT: And then if lunch arrives between now and then y'all go ahead and eat lunch as well.

FOREPERSON: Alright. Thank you.

THE COURT: Thank you.

We'll step down for a few moments.

MR. POWELL: Yes, Your Honor.

(RECESS)

THE COURT: Alright. What we're going to do is I'm going to bring the foreperson out and tell him to resume deliberation on the charge of possession of cocaine. We're going to do this in stages. It's obvious that the charge that the Court gave was not statutorily consistent so that has to be corrected and we will make a determination -- I'm still weighing the options on how to correct it so that it's least offensive both to the State and both to the defendant. So, we're going to let them at least come to some type of resolution, if they can, on the possession of cocaine charge at this time. Alright, if you'll bring the foreperson out.

REPORTER'S NOTE: (Foreperson enters courtroom at 2:24PM)

THE COURT: Mr. Foreman, I hope you enjoyed your lunch and thank you for your patience while we address matters of law. I'm going to instruct you that the jury may resume their deliberation only on the charge of the possession of cocaine at this time. So, if you will if y'all will address that issue only right now.

FOREPERSON: Okay.

THE COURT: Alright.

FOREPERSON: We're ready to reach a verdict on that.

THE COURT: Well, if you do then you have to complete the verdict form.

FOREPERSON: Okay.

REPORTER'S NOTE: (Foreperson retires to jury room at 2:25PM)

DEFENDANT: Your Honor, the defense have no objections to the instructions to the foreperson.

THE COURT: Thank you. State.

MR. POWELL: Your Honor, I just would inquire -- I wasn't sure whether the foreperson said they were ready to reach a verdict on both and you're allowing them to do that or whether they're only allow to reach a verdict on possession.

THE COURT: Only on the possession of cocaine.

BAILIFF: Green light. Are you ready?

THE COURT: Yes, sir.

REPORTER'S NOTE: (Jury enters courtroom at 2:28PM)

THE COURT: Mr. Foreman, I'm told the jury has reached a verdict on the charge of possession of cocaine.

FOREPERSON: Yes, sir.

THE COURT: If you will give the verdict form to the bailiff.

Madam Clerk, please publish the verdict form as to the possession of cocaine.

CLERK: Would the defendant please rise?

The State of South Carolina versus Carlos Anthony Dennison indictment 2019-GS-22-262 and 2019-GS-22-263 as to the charge of possession of cocaine, we the jury by unanimous consent find Carlos Anthony Dennison guilty.

THE COURT: Thank you, madam clerk.

Alright, ladies and gentlemen, I need to reinstruct you on the law related to the possession with the intent to distribute heroin. I need you to please listen to me. The defendant is charged with possession with intent to distribute heroin. The State must prove beyond a reasonable doubt that the defendant possessed heroin with the intent to distribute it. To prove possession the State must prove beyond a reasonable doubt that the defendant had both the power and the intent to control the disposition or use of the heroin. Possession may be either actual or constructive. Actual possession means that the heroin was in the actual physical custody of the defendant. Constructive possession means that

the defendant had domain and control or the right to exercise domain and control over either the heroin itself or the property on which the heroin was found. Mere presence at the scene where the drugs were found is not enough to prove possession. Actual knowledge of the presence of the heroin is strong evidence of the defendant's intent to control its disposition or use. The defendant's knowledge and possession may be inferred when a substance is found on a property under the defendant's control. However, this inference is simply an evidentiary fact to be taken into consideration by you along with the other evidence in the case and to be given the weight you decide it should have. Two or more persons may have joint possession of a drug. The State must also prove beyond a reasonable doubt that the defendant intended to distribute the heroin. Distribute means to deliver other than by administering or dispensing a drug. Intent may be shown by acts and conducts of the defendant and other circumstances from which you may naturally and reasonably infer intent. In determining whether the defendant had the intent to distribute the heroin you may consider the circumstances surrounding the defendant's alleged possession. You may consider the amount of the substance alleged to have been possessed, the manner in which it was allegedly possessed, the place where it was allegedly possessed and other factors which you consider to be important. You must find that the defendant did not intend to

have the heroin solely for his own use. Possession of more than 2 grains of heroin creates and inference that the defendant possessed the heroin with the intent to distribute it. This inference does not relieve the State from providing -- from proving beyond a reasonable doubt that the defendant had the intent to distribute. It is simply an evidentiary fact to be taken into consideration by you along with the other evidence in the case and to be given the weight you decide it should have. At this time, I would ask that you return back to the jury room and continue the deliberation on the heroin charge.

REPORTER'S NOTE: (Jury retires to jury room at 2:32PM)

THE COURT: Anything else at this time?

MR. POWELL: Nothing from the State.

DEFENDANT: Nothing from the defense, Your Honor.

THE COURT: Alright. We'll come back.

(RECESS)

THE COURT: I've been told that we have a green light. Anything from the parties before we bring them in?

DEFENDANT: No, sir.

THE COURT: Alright. You may bring them in.

REPORTER'S NOTE: (Jury enters courtroom at 2:51PM)

THE COURT: Mr. Foreman, I am told that the jury has reached a verdict on the other charges.

FOREPERSON: Yes, we have, Your Honor.

THE COURT: If you will give the verdict form to the bailiff.

Madam clerk, if you would publish the verdict.

CLERK: In the case of The State of South Carolina versus Carlos Anthony Dennison as to indictment 2019-GS-22-00263 as to the charge of possession of heroin with intent to distribute, we the jury by unanimous consent find Carlos Anthony Dennison guilty.

THE COURT: Alright. Madam clerk, if you would I would ask that you poll the jury on the cocaine charge and then poll them again on the meth charge, I mean, the heroin charge.

CLERK: Juror number 53, is that your answer -- is that your verdict, excuse me?

JUROR 53: For which one? Yes, for both.

CLERK: For the first one, cocaine.

JUROR 53: Yes.

CLERK: Juror number 14, is that still your verdict?

JUROR 14: Yes.

CLERK: Juror number 171, is that your verdict?

JUROR 171: Yes.

CLERK: Juror number 13, is that your verdict?

JUROR 13: Yes.

CLERK: Juror number 80, is that your verdict?

JUROR 80: Yes.

CLERK: Juror number 128, is that your verdict?

JUROR 128: Yes.

CLERK: Juror number 115, is that your verdict?

JUROR 115: Yes.

CLERK: Juror number 96, is that your verdict?

JUROR 96: Yes.

CLERK: Juror number 155, is that your verdict?

JUROR 155: Yes.

CLERK: Juror number 111, is that your verdict?

JUROR 111: Yes.

CLERK: Juror number 43, is that your verdict?

JUROR 43: Yes.

CLERK: Juror number 175, is that your verdict?

JUROR 175: Yes.

CLERK: Okay. Again, to the charge of possession with intent to distribute heroin; juror number 53, is that your verdict?

JUROR 53: Yes.

CLERK: Juror number 14?

JUROR 14: Yes.

CLERK: 171?

JUROR 171: Yes.

CLERK: 13?

JUROR 13: Yes.

CLERK: 80?

JUROR 80: Yes.

CLERK: 123 -- 128, excuse me.

JUROR 128: Yes.

CLERK: 115?

JUROR 115: Yes.

CLERK: 96?

JUROR 96: Yes.

CLERK: 155?

JUROR 155: Yes.

CLERK: 111?

JUROR 111: Yes.

CLERK: 43?

JUROR 43: Yes.

CLERK: 175?

JUROR 175: Yes.

CLERK: Your Honor, the jury has been polled.

THE COURT: Thank you, madam clerk. Anything from the State or the defense before I dismiss the jury?

MR. POWELL: Nothing from the State, Your Honor.

DEFENDANT: Nothing from the defense, Your Honor.

THE COURT: Alright, thank you, gentlemen.

Ladies and gentlemen of the jury, thank you for your work the last several days. Jury service -- when I started this case, I told you that your service was part of the greatest justice ever created. I'm in my 17th year of doing this job and it is -- I am a more firm believer today than I ever have

been in that phrase that we have the greatest justice system ever created here in this country. There are citizens being called on in every county in all 50 states to do what you have just done for the last three days. As has frequently been said, outside of military service for your country, jury service like you have done is the hardest thing that a citizen will do to show their dedication to their country and so I want to extend to you my appreciation as well as the appreciation of all of the citizens of Georgetown County. Unfortunately, we have concluded all of the jury trials this week. So, unfortunately you cannot come back tomorrow. If you do you want have anything to do but you are now released from your jury service. I told you that you are not to have any discussions with anybody about anything involving the case. You can now have as much as you want. If by chance someone approaches you and they want to talk to you about your jury service and you feel like they're being to harass you, please reach out to the Clerk of Court's or to the Sheriff's Office and they will see that that type of communication with you ceases. But, again thank you very much for your jury service. Ladies and gentlemen of the jury, you may be dismissed. Mr. Foreman, I need for you to see the Clerk of Court. She has to get you to sign two documents but thank y'all very much. You may be dismissed.

REPORTER'S NOTE: (Jury dismissed at 2:56PM)

MR. POWELL: Your Honor, the State has taken the liberty of preparing the sentencing sheets.

THE COURT: Alright.

MR. POWELL: Both of these matters were indicted as the 3rd offenses. I have certified copies of the possession of cocaine 2nd offense which is indictment number 2009-GS-22-00923 here in Georgetown County.

THE COURT: Alright. Just for the purpose of the record, do you have any other matters before we proceed with sentencing?

MR. POWELL: None from the State, Judge.

DEFENDANT: Your Honor, with respect, I'd like to make a motion for a new trial on both the charges.

THE COURT: Okay.

DEFENDANT: With the sentencing I don't have no objection with the sentencing.

THE COURT: Alright, so you're agreeing we can go ahead and proceed with the sentencing?

DEFENDANT: Yes, sir.

THE COURT: Alright. Thank you, sir.

Do you wish to respond to the new trial motion?

MR. POWELL: I don't know what the grounds are, Your Honor. I would object to such carte blanche -- I didn't hear any grounds stated but I would object to a new trial.

DEFENDANT: For the evidence not sufficient for a guilty

plea -- I mean for, I'm sorry, a guilty verdict on both charges, on both charges.

THE COURT: Alright. Thank you, sir.

MR. POWELL: Your Honor, the State believes that the evidence was sufficient to go to the jury and give the jury the opportunity to make its decision which it did. We believe the motion should be denied. We believe there was sufficient evidence to take it to the jury and also sufficient for the jury to make the verdict that they reached.

THE COURT: Any reply?

DEFENDANT: No, sir, Your Honor.

THE COURT: Alright, thank you, sir. Based on this Court's review of the evidence and having attended the trial, I would have to deny the motion on that basis.

DEFENDANT: Yes, sir, Your Honor.

THE COURT: Thank you.

Yes, sir.

MR. POWELL: Can I approach with the sentencing sheets?

THE COURT: Yes, sir.

DEFENDANT: Your Honor, can I say something?

THE COURT: Yes, sir. I'll give you an opportunity, give me -- I'm doing a little bit of paperwork and then I'll come right back to you.

DEFENDANT: Alright.

THE COURT: Yes, sir, Mr. Dennison.

DEFENDANT: Your Honor, I was arrested 10 years ago. I think it was September 22nd, 2009. Does the 10 year, I'm sorry I can't find the word ---

THE COURT: Ten-year range?

DEFENDANT: Say that again.

THE COURT: Ten-year range?

DEFENDANT: It was the 10-year range. I was assuming if the 10-year period from the last arrest would be able to not be used against me in the sentencing.

THE COURT: Let me get -- let me get -- I'll have the State give me your prior record. Let me get some demographic information from everybody first and we'll return to that. Okay.

DEFENDANT: Alright. I'm sorry.

THE COURT: How old are you, Mr. Dennison?

DEFENDANT: Forty-three.

THE COURT: How far did you go in school?

DEFENDANT: A little bit of college, a semester in college.

THE COURT: Where did you do that semester?

DEFENDANT: Online school, Phoenix of Arizona.

THE COURT: Are you married, single, divorced, widowed?

DEFENDANT: Separated.

THE COURT: Do you have children?

DEFENDANT: One.

THE COURT: How old?

DEFENDANT: Seven.

THE COURT: Do you or did you have a job outside of the home prior to your arrest?

DEFENDANT: Yes, sir.

THE COURT: What were you doing?

DEFENDANT: Washing dishes and landscaping.

THE COURT: Ever served in the military?

DEFENDANT: No, sir, Your Honor.

THE COURT: And the date of arrest, you have not made bond of these charges?

DEFENDANT: No, sir, Your Honor.

THE COURT: Do you know what the date of arrest was?

DEFENDANT: Date of arrest, June 20th.

THE COURT: June 20th?

MR. POWELL: Yes, sir.

THE COURT: 2018?

DEFENDANT: Yes, sir. I believe it's like 386 days, Your Honor.

THE COURT: 386.

And the prior record?

MR. POWELL: Your Honor, NCIC shows a pretty extensive record would you like all of it or just the most recent things?

DEFENDANT: Can I speak, Your Honor?

MR. POWELL: The 2009 conviction that Mr. Dennison has brought up is the basis of it being a 3rd offense. The conviction was for possession of cocaine 2nd offense. The State's position that code section 44-53-470 controls and states for an offense involving a controlled substance other than marijuana, which this one would be his possession of cocaine 2nd, the offender has at any time been convicted of a 2nd or subsequent violation it's separate from the 10 years which would make a 1st a 2nd. So, the 2nd offense is not a 2nd conviction, it is a 2nd offense and we believe that that applies to this scenario.

THE COURT: Okay.

MR. POWELL: If Your Honor wishes to have a complete history, I can read what's on the NCIC.

THE COURT: Give me the last 10 years.

MR. POWELL: Basically, Your Honor, 2009 was the last thing on his record the cocaine 2nd offense, everything else was prior to that.

THE COURT: What was -- what was the record prior?

MR. POWELL: He had a 2003 resisting, possession of crack; 2002 resisting, threatening the life; 2000 some kind of drug charge, couldn't tell what it was; 1998 hindering, carrying a concealed weapon; resisting, assault in '97; ABHAN, hindering, '96.

THE COURT: Alright. Anything else from the State before

we hear from Mr. Dennison?

MR. POWELL: No, Your Honor.

THE COURT: Anything from law enforcement?

OFFICER SMITH: No, Your Honor.

THE COURT: Yes, sir, Mr. Dennison. I'll be more than happy to hear anything you wish me to hear.

DEFENDANT: I was hoping that you was taking into consideration that the 2nd offense that I had in 2009 came from a charge from 2002 and I was because of that extended time that 2009 would have been a 1st offense. I'm sorry, I'm just asking. That what I was looking at the period of time from 2019 to 2009 and then 2009 to 2002. If the 2009 could have been a 1st offense charge because it was 10 years ago. But that's what I was asking, Your Honor.

THE COURT: Thank you, Mr. Dennison.

DEFENDANT: Alright. I'm sorry. Thank you.

THE COURT: Alright, I'll find that there's a substantial, factual basis for the plea -- on these cases they are to be concurrent sentences, 10-year sentence at the State Department of Corrections. He'll get credit for 368 days. I've indicated my desire that he receive the addiction treatment unit while he's at the Department of Corrections. Good luck to you, sir.

DEFENDANT: Alright, Your Honor.

MR. POWELL: Thank you, Judge.

THE COURT: Uh-huh. (Affirmative response)

(ADJOURNED)

C E R T I F I C A T E

I, the undersigned, Sallie Beth Todd, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the interest of State of South Carolina versus Carlos Anthony Dennison, held in Court of General Sessions for Georgetown County, Georgetown County Courthouse, Georgetown, South Carolina, on July 8, 9, 10, 2019.

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

Sallie Beth Todd, CVR

Official Reporter

October 11, 2019.

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

FORENSIC SERVICES LABORATORY REPORT

HENRY D. MCMASTER
Governor

MARK A. KEEL
Chief

January 15, 2019

Sgt. Steven Church
Georgetown Police Department
2222 Highmarket Street
Georgetown, SC 29440

DRUG ANALYSIS
SLED LAB: L18-09574
Your Case No: 18008061
Incident Date: 6/20/2018
[S] Carlos Dennison

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this case have been or will be conducted by any other laboratory or agency.

Mark A. Keel, Chief
South Carolina Law Enforcement Division

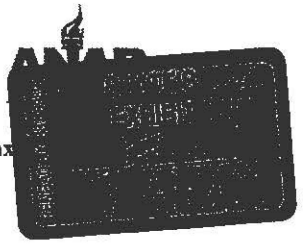
ITEMS OF EVIDENCE:

Sub # 1 — On July 03, 2018, items were received in B293893 from Johnell Sparkman of the Georgetown Police Department.

Item: 1.1 — White plastic container containing...

Item: 1.1.1 — Ziplock bag containing plastic bag containing powder substance.
RESULTS:
Heroin (C-I) and Fentanyl (C-II) found in the sample tested; 1 tested. Net weight: 0.10 +/- 0.01 grams (1.54 +/- 0.15 grains). Confidence level for the weight is 99.7%.

Item: 1.1.2 — Ziplock bag containing plastic bag containing powder substance.
RESULTS:
Heroin (C-I), Fentanyl (C-II) and Cocaine (C-II) found in the sample tested; 1 tested. Net weight: 0.041 +/- 0.001 grams (0.632 +/- 0.015 grains). Confidence level for the weight is 99.7%.



Item: 1.1.3 Ziplock bag containing plastic bag containing powder substance.
RESULTS:
Heroin (C-I) and Cocaine (C-II) found in the sample tested; 1 tested. Net weight: 0.056 +/- 0.001 grams (0.864 +/- 0.015 grains). Confidence level for the weight is 99.7%.

Item: 1.1.4 Ziplock bag containing ziplock bag containing powder substance.
RESULTS:
Cocaine (C-II) found in the sample tested; 1 tested. Net weight: 0.35 +/- 0.01 grams (5.40 +/- 0.15 grains). Confidence level for the weight is 99.7%.

Item: 1.1.5 Piece of folded paper containing powder substance.
RESULTS:
The maximum attainable statutory threshold has been met for this substance based on indicative testing results consistent with item 1.1.2. Item was not subjected to confirmatory testing.

Net weight of the tested substance is less than 0.10 grams; 1 tested.

Item: 1.1.6 Folded foil/paper wrapper containing powder substance.
RESULTS:
The maximum attainable statutory threshold has been met for this substance based on indicative testing results consistent with item 1.1.1. Item was not subjected to confirmatory testing.

Net weight of the tested substance is less than 0.10 grams; 1 tested.

Item: 1.2 Ziplock bag containing...

Item: 1.2.1 Red/white straw containing powder substance.
RESULTS:
The maximum attainable statutory threshold has been met for this substance based on indicative testing results consistent with item 1.1.2. Item was not subjected to confirmatory testing.

Net weight of the tested substance is less than 0.10 grams; 1 tested.

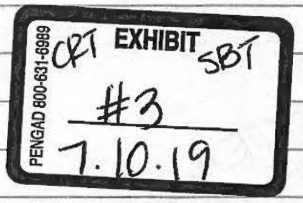
Item: 1.2.2 Red/white straw containing residue.
RESULTS:
No analysis performed.

This report contains the conclusions, opinions and interpretations of the analyst whose signature appears below.

Lynn D. Black
Forensic Scientist

Is 2 grams or 2 grams the "automatic" intent to distribute threshold?

Some jurors would like to know the legal definition of "intent" in the charge "intent to distribute".



WITNESSES

297 Georgetown Police Department

DOCKET NO. 2019-GS-22-00262

The State of South Carolina

County of Georgetown

W. Keith Powell 18G00547

COURT OF GENERAL SESSIONS

MARCH, 2019 TERM

THE STATE

vs.

CARLOS ANTHONY DENNISON
[redacted] PALM STREET
GEORGETOWN, SC 29440-2758
DOB: [redacted]
SSN: [redacted]
B / M

ATTORNEY: Erin E. Bailey

Indictment for

POSSESSION WITH INTENT TO DISTRIBUTE HEROIN

Jimmy A. Richardson, II, Solicitor

ARREST WARRANT NUMBER

2019GS2200262
CDR: 0185 §44-53-0370(b)(1)
DOI: 6/20/2018

ACTION OF GRAND JURY

TRUE BILL

Percy Stuckey
Foreperson of Grand Jury
Date: 3/27/2019

VERDICT

guilty

Foreperson of Petit Jury
Date: 10 July 2019

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)

INDICTMENT

At a Court of General Sessions, convened on March 27, 2019, the Grand Jurors of Georgetown County present upon their oath:

POSSESSION WITH INTENT TO DISTRIBUTE HEROIN

CDR: 0185 §44-53-0370 (b) (1)

That Carlos Anthony Dennison did in Georgetown County on or about June 20, 2018, possess with intent to distribute, dispense or deliver, or did aid, abet, attempt or conspire to distribute, dispense, or deliver a quantity of Heroin, a Schedule I controlled substance under the provisions of Section 44-53-110, et. seq., S. C. Code of Laws, 1976, as amended, such possession not having been authorized by law, in violation of Section 44-53-0370(b)(1), S. C. Code of Laws, 1976, as amended.

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

JIMMY A. RICHARDSON, II
FIFTEENTH JUDICIAL CIRCUIT

WITNESSES

299

Georgetown Police Department

DOCKET NO. 2019-GS-22-00263 ✓

The State of South Carolina

County of Georgetown

W. Keith Powell 18G00547

COURT OF GENERAL SESSIONS

MARCH, 2019 TERM

THE STATE

vs.

CARLOS ANTHONY DENNISON
[redacted] PALM STREET
GEORGETOWN, SC 29440-2758
DOB: [redacted]
SSN: [redacted]
B / M

ATTORNEY: Erin E. Bailey

Indictment for

POSSESSION WITH INTENT TO DISTRIBUTE COCAINE

Jimmy A. Richardson, II, Solicitor

REST WARRANT NUMBER

2019GS2200263
CDR: 0185 §44-53-0370(b)(1)
DOI: 6/20/2018

ACTION OF GRAND JURY

TRUE BILL

Percy Stuckey
eperson of Grand Jury
Date: 3/27/2019

VERDICT

guilty

Foreperson of Petit Jury
Date: 10 July 2019

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INDICTMENT

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POSSESSION WITH INTENT TO DISTRIBUTE COCAINE

CDR: 0185 §44-53-0370 (b) (1)

That Carlos Anthony Dennison did in Georgetown County, on or about June 20, 2018, possess with intent to distribute, dispense or deliver, or did aid, abet, attempt or conspire to distribute, dispense, or deliver a quantity of Cocaine, a controlled substance under provisions of Section 44-53-110, et. seq., Code of Laws of South Carolina, 1976, as amended, such possession not having been authorized by law, and being in violation of Section 44-53-370(b)(1), S. C. Code of Laws, 1976, as amended.

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

JIMMY A. RICHARDSON, II
FIFTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)
COUNTY OF Georgetown)
STATE VS.)
Carlos Anthony Dennison)
AKA:)
Race: BLACK Sex: M Age: 43)
DOB: [redacted] SS#: [redacted])
Address: [redacted] Palm Street)
City,State,Zip: Georgetown, SC 29440-2758)
DL#: [redacted] SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS2200262
A/W#: 2019GS2200262
Date of Offense: 6/20/2018
S.C. Code § : 44-53-0370(b)(1)
CDR Code #: 0185

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: PWID HEROIN, THIRD OFFENSE (max 10-30 years)
in violation of § 44-53-0370(b)(1) of the S.C. Code of Laws, bearing CDR Code # 0185
☒ NON-VIOLENT ☐ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45
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:

Powell, W. Keith	SCB04523	Defendant	Harte, Madison C. Attorney for Defendant	102887
	SC Bar#			SC Bar#

WHEREFORE, the Defendant is commited to the ☒ **State Department of Corrections,** ☐ **County Detention Center,** for a determinate term of 10 days/months/years or ☐ under the **Youthful Offender Act** not to exceed _____ years and/or to pay a fine of $ _____; provided that upon the service of _____ days/months/years and/or payment of $_____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC. 386 dy
☐ 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	$ 100.00
§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	$ 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)		$ 8.25
TOTAL		$ 283.25

_____ days/hours Public Service Employment

Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ 30.00 beginning 1 mo. after release
$ _____ paid to Public Defender Fund
Other: ATV while in the DC

☐ Appointed PD or appointed other counsel, Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk _____
Court Reporter: Sallie Beth Todd

Presiding Judge _____
Judge Code: 2132
Sentence Date: 7-10-19

302

STATE OF SOUTH CAROLINA)
COUNTY OF Georgetown)
STATE VS.)
Carlos Anthony Dennison)
AKA:)
Race: BLACK Sex: M Age: 43)
DOB: [redacted] SS#: [redacted])
Address:)
City,State,Zip:)
DL#: [redacted] SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS2200263
A/W#: 2019GS2200263
Date of Offense: 6/20/2018
S.C. Code § : 44-53-0370(b)(1)
CDR Code #: 0185

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Possession of Cocaine, 3rd offense (max 10 yrs and/or $12,500)

in violation of § 44-53-370 (d)(3) of the S.C. Code of Laws, bearing CDR Code # 3013
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

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: _____ SCB04523 _____ _____ _____
Powell, W. Keith | SC Bar# | Defendant | Attorney for Defendant | SC Bar#

WHEREFORE, the Defendant is commited to the ☒ **State Department of Corrections,** ☐ **County Detention Center,** for a determinate term of 10 days/months/years or ☐ under the **Youthful Offender Act** not to exceed _____ years and/or to pay a fine of $ _____; provided that upon the service of _____ days/months/years and/or payment of $_____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135. 586 days

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 %)		$
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§56-1-286 (DUI Breath Test)	$25	$ ~~25.00~~
Proviso (Public Def/Probation)	$500	$
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§50-21-114(BUI Breath Test Fee)	$50	$
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)		$ 8.25
TOTAL		$ 283.25

_____ days/hours Public Service Employment

Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/~~monthly~~ pmts. of $ 30.00 beginning 1 mo. after release
$ _____ paid to Public Defender Fund
Other: At Victim's Req DAC

☐ Appointed PD or appointed other counsel, Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk _____
Court Reporter: Sallie Beth Todd

Presiding Judge _____
Judge Code: 2132
Sentence Date: 7-10-19

SCCA/217 (04/2018)

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,

RECEIVED
Sep 11 2020
SC Court of Appeals

s/ *Joanna K. Delany*
Joanna K. Delany
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 11th day of September, 2020.