STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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Appeal from Beaufort County

Honorable Roger L. Couch, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

WORTH G. MYERS,

APPELLANT.

APPELLATE CASE NO. 2019-001982

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# RECORD ON APPEAL

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State of South Carolina )
)
County of Beaufort )

In the Court of General Sessions
Fourteenth Judicial Circuit
2018-GS-07-1137
2018-GS-07-1138
2019-GS-07-0081
2019-GS-07-0082
2019-GS-07-0083

The State of South Carolina,

Plaintiff,

vs.

Worth G. Myers,

Defendant.

Transcript of Record

November 20, 21, 2019
Beaufort, South Carolina

B E F O R E:

The Honorable Roger L. Couch, Judge, and a jury

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

Andrew T. Smith, Esquire, Assistant Solicitor
Sarah C. Fowler, Assistant Solicitor
Attorneys for the State

Brittany S. Holmes, Esquire
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Circuit Court Reporter

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*WEDNESDAY, NOVEMBER 20, 2019*

THE COURT: Good afternoon, ladies and gentlemen. We are about to begin the trial of The State of South Carolina against Worth Glover Myers. I have received several indictments in the case, and as I explained to you when we selected our previous jury, these indictments are documents that inform this court of the charges that have been lodged against the defendant, and they inform us of the charges to be tried. They inform the defendant of the charges that have been lodged against him. They are not evidentiary in nature, cannot be used by a jury in determining the guilt or the innocence of the defendant, but they do inform us of what the allegations are.

Now, I've received five different indictments. I'm not going to read them all to you verbatim. I will explain to you what the allegations are.

The first indictment that I will go over with you is indictment number 2018-GS-70-1138 [sic]. This is -- indictment is for the possession of oxycodone. It alleges that the defendant, on or about July 18th of 2018 in Beaufort County, South Carolina, was in possession of that drug, oxycodone, which is a controlled substance under the code section 44-53-370(D)(1) of the code of laws of South Carolina, and that's the indictment, the allegations of that indictment.

The next indictment is indictment number 2018-GS-70-1137 [sic]. This is for the possession of fentanyl. The indictment states that the defendant in Beaufort County, South Carolina, on July 18th of 2018 was in possession of that drug, which is a Schedule 1 or a Schedule 2 drug, and that that was in violation of a code section, 44-53-370(D)(1), of the South Carolina code of laws.

The next indictment that we've been presented is case number 19-GS-70-83 [sic]. This indictment alleges that in Beaufort County, South Carolina, it's for the possession of alprazolam. And that says that in Beaufort County, South Carolina, on July 18th of 2018, the defendant, Worth Glover Myers, was in the possession of that drug in violation of code section 44-53-370(D)(2) of the code of laws of South Carolina.

The next indictment is in case number 2019-GS-70-82 [sic]. This indictment is for the possession of hydrocodone. This indictment alleges that in Beaufort County, South Carolina, on or about January 10th of 2019, the defendant, Worth Glover Myers, was in possession of that drug in violation of three different code sections. That would be 44-53-370(D)(1) and (C) and 44-53-470(A)(3) of the code of laws of South Carolina.

The last indictment that I have is case number

19-GS-70-81 [sic]. This is for possession with the intent to distribute heroin. This indictment states that in Beaufort County, South Carolina, on or about January 10th of 2019, the defendant, Worth Glover Myers, was in possession with the intent to distribute, dispense, or deliver that controlled substance, and that was in violation of a code section, 44-53-370(B)(1).

So, those are the indictments that we've received. I'm going over them with you so that you understand the allegations that are in this case, and hopefully it will help you more fully understand the questions I'm about to ask you. Now before we begin the questioning, it is necessary, as always, that you be placed under oath concerning this questioning, and I'm going to ask at this time that the clerk place you under oath concerning your responses to my questions.

Please swear the jury panel for me.

(WHEREUPON, THE JURY PANEL IS DULY SWORN.)

THE COURT: If any member of the jury panel either failed or refused to take the oath just administered by the clerk, please stand at this time. Record will reflect that all jurors have been sworn concerning the answers they're about to give.

*JURY VOIR DIRE*

THE COURT: I want the attorneys to introduce

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themselves to you at this time.

In the case of the defendant, if you would also introduce the defendant to the jury.

First of all, though, for the state, if you'll introduce yourself to the jury panel.

MR. SMITH: Thank you, Your Honor.

Good afternoon. My name is Andrew Smith. Seated with me is Sarah Fowler. We're both assistant solicitors with the Fourteen Circuit, which covers Beaufort, Jasper, Allendale, Hampton, and Colleton counties.

THE COURT: And for the defense.

MS. HOLMES: Thank you, Your Honor.

Good afternoon. My name is Brittany Holmes, and this is my client, Mr. Worth Glover Myers. Along with us is Courtney Gibbes. We are with the Beaufort County Public Defender's Office.

THE COURT: Thank you.

Now, we will follow a procedure like we did earlier. I'll be asking questions. If you have a response, I'll need your juror number before I receive that response, and we'll put the response on the record. If there are any matters that I ask you about, about that you would rather speak with me in a more private situation, when I complete my questioning, I will give you a chance to come up by the court reporter with the attorneys present and discuss

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anything that you would like to discuss concerning the questions that I've asked.

First question I have, is there any member of this jury panel who has ever been related by marriage, or are you related by blood to the defendant, Worth Glover Myers? If that's true, please stand. Is there any member of the jury panel who has ever had a close social, personal, or business relationship with the defendant, Worth Glover Myers, if that's true, please stand.

(NO ONE STANDS.)

THE COURT: Now as to the attorneys involved in this case, if there's any member of the jury panel who has ever been represented by any of the attorneys involved in this trial, or if they've ever appeared on the other side of a legal matter from you, please stand.

(NO ONE STANDS.)

THE COURT: Now, is there any member the jury panel who has ever been related by marriage, or are you related by blood, or have you ever had a close social, personal, or business relationship with the attorneys involved in the trial of this case, if that is true, please stand.

I've been provided a list of potential witnesses in the case. I will ask you about these, and I'll provide a place of employment if it's been provided to me.

First of all, Trooper Christopher Wampler, he's with

the South Carolina ---

BAILIFF: Your Honor.

THE COURT: --- Highway Patrol.

BAILIFF: We have two standing.

THE COURT: Oh, I'm sorry. Two standing.

Yes, sir, name and number.

JUROR: Sam Cavanaugh. My number is 59.

THE COURT: Yes, sir. What the situation?

JUROR: I have a personal relationship, professional relationship with Courtney Gibbes.

THE COURT: Oh. I see. Now, would that fact affect your ability to be fair and impartial if you were seated on the jury and she served as an attorney in the case?

JUROR: I'd like to say no.

THE COURT: Well, I need to know definitely whether it would affect you in any way.

JUROR: No.

THE COURT: Okay. Thank you. You can be seated.

Name and number, sir. Excuse me, just the number. I'm sorry.

JUROR: 89.

THE COURT: Yes, sir.

JUROR: I'm friends with Courtney Gibbes.

THE COURT: All right. Would the fact that she's serving as an attorney in this, would that affect your

ability to be fair and impartial to both sides?

JUROR: Yes, sir.

THE COURT: Okay. I'll excuse you from the trial of this case. Please be seated; you no longer have to answer my questions.

Now, I'm back to the list of witnesses. Trooper Christopher Wampler with the South Carolina Highway Patrol; Jessica, and I believe it's Ziepfel, Z-i-e-p-f-e-l, with the Beaufort County Sheriff's Office; Sergeant William Rouse with the South Carolina Highway Patrol. Now as to those individuals, has any member of the jury panel ever been related by marriage, are you related by blood, or have you ever had a close social, personal, or business relationship with any of the potential witnesses? If that's true, please stand.

(NO ONE STANDS.)

THE COURT: Is there any member of the jury panel member or a member of your immediate family or a close personal friend of yours who has ever been employed by a law-enforcement agency, an attorney general or solicitor's office, or are they in the process of gaining employment at any such agencies? If that's true, please stand.

(NO ONE STANDS.)

THE COURT: Is there any member of the jury panel or a member of your immediate family who has ever been the

victim of a crime, and in particular any drug-related offense? If that's true, please stand.

Number, please.

JUROR: 21.

THE COURT: Yes, ma'am.

JUROR: My husband's nephew.

THE COURT: All right. Would -- has that case been ended?

JUROR: Yes, sir.

THE COURT: Okay. Would that affect your ability to be fair and impartial if you were seated ---

JUROR: No, sir.

THE COURT: --- on this jury? Thank you.

Yes. Number, please.

JUROR: 5.

THE COURT: Yes, ma'am.

JUROR: Both my aunt and my cousin.

THE COURT: All right. Would -- has that case ended?

JUROR: Yes.

THE COURT: Would that affect your ability to be fair and impartial to both sides if you were seated?

JUROR: No, sir.

THE COURT: Thank you very much.

Number.

JUROR: 18.

THE COURT: Yes, ma'am.

JUROR: I was held up at gunpoint at my -- at the pharmacy where I worked.

THE COURT: Would that fact affect your ability to be fair and impartial if you were seated on this jury?

JUROR: I think it would be difficult.

THE COURT: Okay. Then I'm going to excuse you from the trial of the case. Be seated. You no longer have to answer my questions.

Your number, ma'am.

JUROR: 118.

THE COURT: Yes.

JUROR: My daughter.

THE COURT: All right. Would that fact -- has that case been ended?

JUROR: It has.

THE COURT: Now, would that affect your ability to be fair and impartial if you were seated on the jury?

JUROR: No, sir.

THE COURT: Thank you very much.

Anyone else?

Is there any member of the jury panel or a member of your immediate family who has ever volunteered or working in a law-enforcement agency? In other words, as a citizen police officer or auxiliary police officer, or attended any

crime prevention seminars? If that's true, please stand.

Your number, ma'am.

JUROR: 19.

THE COURT: Yes, ma'am.

JUROR: Many years ago, my brother volunteered for a local small town police.

THE COURT: I see. Would that affect your partiality if you were seated?

JUROR: No.

THE COURT: Thank you very much.

Anyone else?

Now, is there any member of the jury panel who would give special credence or weight to the testimony of a law-enforcement officer simply because of his or her position? If that's true, please stand.

(NO ONE STANDS.)

THE COURT: Is there any member of the jury panel who has particular opinions or feelings about the use or possession of illegal drugs such that it would cause you to have a difficult time in serving on a jury in a case where a defendant is accused of these crimes? If you have such opinions or feelings, please stand.

(NO ONE STANDS.)

THE COURT: Now, has any member the jury panel received or gathered any information about the allegations

that are involved in this case such that it would have caused you to already form or express an opinion concerning the issues involved in this trial? If that's true, please stand.

(NO ONE STANDS.)

THE COURT: Is there any member of the jury panel who is aware of a bias or a prejudice that you might have either for or against either the state of the defense in this case? If that's true, please stand.

(NO ONE STANDS.)

THE COURT: Is there any member of the jury panel who is a member of or a contributor to a group which has as its primary concern the promotion of law enforcement and/or victims' rights? The groups would include but not be limited to such groups as Mothers Against Drunk Driving, Students Against Drunk Driving, Citizens Against Violent Crime, the South Carolina Sheriffs Association, the South Carolina Troopers Association, or any other such organization. If you're a member of or a contributor to such groups, please stand.

Your number, ma'am.

JUROR: 277. I contribute to MADD and to the sheriff's department.

THE COURT: I'm sorry?

JUROR: I contribute to MADD, Mothers Against Drunk

Driving.

THE COURT: Okay. All right. Would that fact affect your ability to be fair and impartial in this trial?

JUROR: No.

THE COURT: Thank you very much.

Sir, number.

JUROR: 168.

THE COURT: Yes, sir.

JUROR: I contribute to the sheriffs association.

THE COURT: I see. Would that affect your ability to be fair and impartial if you were selected?

JUROR: No.

THE COURT: Thank you.

Ma'am, number.

JUROR: Number 21.

THE COURT: Yes, ma'am.

JUROR: We contribute to the sheriff's office.

THE COURT: I see.

JUROR: As well as, again, I'm a member of the Zonta Club at Hilton Head, which is against violence.

THE COURT: Right.

JUROR: And advocates against ---

THE COURT: Now, would that affect your impartiality if you were seated?

JUROR: No, sir.

THE COURT: Thank you. You can be seated.

Anyone else?

Now, is there any member of the jury panel who would have been a member of the grand jury that issued the indictments in these cases? The indictments were issued on -- let me be sure I've got this right -- January 17th of 2019. So, if you were member of the grand jury that may have issued the indictments, please stand.

(NO ONE STANDS.)

THE COURT: Now, does any member of this jury panel know of any reason whatsoever why he or she should not serve as a juror in this case, with particular emphasis being placed upon your ability to be both fair and impartial to the state and the defense. If you're aware of any such reason, please stand.

(NO ONE STANDS.)

THE COURT: Now, is there any member the jury panel who would like to speak with me in a more private setting concerning any of the matters that I've asked you about? If so, please stand. I'd ask that you come around to the bailiff over here.

The attorneys can come forward.

(THE FOLLOWING CONFERENCES ARE HELD AT THE BENCH WITH ALL COUNSEL PRESENT.)

THE COURT: Yes, sir.

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BAILIFF: Juror 149, Your Honor.

THE COURT: Thank you.

Good afternoon.

JUROR: My, my concern is that I have a problem driving at night. I have some night vision issues. My husband have been driving me. He has the past two days, and he has to work Thursday and Friday, so I have no way of coming here.

THE COURT: Okay.

JUROR: And I would have to drive at night.

THE COURT: Okay, that is coming or going back?

JUROR: Well, coming in the morning it's okay, but I'm concerned at night time if we're here at 5 or 5:30.

THE COURT: I see.

JUROR: And I would have to drive the whole time.

THE COURT: So, you would be driving yourself?

JUROR: Yes, I would on Thursday and Friday.

THE COURT: Well, I don't know how long the case is going to take. We're going to start it actually, the trial, tomorrow. So, you won't be here this evening. I don't know how long juries deliberate, so I can't guarantee you that you wouldn't -- we could make arrangements for a sheriff's deputy to get you home.

JUROR: Okay.

THE COURT: If necessary. So if that comes up, we'll

make -- just let us know. We'll make arrangements.

JUROR: So, I would drive here myself, and they would drive me home?

THE COURT: Yes.

JUROR: And I'd come back?

THE COURT: Yes. So, you'd have to come back and get your car that way.

JUROR: Okay. That's fine.

THE COURT: But, but, you know, hopefully we won't get in that situation.

JUROR: Okay.

THE COURT: Okay.

JUROR: Thank you very much.

THE COURT: Thank you.

BAILIFF: This way, ma'am.

Juror 355, Your Honor.

THE COURT: Thank you.

Good afternoon.

JUROR: Good afternoon, Your Honor.

THE COURT: Yes.

JUROR: I had to take Monday off to be here, and I -- I'm sorry. I had to take Monday off to be here, and I asked for Tuesday and Wednesday off to make myself available for a jury, and I was called. Unfortunately, that leaves me with only two night shifts, Thursday and

Friday. That's the bulk of my earnings for the week. I feel if I were called for a jury and I had to miss those two nights, it would be detrimental to my financial well being.

THE COURT: I understand that, but that would -- I bet if I asked that, other people out there ---

JUROR: Understood.

THE COURT: --- they'd tell me the same thing.

JUROR: I am the sole earner for my ---

THE COURT: You'll get some ---

JUROR: --- family.

THE COURT: --- jury pay, but it's not going to be a lot, okay?

JUROR: Thank you for ---

THE COURT: You'll have to stay with me.

JUROR: --- your consideration.

THE COURT: Sure.

BAILIFF: This way, ma'am.

Juror 242, Your Honor.

THE COURT: Good afternoon.

JUROR: Good afternoon. How are you?

THE COURT: I'm fine.

JUROR: My ex-boyfriend that I dated for five years was a drug addict. I spent years driving him back and forth to rehab.

THE COURT: And would that -- so, you would have difficulty in sitting on a case like this?

JUROR: Yes.

THE COURT: I will excuse you from the case, okay?

JUROR: Thanks.

THE COURT: You can have a seat.

Everybody get her? I excused her.

Anyone else?

(END OF CONFERENCES AT THE BENCH.)

THE COURT: All right, any additional questions from the state? Any additional questions from the state?

MR. SMITH: Nothing from the state, Your Honor.

THE COURT: Anything additional from the defense?

MS. HOLMES: Nothing from the defense, Your Honor.

THE COURT: Thank you. All right, I will declare the remaining members of the jury panel to be qualified to serve in this particular case. I'll ask the clerk to prepare a jury list for us, and I believe this will be a five strikes for the state, five strikes for the defense. We'll pick one alternate.

MS. FOWLER: Your Honor, can we approach?

THE COURT: Please do.

(OFF-THE-RECORD BENCH CONFERENCE.)

THE COURT: All right, the clerk has prepared a list selected randomly from your number. Your names will be

called and when your name is called, we're going to ask that you come forward over here to the gate again. At that time, the attorneys will be in a position to exercise their strikes. Again, the state will have five; the defense will have five. We'll pick one alternate, with the state having one strike, defense having two.

Madame Clerk, you can call the roll.

*JURY SELECTION*

CLERK OF COURT: Juror number 138.

THE COURT: And I'll remind you. If you have a purse or any personal belongings, bring those with you over to the gate.

CLERK OF COURT: What says the state?

MR. SMITH: Please present this juror.

CLERK OF COURT: What says the defense?

MS. HOLMES: Please excuse the juror.

CLERK OF COURT: Juror number 397. What says the state?

MR. SMITH: Please present this juror.

CLERK OF COURT: What says the defense?

MS. HOLMES: Please seat the juror.

THE COURT: She said seat the juror?

CLERK OF COURT: Seat the juror.

THE COURT: Seat the juror.

CLERK OF COURT: Right this way, sir.

Juror number 219. What says the state?

MR. SMITH: Please present this juror.

CLERK OF COURT: What says the defense?

MS. HOLMES: Please excuse the juror.

THE COURT: Excused. She's excused.

CLERK OF COURT: Juror number 320. What says the state?

MR. SMITH: Please present this juror.

CLERK OF COURT: What says the defense?

MS. HOLMES: Please seat the juror.

CLERK OF COURT: Juror number 293. What says the state?

MR. SMITH: Please present this juror.

CLERK OF COURT: What says the defense?

MS. HOLMES: Please seat the juror.

THE COURT: Seat the juror.

CLERK OF COURT: Juror number 149. What says the state?

MR. SMITH: Please present this juror.

CLERK OF COURT: What says the defense?

MS. HOLMES: Please excuse this juror.

THE COURT: Excused.

CLERK OF COURT: Juror number 248.

MS. HOLMES: What was the number again?

CLERK OF COURT: 248.

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What says the state?

MR. SMITH: Please present this juror.

CLERK OF COURT: What says the defense?

MS. HOLMES: Please seat the juror.

THE COURT: Seat the juror.

CLERK OF COURT: Juror 349. What says the state?

MR. SMITH: Please present this juror.

CLERK OF COURT: What says the defense?

MS. HOLMES: Please seat the juror.

THE COURT: Seat the juror.

CLERK OF COURT: Juror number 394. What says the state?

MR. SMITH: Please present this juror.

CLERK OF COURT: What says the defense?

MS. HOLMES: Please seat the juror.

THE COURT: Seat the juror.

CLERK OF COURT: Juror number 112. What says the state?

MR. SMITH: Please present this juror.

CLERK OF COURT: What says the defense?

MS. HOLMES: Please seat the juror.

THE COURT: Seat the juror.

CLERK OF COURT: Juror number 279. What says the state?

MR. SMITH: Please excuse this juror.

CLERK OF COURT: Juror number 17. What says the state?

MR. SMITH: Please present this juror.

CLERK OF COURT: What says the defense?

MS. HOLMES: Please excuse the juror.

THE COURT: Excused.

CLERK OF COURT: Juror number 199. What says the state?

MR. SMITH: Please present this juror.

CLERK OF COURT: What says the defense?

MS. HOLMES: Please seat the juror.

THE COURT: Seat the juror.

CLERK OF COURT: Juror number 323. What says the state?

MR. SMITH: Please present this juror.

CLERK OF COURT: What says the defense?

MS. HOLMES: Please seat the juror.

THE COURT: Seat the juror.

CLERK OF COURT: Juror number 260. What says the state?

MR. SMITH: Please present this juror.

CLERK OF COURT: What says the defense?

MS. HOLMES: Please seat the juror.

CLERK OF COURT: Juror number 52. What says the state?

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MR. SMITH: Please present this juror.
CLERK OF COURT: What says the defense?
MS. HOLMES: Please seat the juror.
THE COURT: Seat the juror.
CLERK OF COURT: Juror number 55. What says the state?
MR. SMITH: Please present this juror.
CLERK OF COURT: What says the defense?
MS. HOLMES: Please seat the juror.
THE COURT: Seat the juror. We are now picking the alternate.
CLERK OF COURT: Juror number 365. What says the state?
MR. SMITH: Please present this juror.
CLERK OF COURT: What says the defense?
MS. HOLMES: Please seat the juror.
THE COURT: Seat the juror.
All right, any objections to the jury selection process from the state?
MR. SMITH: Nothing from the state, Your Honor.
THE COURT: Any from the defense?
MS. HOLMES: Nothing from the defense.
THE COURT: All right, ladies and gentlemen, those of you who have not been selected in this case, we are going to try this case for today and tomorrow. We will not start

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another case this week, so this will end your service on the jury this week. I'm releasing you from any further responsibility in the jury pool. The bailiffs will show you out.

If you need an excuse from your work from the clerk's office, they will provide that to you. You will receive a voucher for juror pay. Don't plan to buy Christmas on that check. It's not going to be, it's not going to be enough to do that, but it's all the law allows, and it's not enough for the time you've spent, but we do appreciate your presence here this week. You've assisted us greatly by being here, and at this point in time if you can leave quietly, you're free to go. Thank you very much.

(WHEREUPON, THE JURY PANEL EXITS.)

THE COURT: All right, ladies and gentlemen, you have been selected on this jury, and what's going to happen at this point in time, I'm going to be taking up some matters with the attorneys, some pretrial things that have to be dealt with that don't require your presence for me to handle those things. And because of the fact we're in the afternoon, I'm going to release you until in the morning to be back to start the actual trial of the case. As you're leaving, let me explain just a couple of things to you and give you some instructions.

When you come back to the courthouse, you'll be taking

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another oath. You've been sworn several times, but this one will be concerning your duties as jurors in the case, and you'll find that it will require that you decide the case based solely upon the evidence presented in the trial of the case.

Now, there is no evidence outside of this courtroom. For that reason, it would be highly improper, a violation of your oath for you to try to gather information about this matter from any source outside of the courtroom. So, so, don't try to do an internet search or anything of that nature about the case, the people involved. Don't listen to, watch, or read any media reports. I don't think it will be reported in the press, but I learned a long time ago I don't control what the press does, and they can report whatever they choose to report on. So, so, if you see something like that, don't read it, listen to it, watch it.

I'm going to ask you also. We, we've gone to a lot of trouble to try to get a jury that has an open mind about the issues involved in this case, and if you were to go home and start talking about the people involved, the issues involved, the allegations in the case with someone else and you end up in a discussion with that person, that discussion might begin to color your opinions about this case, and you haven't heard the first word of testimony

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yet. You haven't viewed the first piece of evidence, so I'm going to urge you and instruct you: don't discuss the case and what it's about with anyone until I ask you to begin your deliberations. That's at the close of the trial. That's even among yourselves. Don't talk about it until you've heard all the arguments by the lawyers, all the evidence in the case, and my charge on the law. Then you will have the information you need to begin a discussion about this case. So, don't discuss it.

If your family says, well, what are you involved in, I've been selected on a case and I've got to go back in the morning, and I'll tell you about it when we're done. That's the end of the discussion; move on to something else. Don't discuss anything about the case until I ask you to begin deliberations.

One last thing. It's a crime in this state for someone to try to influence, improperly influence a jury or a jury's decision. So, if someone tries to contact you about this case or tries to discuss this case with you, please report that to us as soon as you can because I take that very seriously. I don't like people committing crimes with my juries. I can assure you I would see that the proper authorities came in and began an investigation should that occur. So, let us know if anybody tries to contact you or tries to influence you in any way concerning

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this case.

Now, we're going to start the case in the morning. Just like I can't control the press, I don't always control how trials go, but I anticipate this case will be -- we'll be able to do it tomorrow. So, I think we'll be done with the case some time tomorrow, but you can't hold me to that. That's just what my belief is.

But at any rate, 9:00 in the morning I want you back in the jury room. The bailiffs will show you how to get back to that location. Be there at that time, and we'll try to get started as close to 9:00 as we can so we can get it in tomorrow.

So, thank you very much for your cooperation thus far. I'll be asking you about my instructions and whether you've been able to follow them in the morning. Please be in a position to tell me you've been able to follow those instructions.

Okay, you're free to go at this time. Thank you for your cooperation.

(THE JURY EXITS 1:55 P.M.)

THE COURT: All right, let's get started in the pretrial matters in this case.

(A PAUSE.)

THE COURT: All right, let's come to order, please. All right, my understanding is from my pretrial conference

with the attorneys that there is a, perhaps a, a issue concerning a statement made by the defendant. Is the defense making a motion to exclude any statements made by the defendant at the time of his arrest?

MS. HOLMES: Yes, Your Honor. It's not our motion, but there was some disagreement if there was a statement. If there is a statement, we would ask that that be excluded.

THE COURT: You're moving to have it suppressed?

MS. HOLMES: Yes, Your Honor.

THE COURT: Okay.

State intending to introduce any statements made by the defendant?

MR. SMITH: Yes, Your Honor, just some statements that can be found on the video that we have to play, the statements he made at the scene.

THE COURT: All right. Then we'll conduct a *Jackson vs. Denno* hearing concerning those statements. You ready to call a witness?

MR. SMITH: Yes, Your Honor.

THE COURT: You may do so.

MR. SMITH: State calls Christopher Wampler.

THE COURT: Sir, come forward to be sworn over here to my left.

CHRISTOPHER M. WAMPLER, BEING DULY

SWORN, TESTIFIES AS FOLLOWS:

THE COURT: Please have a seat. Once you're seated, state your name and spell your last name, please.

WITNESS: Trooper Christopher M. Wampler. Last name's spelled W-a-m-p-l-e-r.

THE COURT: You might want to pull the microphone a little closer to you. Thank you, Trooper.

Your witness, counsel.

DIRECT EXAMINATION BY MR. SMITH:

Q. Good morning, Trooper. Where do you work?

A. I work, I work Troop 6, Post C here in Ridgeland. I cover Beaufort and Jasper.

Q. How long have you worked there?

A. Since December of 2016.

Q. Were you working on July 18, 2018?

A. I was.

Q. On that night, did you pull over anybody?

A. I did.

Q. Did you pull over the defendant?

A. I did.

Q. Why did you pull him over?

A. Initial reason for the stop was he was speeding.

Q. Did he eventually pull over to the side of the road?

A. He did.

Q. Did you go to speak with the defendant?

A. I did.
Q. What happened when you went to speak with him?
A. As I approached the driver and spoke with him, I smelled marijuana. I obtained his driver's license and registration and returned to my vehicle.
Q. At any point, did you ask him to step out of the vehicle?
A. Not initial contact. Once I had the county unit pull up and then had backup there, that's when we proceeded to ask him to step out.
Q. Did he step out?
A. He did.
Q. What happened once you asked him to step out?
A. He stepped out. We asked him a few questions regarding anything that was in the vehicle. After that, we presume -- or started to search the vehicle.
Q. Did you find anything when you searched the vehicle?
A. We did. We found ---
THE COURT: Just one second. I'm been informed there's a question in the case that we have pending, so if you could get the attorneys together for me? Thank you. As soon as everybody's here, we may take a break to entertain the question.
Go ahead. I'm sorry I interrupted.
BY MR. SMITH:

Q. Did you find anything when you searched the vehicle?
A. We did. We found pills and other drugs as well.
Q. What did you find? In particular, what did you find? You said you found pills.
A. We found pills that were Xanax, hydrocodone, oxycodone, pills like that, along with marijuana and heroin.
Q. Did you arrest the defendant?
A. I did.
Q. During this stop, did you speak with him?
A. I did.
Q. Was he given his Miranda rights during this?
A. He was.
Q. Did he make any statements throughout the stop?
A. He did.
Q. Did he say anything about the pills that you found?
A. He did. He identified them as Xanax.
Q. So, he identified them as Xanax?
A. Correct.
Q. And the defendant was the one who actually identified the Xanax?
A. Yes.
Q. Had he been given his Miranda rights at that time?
A. I'm unsure.
Q. When he made that statement, was he under arrest?

A. He was not.
Q. Where was he?
A. In front of my vehicle behind his.
Q. So, he was behind his vehicle in front of yours. Was he in handcuffs at that time?
A. He was not.
Q. Was there anybody else present?
A. There were three other subjects present at that time, along with the county unit.
Q. Did the defendant appear intoxicated when you were speaking to him?
A. No.
Q. Did he answer all your questions while you were there?
A. He did.
Q. Did he appear to have any difficulty understanding your questions or answering them?
A. No.
MR. SMITH: May I approach the witness, Your Honor?
THE COURT: Yes, you may.
(DVD MARKED AS STATE'S EXHIBIT NUMBER 1 FOR IDENTIFICATION. AUDIO IS NOT INCLUDED IN THE TRANSCRIPT.)
BY MR. SMITH:
Q. I'm showing you what's been marked as State's Exhibit 1 for identification. Do you recognize this?
A. I do.

Q. What is it?
A. This is a copy of my in-car camera video.
Q. And how do you know that it's a copy of your video?
A. I actually reviewed this video and signed it, indicating that it is my video.
Q. Is it a true and accurate representation of the stop that night?
A. It is.
MR. SMITH: Your Honor, at this time I'd like to play the first, about, third of this video.
THE COURT: All right.
MR. SMITH: Your Honor, I'm going to fast forward to near where the statement was made.
(WHEREUPON, EXCERPT OF STATE'S EXHIBIT NUMBER 1 FOR IDENTIFICATION IS PLAYED FOR THE COURT. AUDIO IS NOT INCLUDED IN TRANSCRIPT.)
BY MR. SMITH:
Q. Trooper Wampler, in that video and, and -- or to the best of your recollection, what did the defendant say about the pills when you asked him about them?
A. It wasn't during that portion, I believe, but it was later on that he did identify them as Xanax. The person on camera was actually the county unit that had helped identify them initially.
MR. SMITH: Your Honor, I believe we're going to play

more of the video.

(WHEREUPON, EXCERPT OF STATE'S EXHIBIT NUMBER 1 FOR IDENTIFICATION IS PLAYED FOR THE COURT. AUDIO IS NOT INCLUDED IN TRANSCRIPT.)

THE COURT: What is, what is the run time on this?

MR. SMITH: Sorry, Your Honor?

THE COURT: How long is this going to run?

MR. SMITH: I was about to stop it.

THE COURT: Okay. All right. I just had a question I got to deal with on the other jury.

MR. SMITH: Okay.

THE COURT: So, how much longer you think it's going to be?

MR. SMITH: About two more minutes.

THE COURT: Okay. We'll just finish that. Then we'll break.

BY MR. SMITH:

Q. Wampler, after the defendant was mirandized, did he make any statements about the pills?

A. I believe he did, yes.

Q. And what, what were those statements?

A. That he, that he had a previous prescription for the Xanax. That was a long time ago. I can't recall anything else.

Q. But the, the statement that you recall is that he had

a prescription, a previous prescription but no longer had one?

A. Correct.

Q. Was the Miranda, the rights, were they on video? Were they captured on that video?

A. They would have been, yes.

MR. SMITH: No further questions.

THE COURT: All right, let's take a short break at this time.

You may step down. Don't discuss your testimony before you're cross-examined.

I'll ask the attorneys in the other case to come forward.

(OFF THE RECORD.)

THE COURT: All right, I believe you've completed your questions.

MR. SMITH: Your Honor, after briefly considering the facts, we're going to withdraw our motion and not -- we're not going to try to get any of the defendant's statements in at the trial of the case.

THE COURT: Okay. Well, that takes away the need for the hearing.

You may step down. Thank you.

WITNESS: Thank you, sir.

(THE WITNESS EXITS THE STAND.)

THE COURT: Now, any other pretrial motions?

MS. HOLMES: Nothing from the defense, Your Honor.

THE COURT: Any from the state?

MR. SMITH: Your Honor, just one briefly. Throughout plea negotiations in pretrial, there's been a lot of discussion about the health of the defendant and the possible ramifications of any prison or probationary sentence that would come after a possible conviction. I would just move to have any mention of that or the rest of his life or anything that ---

THE COURT: Well, I would rule any kind of evidence concerning the punishment or the, the effect of any punishment on a defendant to be inadmissible during a trial on guilt or innocence. Certainly those matters will be relevant for sentencing if he were convicted. He's not been convicted yet. So, the effect that a verdict may have or and -- and/or a punishment should not be brought up during the trial on guilt or innocence. So, I would rule that to be inappropriate testimony and evidence.

MR. SMITH: Thank you, Your Honor.

THE COURT: All right, anything else? All right, then we'll begin at 9:00 in the morning. Thank you very much.

Is the defendant out on bond?

MS. HOLMES: He is.

THE COURT: All right. The trial technically has not

yet started, so he's still on bond. Thank you.

(WHEREUPON, THE CASE IS AT EASE.)

*THURSDAY, NOVEMBER 21, 2019*

(COURT RESUMES AT 8:57 A.M.)

(COLLECTION OF DRUGS MARKED AS STATE'S EXHIBIT NUMBER 2 FOR IDENTIFICATION.)

THE COURT: Is the state ready to proceed?

MR. SMITH: The state is ready, Your Honor.

THE COURT: The defense ready?

MS. HOLMES: Defense is ready, Your Honor.

THE COURT: I have received a note from the bailiffs indicating that a juror, Darrell Richardson, number 293, wishes to speak with me personally.

I'll ask that you bring him in and let him have a ---

BAILIFF: Yes, sir, Your Honor.

THE COURT: --- seat in the jury box, please.

BAILIFF: Judge, you want him to sit in the jury box?

THE COURT: Just in the first seat right there will be fine.

(JUROR NUMBER #293 ENTERS THE COURTROOM.)

BAILIFF: If you will, just take a seat right here in this first seat, please.

THE COURT: Let's see, I've been told that you wanted to speak with me personally about something and, of course, obviously I can't talk with you unless all parties are

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present.

JUROR: Yes, sir.

THE COURT: Okay, you are juror number 293. Is that right?

JUROR: Yes, sir.

THE COURT: All right, sir, I'll be happy to hear from you. What is it you wanted to address with me?

JUROR: When I, when I -- I was fine with doing this and everything, but as I sat there yesterday, I realized I'm not comfortable with being on a jury.

THE COURT: In what respect?

JUROR: I just don't want to be -- I don't want to feel like I'm making any decisions on none of this.

THE COURT: Well, you know, the purpose of a juror is to determine whether or not the state has met its burden of proof. If the state meets its burden of proof, then a verdict would be guilty, and if the state doesn't meet its burden of proof, then the verdict would be not guilty. You don't feel that you could sit and listen to the witnesses and be in a position to make a decision as to whether or not the state has met its burden of proof?

JUROR: No, sir.

THE COURT: Well, sir, you know yesterday I asked everyone in the courtroom under oath whether ---

JUROR: Yes, sir.

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THE COURT: --- there was any reason whatsoever why they should not serve on the jury. You did not stand and talk at that time.

JUROR: Yes, sir.

THE COURT: Why was that?

JUROR: I just -- I, I really thought I could do it, but when I got up there, I just, like I, I don't want -- that's nothing I want to be a part of, I don't want to be a part of.

THE COURT: Okay, sir. Well, what I'm going to do is I'm not going to release you at this point in time. I'm going to keep you because I'm not sure you understand how courts work.

JUROR: Yes, sir.

THE COURT: And, and how juries work. I want you to be present and see how this goes. So, I'm going to take you off of the jury at this point in time, but I'm not releasing you from jury service. I'm going to ask you to have a seat out in the gallery. I'll ask you to come and go just like the jury does when I tell them to report. I want you to be here throughout the trial so that you'll get an idea of what juries do so that maybe the next time you get a summons, this won't be a problem.

JUROR: Yes, sir.

THE COURT: All right, if you'll have a seat right out

there in the gallery, and I'll have the bailiffs check and let me know if you've reported as I've, as I've ordered.

That means that we -- I think we have one alternate. So, I will be placing the alternate on the jury at this point in time. We have no choices to make.

All right, state ready to proceed then?

MR. SMITH: State's ready, Your Honor.

THE COURT: Is the defense ready to proceed?

MS. HOLMES: Yes, sir.

THE COURT: All right, bring the jury in.

BAILIFF: Yes, Your Honor.

(JURY NOTE MARKED INTO EVIDENCE AS COURT'S EXHIBIT NUMBER 1.)

(THE JURY ENTERS AT 9:04 A.M.)

THE COURT: All right, the record will reflect the jury has returned to the courtroom. During your absence, I have excused one of the members of the jury from service on the jury.

That means the alternate now is part of the jury. So, you are now on the case as a regular juror.

Now at this point in time, I told you that I would be checking on whether or not you've been able to follow my instructions thus far concerning your behavior while you were away from the courthouse. If any of you had any difficulty in complying with my instructions, please stand.

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It appears that all jurors have been able to comply with my instructions thus far.

I also explained that you would be taking an oath when you come back to this courtroom concerning your responsibility as jurors, and at this time the clerk is going to place you under that oath.

(WHEREUPON, THE JURY IS DULY SWORN.)

THE COURT: Now, if there was any member of the jury panel who either failed to or refused to take the oath that the clerk just administered, please stand. Court record will then reflect that all jurors have been sworn concerning your responsibilities in this.

At this point in time, I'm going to go over some matters with you. I do this always when I start a trial because it's my belief that for some of you, this would be your first opportunity to serve on a jury in the trial of a criminal case. And since it's a new experience, you don't have any prior knowledge of how juries work or how they operate, so I'm going to go over some basic things with you at this time concerning the duties and responsibilities that we each have in the trial of the case, and also explain to you the procedures and the processes that we might be using during the trial.

I do this because if you've never been on a jury before, most of what you might know about what goes on with

juries and in courtrooms you might have learned from television shows you've watched or movies you've seen, books that you've read. They don't teach much about jury processes and dynamics in school these days, so I doubt it would have come from that source. So, if you've learned about juries from those other sources, I hope you appreciate the fact that those sources of information were intended for your entertainment.

You know, you can have a television show where an event can occur. They can try the case and have it all wrapped up in the space of an hour, and they stop about four or five times to show you three or four commercials every so often. So, that might tell you that those stories don't follow what goes on in real life because we won't wrap this up in one hour, I promise you that.

It's not going to be a long trial, but it's not going to be like a television show, and that may tell you that those sources of information are, are sometimes bent and twisted a bit to fit the storyline or the plot they're trying to tell you.

What you're engaged in today is intended for anything but your entertainment. I hope you realize that you're part of a system that goes back to a document that was signed in England in the year 1215. The document was known as the Magna Carta, and that's the first document in, in

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human history that guaranteed citizens the right to be tried by their fellow citizens, a jury, a trial by jury in England. That tradition has been handed down through our constitution and the constitution of this state. You know, if you look around, there's very few things that man has come out with that's lasted for, in this case, over 800 years. So -- I mean, 6, over 600 years. That's, that's a long time. So, I will tell you that it's a system that we've used and relied on for a long period of time. Not necessarily a perfect system, but perhaps the best one we've come up with.

You know, if you look around the world today at the other justice systems that exist in this world, you'll find very few that allow the citizens of a country to come into a courtroom and make the important decisions that are made in the courtrooms of this country. In those countries, usually those decisions are made by politicians or bureaucrats, sometimes by dictators, and in this country we do that by the citizens themselves. I hope it's a right we never lose in this country. That's the right to be tried by our fellow citizens when we're accused of a crime.

This courtroom is a place of honor. It's dedicated to the preservation of citizens' rights through both those constitutions that I mentioned, the United States and the, and the state. And we are here to see to it that we comply

with the duties and responsibilities that each of us has been assigned under that system.

Now, the attorneys involved in this case are here to represent their clients' interest. I'm sure they'll do an excellent job in presenting their cases before you today in this trial. But first and foremost -- most laymen don't realize this -- attorneys are officers of this court. At some point in time, they appeared before this court once having qualified and taken an oath prescribed by law. And of course once that oath was taken, they receive a license to practice law in this state. Part of the oath is that they will assist you in this trial in your search for the facts of this matter and to reach a verdict. So, you can expect them to act in a reasonable, a professional, and an ethical manner in the discharge of their duties during the trial.

I'm going to remind you, too, that you just came in front of this court. You just took an oath; your oath is to decide this case based upon the evidence presented in the case. You, too, are now expected to act in a reasonable, a professional, and an ethical manner in the discharge of your duties as jurors in this case.

I want to thank you very much for your willingness to come forward and serve. If you didn't do that, our system couldn't function as it was designed to function. So,

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thank you for your service in this particular case.

Now, I've already gone over with you the indictments in this case; I'm not going to read those to you again. I'm sure the lawyers in a few minutes when they do their opening statements will be going over the charges and what they expect to show in the case. I will go over those indictments with you when I charge you on the law at the close of the trial and explain to you the significance of the indictments again, and we'll go over what charges the state is seeking to prove.

I will tell you, however, that to those five indictments -- and they're all involving drug matters -- to those five indictments the defendant has pled not guilty. And under that plea and under our system of justice, that plea places the burden of proof in this trial solely upon the state. The state has the burden now to prove the allegations contained in the indictments by proof beyond a reasonable doubt. It's your job as jurors at the close of the trial to make a determination as to whether or not the state has met its burden of proof.

That plea also in this case does not require the defendant to prove anything in the trial. The defendant is not required to prove anything in this trial. The defendant is presumed innocent of the charges for which the indictment has been issued. And I'll go over these

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concepts with you in more detail when I charge you concerning the law in this matter.

Now, your job as jurors is to find and determine the facts in this case. Many courts have said on many occasions when a case is tried in front of a jury, that the jury is the sole and exclusive judge of the facts. Now, the same law that makes you the sole judge of the facts in this case makes me the sole judge of the law in this case. It will be my responsibility to preside over the trial. I may have to make rulings on objections or, or the introduction of evidence into the record.

Please don't take from anything that I say or do in the discharge of those duties to indicate to you that I have an opinion as to how you should determine the facts in this case. It's just me doing my job as the presiding officer when I do that. I don't have an opinion as to how you determine the facts in this case; the law doesn't allow me an opinion on that subject. I'm not allowed to disagree with you concerning your determination as the fact, as the fact finder in this matter. You are the sole and exclusive judge of the facts in this case.

Again I am, I am also the person who is the sole and exclusive judge of the law. So, at the close of the trial when I charge you concerning the law in this matter, you're not allowed to disagree with me concerning the law to be

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applied. So, if you came into the courtroom with a notion as to what the law is or maybe what the law ought to be in this case, you should leave those notions outside the jury room when you begin your deliberations. It's your responsibility under your oath to take the law exactly as I give it to you, apply that law to the facts as you determine the facts to be. That should put you in a position to render a verdict in this matter at the close of your deliberations.

Now, you are to determine the facts of this case from the evidences. That's what our oath says. You will decide the case based upon the evidence. And I will tell you that in any trial, the only evidence that a jury has to consider is testimony of witnesses who are sworn to tell the truth, who testify from the witness stand, and whatever documents or other pieces of evidence come into the record either through the testimony of those witnesses or by agreement of the lawyers for it to come into the record. And you are to only consider the evidence that is in the record, and again that will be testimony from sworn witnesses and whatever documents or other pieces of evidence come into the record through the testimony or the witnesses or by agreement of counsel.

I will tell you it's very important that you do your duty as the finder of fact in this case diligently and

conscientiously. You see, under our system of justice, ordinarily there is no means by which an erroneous determination of facts made by a jury can be corrected.

Now, as the sole judges of the facts in this case, I will tell you that it will be necessary for you to determine the credibility, the believability of the testimony you hear. That's what credibility means. It means believability. I'm going to urge you as you do your job as jurors in this case to use your own good common sense. We pick a jury of twelve people from the general population because we want a wide range of experiences, a wide range of age, wide range of educational levels, things of that nature. We want a cross-section of the community because we want you to use your combined good common sense in considering the case.

In considering the question of credibility, again use your good common sense. You know, every single day of your life, you make common sense decisions as to what, as to what you believe and what you choose not to believe. Sometimes you do it without even thinking about it. You may hear something on the television or a friend tells you something, and immediately you start thinking, well, is that true or is that not true? You start doing that commonsensical weighing processes. I'm going to ask you to do that in this case. This day is no different than any

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other day in your lives. Apply your good common sense to the testimony you hear.

You have the right to consider whether a witness might have a stake in the outcome of the case, whether a witness might exhibit a bias or prejudice one way or the other, whether a witness actually had the ability to know what the witness is testifying about. And I've never been in a courtroom -- and I've been coming into courtrooms for many years -- where the jury box is not directly across from the witness stand. And the reason for that is that gives the jurors a chance to observe the witnesses as they testify: how they speak, the mannerisms they use in delivering their testimony. Observe them, pay attention to what they say. Then use your good common sense to make a determination as to whether or not that what they've testified to is deserving of a finding of credibility or not. Again, be in a position at the close of the trial to discuss what testimony you believe and do not believe with your fellow jurors in deliberating concerning the case.

So, try to pay attention; don't let your thoughts wander. I know it's tough sometimes, but try to pay attention to what's going on in the courtroom as we go along because it is your solemn responsibility at the close of the trial to determine the guilt or the innocence of the defendant based on whether or not the state has met its

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burden of proof in this case. And your verdict must be based solely upon the evidence as it's presented during the trial and the law as I instruct it to you at the close of the trial.

Now, from time to time I've told you I may have to rule on matters. If it's my belief that my discussion with the lawyers about some issue that's come up in the trial might involve a discussion of some matter that would not be admissible into the record under the rules that govern that -- we have rules that govern what comes in to a trial and what doesn't come in to a trial. So, if I think the discussion is going to go in the direction of something that would not be admissible under the rules, I will ask you to leave the courtroom while I talk that over with the lawyers.

Don't think that by me asking you to go outside the courtroom that I'm trying to affect your decision on the facts. It's, again, that's me doing my job. Sometimes judges are described as the gatekeepers in a trial. We decide when to open the gate and let information into the record; we decide when it doesn't meet the rules, to close the gate and exclude it. So, it's me doing my job as the gatekeeper. Part of that job is to be sure that you only consider evidence that's in the record, properly in the record under the rules that govern those things. So, don't

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take from the fact I've asked you to leave the courtroom somehow as some indication that I'm trying to influence your decision. Again, that's me doing my job as the gatekeeper in the case.

Also, we allow the attorneys to talk to you directly twice during a trial: once at the beginning of the trial and once at the end of the trial. In that == in those occasions, we'll have what's called an opening statement. Again, they'll talk directly to you about perhaps what the case is about, maybe what they intend to show you as the trial goes forward. And then at the close of the trial, once all the evidence has been put into the record, they're allowed to do a closing argument or a summation. In other words, they'll go over that evidence with you. They'll ask you to draw certain conclusions and inferences from that evidence. They'll argue their clients' case to you concerning that evidence.

But I will caution you. Statements made by lawyers during a trial, those statements themselves are not evidence; they are argument. They are not evidence. You certainly can consider them in considering the evidence, but you must decide the case solely based on the evidence in the case, and attorney statements themselves are not evidence and shouldn't be considered by you as evidence in reaching a verdict in the case.

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Now, one other thing I want to make you aware of, and that is I do not appoint a foreperson of the jury until I charge you concerning the law. Until that time, I want each of you to think you might be the foreperson of the jury. And I want you to pay attention as if you would be the foreperson and have to lead the discussions of the jury during deliberations. I'll made that choice at that time.

I don't want you to think that because I pick somebody as the foreperson, that that person is more important than you, has more intelligence than you, that I think their opinion is more valued than yours because at the close of the trial, I'm going to instruct you you can't reach a verdict unless all twelve of you agree on the verdict. So, each of you has an equal say in the outcome of the case. If I appoint a foreperson, that person has no greater say in the outcome of the case than any other juror who's in deliberations, but I'll make that choice at the close of the trial. I haven't forgotten it because I haven't done it yet. I always do is at the close of the trial.

Now, if in the meantime, if there's some problem that you feel that I need to be aware of, you let the bailiffs know. They'll come tell me, and I'll deal with it directly. You don't have to go through a foreperson to communicate with the court during the trial.

I want to make sure I haven't violated anyone's rights

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because of my opening comments. Does the state have an objection to anything I've said?

MR. SMITH: No objection from the state.

THE COURT: Any from the defense?

MS. HOLMES: None from the defense, Your Honor.

THE COURT: All right. Now, I've told you that the burden of proof is on the state in this case and only on the state. That means we let the state go first in opening statements, followed by the defense. That the state will have the first opportunity to present evidence, followed by the defense's opportunity to present evidence. Once all the evidence is in the record, we'll do the closing arguments. Once those closing arguments or summations are done, I'll charge you on the law. Once I complete my charge on the law, the case will be turned over solely to you for your deliberations and ultimate verdict. So, that's the way we'll go through the, the trial of the case. That's the process and procedure we'll follow.

State is going first with opening statements. You may proceed.

MR. SMITH: Thank you, Your Honor.

THE COURT: Yes, sir.

MR. SMITH: Please the court?

THE COURT: Yes, sir.

MR. SMITH: Good morning. Thank you for being here.

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As I said yesterday, my name's Andrew Smith. I represent the state as the prosecutor in this case.

Another lawyer once told me when you're talking to a jury, the best thing you can do is be short, be sincere, and then be seated. So, I'm not going to be up here very long. This isn't going to be a very long trial; it's not a very complicated trial. However, just because we're not going to be here very long doesn't mean it's not an important trial.

The defendant, Worth Glover Myers, is charged with five drug offenses. He's charged with possession of heroin with intent to distribute, possession of oxycodone, possession of hydrocodone, possession of alprazolam, and possession of fentanyl. You're here today because on July 18th last year, South Carolina Highway Patrolman Christopher Wampler was traveling down Fording Island Road in Bluffton. He saw a car traveling over 90 miles per hour in a 55 zone and thankfully decided to pull them over.

When the trooper pulled the vehicle over and approached, he immediately smelled marijuana. When he looked in the window, he saw several pills sitting on the center console near where the gearshift is in the car. He asked the driver, the defendant, for his ID and his registration. He saw that the car was registered to the defendant; he identified the defendant as Worth Glover

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Myers.

The trooper asked Mr. Myers and the three other passengers, three younger people that were in the car with him, to step out of the car. Patted them down and then law enforcement searched the vehicle. When they searched the vehicle, they noticed more pills, more white pills sitting in the driver seat, the seat that the defendant was sitting in. Law enforcement continued to search and found tucked into the side of the seat where the back of the seat is up against the center console a plastic baggie. Inside that baggie were over fifty pills of different colors, blue and white, and then a small plastic piece tied off with a tan powder inside of it. Law enforcement placed Mr. Myers under arrest, transported him to the detention center.

Trooper Wampler took those pills and that power and sent it in to evidence. A few weeks later, a woman by the name of the Jessica Ziepfel at the Beaufort County Sheriff's Office drug analysis lab took those pills and that the powder and tested it. When she did, she discovered that it was thirty-nine pills of fentanyl, one pill of oxycodone, four hydrocodone pills, and thirteen pills of alprazolam. She also discovered that the tan powder was 9.182 grains of heroin.

Now, grains is just a way to measure weight for heroin. And of note, in the State of South Carolina, when

it comes to whether or not -- whether a drug is possessed with intent to distribute, the State of South Carolina recognize that anything above 2 grains allows you, the jury, to infer that it's possession with intent to distribute. The defendant has 9.182 grains of heroin, more than four and a half times that inference weight.

You're going to hear all of this evidence today. Like the judge said, anything that I say or opposing counsel said is not evidence. All the evidence you're going to need is going to come from that box right there. You're going to hear from Trooper Wampler. He's going to tell you about the stop: smelling the marijuana, seeing the -- searching the car, finding them. He's going to tell you he submitted this to evidence. Jessie Ziepfel is going to come in here. She's going to tell you about how she received those pills and that powder, and how she tested it. She took it into her laboratory and found out that it was heroin, oxycodone, hydrocodone, alprazolam, and fentanyl.

Ladies and gentlemen, my job today is to prove to you beyond a reasonable doubt that the defendant possessed these drugs, and in the case of the heroin possessed it with the intent to distribute. Now, reasonable doubt doesn't mean no doubt at all. It means that you're firmly convinced that the defendant committed the charge --

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committed the crimes that he's charged with in this case.

Now, you're going to hear the evidence today. At the end of the trial, the judge is going to give you the law in this case; he's going to tell you what constitutes a criminal act. If you take the facts that you hear there from the witness stand and you take the law that the judge is going to give you and apply your own common sense to it, I firmly believe that you're going to come back with the only appropriate verdict in this case, which is that the defendant, Worth Glover Myers, is guilty of possession of heroin with intent to distribute, he's guilty of possession of fentanyl, he's guilty of possession of alprazolam, possession of oxycodone, and possession of hydrocodone. Thank you.

THE COURT: The defense may proceed.

MS. HOLMES: Thank you, Your Honor. May it please the court?

THE COURT: Yes, ma'am.

MS. HOLMES: Good morning. My name is Brittany Holmes, and as the, as the state just told you, my client, Mr. Worth Glover Myers, has been accused of five very serious charges. He has been accused of four counts of possessing illegal drugs and one count of intending to distribute those drugs. In the State of South Carolina, in order to be convicted of those crimes, the state has the

burden of proving both knowledge and intent. Fortunately for my client, we just don't believe that they will be able to meet that burden of proving either.

Now, the prosecutor just stood before you, and he told you that you will hear from at least two witnesses in this case. One of the witnesses, their key witness is Officer Wampler. When Officer Wampler testifies, I ask that you pay special attention to his testimony. I ask that you pay attention to where he tells you that he finds those drugs. The prosecutor told you that Mr., Mr. Myers was the owner of the car and that he was driving the car. But I ask that you pay attention, and you'll know that there are other people in that car as well.

After hearing all of the evidence, you'll be able to make the decision that you feel is the only appropriate decision. You'll be able to determine if the state has met their burden of proving that my client knew that those drugs were there, and that my client had knowledge, that he knew that those drugs were there, and that my client intended to possess those drugs, and also had the intent to distribute those drugs.

In the State of South Carolina, mere presence around those drugs is not enough to prove possession. You need more, and even the more that the state may intend to prove in this case, it still is not enough. Like the prosecutor

said, there won't be a whole lot of testimony; there won't be a whole lot of evidence. There won't be a whole lot of pictures for you to see, but from the evidence that is put before you, I just ask that you pay attention to it. Pay attention to everything that you hear, everything that you see, but also pay attention to the things that you don't see. And at the end of this trial, I will stand before you once more, and I will summarize the case for you. And at the end of my summary, I will ask that you find my client not guilty, the only appropriate verdict in this case. Thank you.

THE COURT: State may call its first witness.

MR. SMITH: The state calls Trooper Christopher Wampler.

CHRISTOPHER WAMPLER, BEING DULY SWORN, TESTIFIES AS FOLLOWS:

THE COURT: Once you're seated, sir, state your name. Spell your last name, please.

WITNESS: Yes, sir. Trooper Christopher Wampler. Last name's spelled W-a-m-p-l-e-r.

THE COURT: Counselor, your witness.

MR. SMITH: Thank you, Your Honor.

DIRECT EXAMINATION BY MR. SMITH:

Q. Trooper Wampler, where do you work?

A. I work with South Carolina Highway Patrol, Troop 6,

Post C here in Beaufort, Jasper.

Q. How long have you worked there?

A. For three years, since December of 2016.

Q. What is your rank?

A. I'm a trooper.

Q. Have you had that the whole time you've worked there?

A. I have.

Q. As a trooper, what are your primary duties?

A. Primary duties are traffic enforcement and traffic, traffic collision investigation.

Q. And what type of training do you have for that?

A. We went through several weeks of collision investigation, traffic laws, conducting traffic stops, various...

Q. How many traffic stops have you conducted?

A. Well over a thousand.

Q. Were you working for the highway patrol in July of 2018?

A. I was.

Q. Were you on duly July 18th of 2018?

A. I was.

Q. Where were you on duty that night?

A. I was patrolling the Beaufort, Bluffton county jurisdiction.

Q. And did you conduct any traffic stops that night?

A. I did.
Q. Where?
A. Various locations. For this instance, it was Fording Island, US 278 in Bluffton.
Q. Did you conduct a traffic stop on Fording Island Road that night?
A. I did.
Q. And what county is that in?
A. It's Beaufort County.
Q. Can you describe the car that you stopped that night?
A. It was a four-door sedan in rough shape.
Q. When you say in rough shape, what do you mean?
A. Initially when I was trying to pull up behind it and read the registration, the tag for the vehicle, it had a bungee cord on the back that was partially blocking the tag. It appeared to be holding the trunk down.
Q. And why did you pull this vehicle over?
A. Because I was stopped at a red light and noticed the vehicle make a turn and proceed at a high rate of speed. I clocked the vehicle traveling well over 90 miles an hour while the speed limit was 55.
Q. And did -- you activated your blue lights?
A. I did.
Q. And did this vehicle pull over?
A. It did.

Q. And about what time was this?
A. I believe it was sometime after midnight.
Q. Did you, once you pulled the vehicle over, did you approach it?
A. I did.
Q. What did you observe as you approached the vehicle?
A. As I the approached the vehicle, I noticed four occupants in the vehicle. As I approached, the driver's side window was down. I spoke to the driver.
Q. Who was the driver?
A. The driver was Mr. Myers.
Q. Do you see Mr. Myers in this courtroom today?
A. I do.
Q. Will you point him out? Just name something that he's wearing.
A. He's wearing the gray and black shirt over there.
MR. SMITH: If Your Honor please, let the record reflect the trooper has identified the defendant.
THE COURT: The record will reflect the trooper has pointed out the defendant. You may proceed.
BY MR. SMITH:
Q. And where was Mr. Myers sitting in the car?
A. He was in the driver seat.
Q. Did you ask for his license and registration?
A. I did.

Q. Did he give you those?
A. He did.
Q. Did you run the registration that night?
A. Yes, sir.
Q. Who did the car belong to?
A. It belonged to Mr. Myers.
Q. While you were at the vehicle, did you observe anything else?
A. Yes. As I asked him for the registration and his driver's license, I did see a pill or two in the center console just loosely on the gearshift location, and during that time I also smelled the strong odor, smelled the strong odor of marijuana.
Q. And how did you know what you were smelling was marijuana?
A. Conducting numerous traffic stops, you come across it numerous times, and it's kind of a smell you don't forget.
Q. And can you describe the pills that you saw?
A. They were white in color, rectangular, oval in shape.
Q. And about how many were there?
A. In the view plain, it was two in the center console.
Q. Did you ask the occupants to step out of the vehicle?
A. I did. After I had a county unit there, we asked them to step out.
Q. And did they all comply with that?

A. They did.
Q. Where did you place them once they stepped out?
A. Once they stepped out, we patted them down and brought them to the front of my vehicle behind their vehicle.
Q. Did you pat down all four of them?
A. We did.
Q. Did you find anything on any of the four?
A. No, sir.
Q. After this, did you search the vehicle?
A. We did.
Q. And why did you search the vehicle?
A. Based on the probable cause that there was a substance in there with the smell of marijuana and the pills in plain view.
Q. Where did you search first?
A. I started with the driver side, driver door. During that time, I located a couple extra pills in the driver's seat.
Q. In the driver's seat. Were they -- where in the driver's seat were they?
A. They were sitting on the driver seat itself as if the driver was sitting on them.
Q. Did you -- where, where did you search after that?
A. From there, proceeded to the passenger's -- or driver side rear. Conducted a full rear search and went back to

the passenger front.
Q. Did you find anything else in the car?
A. We did. We eventually discovered more drugs in the front compartment.
Q. Where in the front compartment were they found?
A. They were actually located, tucked in the center console and the driver seat, around waist height.
Q. I understand this might be a little awkward to do. Could -- is there any way that you could stand up and show the jury kind of -- you were seated in a, in a -- in the seat where you would've found that baggie?
A. Yes, sir. The, the driver was seated. It would actually be located about this height right here against the backrest and the center console. You got the center console sitting about this high. It was lodged in between that center console and the backrest for the driver seat.
Q. If somebody were to be sitting in that driver's seat, would they have had access to that bag?
A. Yes, sir.
Q. What was inside that bag?
A. Inside that bag, we located a green, leafy substance that was identified to be marijuana, numerous pills, a tan powder substance.
Q. And can you describe what these pills looked like just generally?

A. They, they were various shapes, between oval, rectangular, white in color, blue in color, and they had different markings on a few of them.

MR. SMITH: Permission to approach the witness, Your Honor.

THE COURT: You may.

BY MR. SMITH:

Q. I'm going to show you what's been marked as State's Exhibit Number 2 for identification only. Do you recognize this?

A. Yes, sir.

Q. How do you recognize it?

A. This is the evidence bag that was filled out, chain of custody form or chain of custody bag. This is the bag I filled out and put the evidence into.

Q. So, what, what's in that bag?

A. In this bag, there's actually numerous bags that have been separated and labeled. Again, there's more than fifty pills in here, the marijuana, the tan powder substance, and the original plastic bag I located all the items inside of.

Q. Now, do those substances appear in the same or substantially same condition as when you saw them on July 18th of last year?

A. Yes, sir.

Q. And where again did you find those substances?

A. In the driver seat backrest around his waist height, lodged in between the seat and the center console.

MR. SMITH: Beg the court's indulgence for just a moment.

THE COURT: Yes, sir.

BY MR. SMITH:

Q. Going back a little bit, how many pills were in the seat that you said -- that were in the defendant's seat?

A. In the defendant's seat, there was numerous. I believe in total I had five in total.

Q. And they were at a spot where the defendant would have been sitting on them?

A. Yes, sir.

Q. Once you collected these pills and the powder, what, what did you do with them?

A. Once they were collected, they were placed inside the evidence bag here. Not this big, clear one but the one actually inside the bag. They were placed in that bag, sealed, and placed in the trunk of my vehicle until it was taken to the Ridgeland office, our headquarter office, and turned in to evidence that way.

Q. Is the trunk of your vehicle locked once you put the bag in there?

A. It is.

Q. And the bag that you actually placed the bag found in

the car in, do you seal that?

A. I do.

Q. Is it still sealed?

A. My bag is not sealed at this time. It was opened up for testing purposes.

MR. SMITH: No further questions, Your Honor.

THE COURT: Your witness, counsel.

MS. HOLMES: Thank you, Your Honor.

CROSS-EXAMINATION BY MS. HOLMES:

Q. Good morning, Trooper Wampler.

A. Good morning, ma'am.

Q. So, you, you were on patrol on the night of July 18 of 2018, correct?

A. Yes, ma'am.

Q. And while you were on patrol, you said that you noticed a car that was speeding?

A. Yes, ma'am.

Q. That car was doing approximately 92?

A. Yes, ma'am.

Q. Okay, and there's a video of all of this, correct?

A. Yes, ma'am.

Q. Okay, and you remember -- and there was also an incident report that you wrote?

A. Yes, ma'am.

Q. And you remember in your incident report you actually

state that the car was doing 97?
A. Yes, ma'am.
Q. Okay, but in the, in the video you mentioned, you said that it was doing 92?
A. Yes, ma'am.
Q. Okay, and so you noticed that the car was speeding, and so you initiated a traffic stop?
A. Yes, ma'am.
Q. And when you stopped that vehicle, there were -- you noticed that there were four other people in the car?
A. Yes, ma'am.
Q. Mr. Myers was driving, and then there was a male in the passenger's seat, a male in the backseat, and a female in the backseat behind the passenger, correct?
A. Yes, ma'am.
Q. And, and you said -- it's your testimony today that you saw loose pills sitting in the center console?
A. Yes, ma'am.
Q. But in the video, you didn't mention that as a reason for your search, did you?
A. No, ma'am.
Q. But if that was -- if you saw them there, then you would have mentioned that in, in the video, correct?
A. Not entirely, ma'am.
Q. But in the video, you said that the reason why you

were searching the car was because you smelled marijuana?
A. Yes, ma'am.
Q. Okay. So, when you started to search the car and you said -- it's your testimony today that you found pills in the seat, in the driver's seat?
A. Yes, ma'am.
Q. In your incident report, you didn't say that you found any pills in the driver's seat, did you?
A. I don't recall.
Q. Do you have a copy of your incident report with you?
A. No, ma'am.
Q. Okay. Would it refresh your memory if I allowed you to see it?
A. Yes, ma'am.
MS. HOLMES: Your Honor, may I approach? Please let the record reflect that I am showing Officer Wampler for identification purposes his incident report.
BY MS. HOLMES:
Q. Can you read that to yourself?
(A PAUSE.)
A. Yes, ma'am.
Q. So, in, in your report, you didn't mention that you found any pills in Mr. Myers's seat, did you?
A. In my report, no, ma'am.
Q. And your reports are pretty accurate, correct?

A. Fairly accurate, yes, ma'am.
Q. Because these are the reports that you give to your supervisors and also what you refer back to in the event of trials like today, correct?
A. Yes, ma'am.
Q. Okay. So, if you found drugs or pills laying in a seat, that, that would have been in your report?
A. Yes, ma'am.
Q. Thank you, and so after you found -- after you smelled the marijuana and you started to search the car, you said that you then, you then found drugs that were tucked between the driver's seat and the center console?
A. Yes, ma'am.
Q. And where exactly were those drugs? In, like, what, what location? Was it more towards the front or more towards the back? In the middle? Because there -- it's a long space there.
A. It, it's not, it's not a long space. It's the back rest for the driver's seat. There's only about a 4 inch space for that.
Q. But do you know if they were more towards the, the front of the car or more towards the backseat?
A. I can't attest to that. It was more centered.
Q. But, but there is a video of this, correct? There is a video of the, the traffic stop?

A. There's a video of the traffic stop. There's not a video of me physically searching the vehicle. I don't wear body camera.

Q. Correct. So, so, there is no video to tell us where you found, where you actually found the drugs, a video that could show us where you found the drugs?

A. No, ma'am.

Q. And there were no pictures taken to show us where you found those drugs either?

A. No, ma'am.

Q. And you did say that there were other people in the car. There was someone sitting in the backseat, correct?

A. Yes, ma'am.

Q. And so that person that was sitting in the backseat very well could have put those drugs there, correct?

A. It's possible.

Q. Did you remember on that night when you were speaking with another officer, there was some conversation about the drugs being found more towards the back and that backseat driver -- or that backseat rider could have been the person that put them there?

A. I recall having a conversation. I don't recall the conversation itself.

Q. But if, if I told you that that was -- that statement was made, would you say that it was not made?

A. Could you refresh that -- could you repeat that statement?
Q. There was a statement that the drugs were found more towards the back of the car, and that the person sitting in the back could have stashed them, stashed those drugs there.
A. I, I believe that statement was made with my corporal at the time, and that statement was in reference nobody taking ownership of the drugs at the time of the stop.
Q. Correct, but that statement was still made, that the backseat driver could have, could have stashed those drugs there, or the backseat rider could have stashed those drugs there?
A. Yes, ma'am.
Q. Thank you.
MS. HOLMES: I beg the court's indulgence, Your Honor.
THE COURT: Yes, ma'am.
MS. HOLMES: Thank you, Your Honor.
BY MS. HOLMES:
Q. And that, that person that was sitting the backseat, that person was also charged with these exact same drugs, correct?
A. Yes, ma'am.
Q. Were there any fingerprints testing done on those drugs, on the bags of drugs?

A. No, ma'am.
Q. So, there was no forensics done on those drugs to determine who, who had them in their possession or who, who had ever touched them, who may have put them there?
A. No, ma'am.
Q. And was that any money that was found in the car?
A. I don't recall.
Q. Were there any scales found in the car?
A. I don't believe so, ma'am.
Q. And there were also no small baggies that would have any -- that would have allowed them to break that -- those pills up and put them into small baggies, were there?
A. No, ma'am.
MS. HOLMES: Thank you, Your Honor. No further questions.
THE COURT: State may redirect.
MR. SMITH: Just briefly, Your Honor.
REDIRECT EXAMINATION BY MR. SMITH:
Q. Who were the drugs closest to in the vehicle?
MS. HOLMES: Objection, Your Honor, speculation.
THE COURT: I'm going to overrule the objection. The witness has already testified he came upon the car while it was occupied and observed the occupants. If he can answer it, I'll allow him to do so. Does not require speculation.

You may proceed.

BY MR. SMITH:

A. Yes, sir, the drugs were located closer to the driver.

Q. And who was the driver?

A. Mr. Myers.

Q. If that why you arrested Mr. Myers?

A. Yes, sir.

Q. Who owned the vehicle?

A. Mr. Myers.

Q. Again, you found pills in the seat, correct?

A. Yes, sir.

Q. And that was the seat that -- who, who was sitting in that seat?

A. Mr. Myers.

Q. In your reports, do you always put every detail into your reports?

A. We try to. A lot of time, things are overlooked or missed.

MR. SMITH: No further questions, Your Honor.

THE COURT: Recross.

MS. HOLMES: Just briefly, Your Honor.

RECROSS-EXAMINATION BY MS. HOLMES:

Q. Trooper Wampler, if there is something as important as where an item of evidence is found, that would be in your report, correct?

A. Yes, ma'am.

MS. HOLMES: Thank you.

No further questions, Your Honor.

THE COURT: All right, sir, you may step down. Thank you very much.

WITNESS: Thank you, sir.

(THE WITNESS EXITS THE STAND.)

THE COURT: State may call its next witness.

MR. SMITH: State calls Jessica Ziepfel.

THE COURT: Come forward, ma'am, and be sworn, please.

JESSICA ZIEPFEL, BEING DULY SWORN, TESTIFIES AS FOLLOWS:

THE COURT: Once you're seated, please state your name. Spell your last name, please.

WITNESS: My name is Jessica Ziepfel. It's Z-i-e-p-f-e-l.

THE COURT: Counselor, your witness.

MR. SMITH: Thank you, Your Honor.

VOIR DIRE EXAMINATION BY MR. SMITH:

Q. Ms. Ziepfel, where do you work?

A. I would work for Beaufort County Sheriff's Office, forensic services laboratory here in Beaufort, South Carolina.

Q. And what do you do for them?

A. I'm a forensic chemist. I analyze evidence submitted

by law-enforcement agencies for the presence of controlled substances.

Q. And how long have you been doing that work?

A. I've been doing that with Beaufort County for almost five years. Previously to that, I worked for the State of Kansas at the Kansas Bureau of Investigation for about five years as well.

Q. And what are your duties at your current job?

A. Like I said, I analyze evidence that's been submitted from law-enforcement agencies to identify any controlled substances that may be present.

Q. Did you have to go to school to do that?

A. Yes. I earned a bachelor's of sciences degree in forensic chemistry from Ohio University.

Q. Do you have any extra training that allows you to do this?

A. Yes. I completed all initial training in the workplace. I also have a certification from the American Board of Criminalistics in drug analysis.

Q. And how long did it take for you to get your degree?

A. My bachelor's degree I completed in four years.

Q. And then about how long did it take for you to complete training?

A. Initial training is about a year and a half total.

Q. And how many years' experience do you have in forensic

chemistry?
A. Altogether almost ten years.
Q. In those ten years, about how many controlled substances have you analyzed?
A. I've analyzed over 20,000 samples for the presence of controlled substances.
Q. And what type of substances do you analyze?
A. Anything submitted that has a -- is suspected of containing controlled substances. So, any of the scheduled substances.
Q. Have you ever testified, testified in state court as an expert witness?
A. Yes, I have.
Q. Have you testified in Beaufort County as an expert witness?
A. Yes, I have.
Q. Have you been qualified as an expert in the field of drug analysis?
A. Yes, I have.
Q. About how many times?
A. I've testified about fifteen times total.
Q. Are those all in Beaufort?
A. No. I also have testified in Kansas as well.
MR. SMITH: Your Honor, at this time I'd move to have Jessica Ziepfel qualified as an expert in drug analysis.

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THE COURT: Any objections to that qualification?

MS. HOLMES: No objection, Your Honor.

THE COURT: Ladies and gentlemen of the jury, let me explain something to you before we go any further. I spoke to you earlier about the fact that there are certain rules of evidence that we have to follow in, in handling a trial. One of those rules is that lay witnesses are allowed to testify concerning facts within their knowledge, but they're not allowed to give opinions concerning those facts or allowed to draw conclusions from their opinions concerning those facts.

Now, there's an exception to that general rule for any witness that the court declares to be an expert. And an expert would be someone who, because of education or experience within some field or profession, they've become accustomed to handling things in that particular profession. And if the court designates them as an expert, they are allowed to give their opinions within their field of expertise and state the reasons why they hold those opinions.

This witness is being offered as an expert within the field of drug analysis, and without objection I'll designate her as an expert. That will allow her to testify concerning opinions that she's developed, and also conclusions that she developed within that field of

expertise.

Now when I charge you on the law later on, I'll give you some more information about how you can consider testimony given by an expert. At this time, she is qualified as an expert.

You may proceed.

MR. SMITH: Thank you, Your Honor.

DIRECT EXAMINATION BY MR. SMITH:

Q. When your lab receives a substance for testing to determine whether it's a drug, are there any steps taken to make sure it's not been tampered with or damaged?

A. Yes. When we receive evidence in our lab, the packaging is inspected, and no package is submitted to the lab unless it has been properly sealed.

Q. Would you test a package if it wasn't sealed or, or packaged up?

A. No. If there is not a proper seal, it does not get admitted to our lab and it does not get analyzed.

Q. Did you receive any items in this case to be tested?

A. Yes, I did.

MR. SMITH: Your Honor, may I approach the witness?

THE COURT: Yes, you may.

BY MR. SMITH:

Q. Ms. Ziepfel, I'm showing you what's been marked as State's Exhibit Number 2 for identification purposes only.

Do you know what that is?
A. Yes. This is evidence I analyzed in this case.
Q. Where did you receive it from?
A. I received this evidence from a highway patrol trooper at our lab.
Q. Do you know who that was?
A. This came in to our lab from Trooper Rouse with highway patrol.
Q. And is it the same or substantially same condition as when you first received it?
A. Yes. Other than the addition of the sticker, it's the same condition as when I -- after I analyzed it.
Q. And how do you known that?
A. I, after analysis, I added this extra package. So, this inside package is what was -- what came into the lab. This outer package is heat sealed with my initials and date of the heat seal, and those are still intact. This barcode here has identifying information from our lab. It has our lab, case number, and the date it was received, and the container number as well.
Q. When you first received it, did it appear to be tampered with in any way?
A. No.
Q. Did you test the items in those bags?
A. Yes, I did.

Q. Can you explain how you test different substances?
A. Yes. Generally the first step is to weigh the item, and that is typically a net weight. So, that's a weight without any packaging, just the substance itself, and then a preliminary testing is done. Depending on what type of material it is depends on what preliminary test is done. And then confirmatory testing to identify exactly what is in the substance is performed by gas chromatography and mass spectrometry, or GCMS analysis.
Q. Did you develop an opinion on any of the substances in that bag after you tested them?
A. Yes, I did.
Q. What were those opinions?
A. This item contained six different items inside, and I identified different substances in each one. I didn't know if you want me to go through all of them.
Q. Yeah, if you...
A. Okay. So like I said, there are six different sub items that were inside this item. The first item was a plastic piece containing vegetation.
Q. All right. What about the second?
A. Okay. The second item was a plastic piece containing tan powder substance, and that item was found to contain heroin. The third item was thirty-nine tablets. I analyzed three of those tablets, and those three tablets

were found to contain furanylfentanyl. The fourth item was one tablet, and it was found to contain oxycodone. The fifth item was four tablets. I analyzed one of those four and found that it contained hydrocodone and acetaminophen. And the sixth item was thirteen tablets and tablet fragments. I analyzed one of the intact tablets and found that contained alprazolam.

Q. Going back just a little bit with the tablets and the pills, you said you only analyzed a few with each of the different colors. Why is that?

A. Yes. Our typical procedure when we have tablets that all look the same -- so each one, each sub item within that, all of the tablets were visually similar. The first step is just to analyze one of them, and if the confirmatory analysis is consistent with preliminary analysis. So, whatever the tablet imprint indicated, if the confirmatory analysis is in agreement, then we just analyze the one tablet to conserve time and resources.

If the confirmatory analysis is different than what the preliminary exam indicated, then I'll go back and analyze some more tablets to see if there is consistency. And again, not all of the tablets are necessarily analyzed, just to conserve resources and time in the lab.

Q. When you test these substances, do you weigh them as well?

A. Yes, I do.
Q. Were you able to ascertain a weight on the heroin?
A. Yes. The heroin -- and this is a net weight, so this is just the powder substance, no packaging -- weighed 0.595 grams, which is the equivalent of 9.182 grains.
Q. Were any of these pills, did any of these pills have an imprint on them?
A. Yes. I believe all four of the different types of tablets that I analyzed had four different imprints.
Q. Did their imprints match with the substance that you discovered in them?
A. Not all of them. The item that contained furanylfentanyl -- this is my item 1.3 -- the imprint indicated that it contained oxycodone, but analysis confirmed that it did not contain oxycodone. It actually contained furanylfentanyl.
Q. So, it was stamped as oxycodone?
A. Yes.
Q. But was actually furanylfentanyl?
A. Yes.
MR. SMITH: Your Honor, at this time I move to have State's Exhibit Number 2 entered into evidence.
THE COURT: Any objections?
MS. HOLMES: No objection.
THE COURT: Without objection, it will be admitted as

marked.

You may proceed.

MR. SMITH: Beg the court's indulgence for just a moment.

THE COURT: Yes, sir.

(COLLECTION OF DRUGS MARKED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 2.)

BY MR. SMITH:

Q. Ms. Ziepfel, what date did you receive these, this bag?

A. This bag was received on July 18, 2018.

Q. And what day did you test them?

A. I started my analysis on August 1, 2018.

Q. After you were done testing these drugs, what did you do with them?

A. These -- after analysis, everything was sealed up and remains in our lab until the final report has been written and it's been disseminated. And then after the report has been sent out, then the evidence is returned to the submitting agency.

Q. And what was the submitting agency in this case?

A. South Carolina Highway Patrol.

Q. Did they pick up these drugs from your lab?

A. Yes, they did.

Q. Do you know who it was that picked them up?

A. That was Trooper Wooten.
Q. And do you know what agency he was with?
A. With highway patrol.
MR. SMITH: No further questions, Your Honor.
THE COURT: Your witness, counsel.
MS. HOLMES: No, no questions, Your Honor.
THE COURT: You may step down. Thank you very much.
(THE WITNESS EXITS THE STAND.)
THE COURT: Wish to excuse the witness?
MR. SMITH: Yes, Your Honor.
THE COURT: Any objection to her leaving?
MS. HOLMES: No, Your Honor.
THE COURT: You're free to leave the courthouse. Thank you very much.
All right, the state may call its next witness.
MR. SMITH: At this time, the state rests, Your Honor.
THE COURT: All right, ladies and gentlemen, that completes the presentation of evidence by the state. At this time, I have to take up some matters with the attorneys. I'll ask you to step back to the jury room.
As always when you leave the courtroom, I'll ask you not to discuss the case at all until I ask you to begin your deliberations. You may retire to the jury room.
(THE JURY EXITS AT 10:06 A.M.)
THE COURT: Any motions?

MR. SMITH: Nothing from the state, Your Honor.

THE COURT: Defense.

MS. HOLMES: Your Honor, at this time the state -- the defense would like to move for a directed verdict on the grounds that we do not believe that the state has proven that Mr. Myers actually knew that those pills were in, in his car. There was testimony from the officer that stated that the drugs were found in a seat and on the center console. However, he also did admit that had those drugs been found in those places, that it would have been put into his report, which wasn't. And we just do not believe that the state has met its burden of proving that Mr. Myers knew that the drugs were there or that he intended to possess those drugs.

THE COURT: I'll hear from the state concerning the motion.

MR. SMITH: Thank you, Your Honor. Beg the court's indulgence for just a moment.

THE COURT: Yes, sir.

(A PAUSE.)

MR. SMITH: Your Honor, in this case there was testimony that drugs that were confirmed to be illegal drugs were found in the defendant's seat in his car. Some were pills in his seat; some were stuffed in between his seat and the center console. And while the officer's

testimony was challenged by the defendant -- or by the defense attorney on cross, that just goes to the weight of the evidence.

We have testimony from both witnesses that there were drugs present, that they were illegal drugs. We believe that, you know, weight of evidence goes -- is a question for the jury to decide. It's a question of fact.

THE COURT: The, the two pills that were on the console, they were seized and tested as well, weren't they?

MR. SMITH: Yes, Your Honor.

THE COURT: In plain view?

MR. SMITH: Yes, Your Honor.

THE COURT: And they tested as, as illegal drugs?

MR. SMITH: Yes. Yes, Your Honor.

THE COURT: That's what I thought. Okay. Thank you.

Well, at this point my job is not to weigh the evidence, just simply determine the existence of evidence. It is apparent to me that at least some of the illegal drugs involved in the case where in plain view of the police officer and would have been in plain view of anyone operating the car since it was on the console by the, by the gear selector. The other drugs were within the seating area of the driver. Mr. Myers was the driver. It was his car; it was owned by him. I'm find there's sufficient evidence to send the case to the jury. So, the motion is

denied.

Now, anything further?

MS. HOLMES: Your Honor, I would just like to add one more thing. We've had a chance to review the indictments, and for two of the charges the date was incorrect. They say that the incident happened, occurred on July -- January 10th of 2019. Because these indictments will be going back to the jury, I do ---

THE COURT: I'm not planning on sending these indictments back to the jury.

MS. HOLMES: Okay.

THE COURT: They, they indicate second offenses.

MS. HOLMES: They both do, yes, Your Honor.

THE COURT: And I don't think the jury should consider the fact he has prior drug charges in reaching a verdict. So, I won't be sending the indictments back to the jury. I'll go over them with them, but I will not send the indictments themselves back to the jury.

And any objections to the indictment are supposed to be read prior to the swearing of the jury -- I mean, raised prior to the swearing of the jury. These objections weren't raised at that time.

MS. HOLMES: Thank you, Your Honor.

THE COURT: Thank you.

Anything further?

MR. SMITH: Nothing further from the state, Your Honor.

THE COURT: All right, anything further from the defense?

MS. HOLMES: Nothing from the defense, Your Honor.

THE COURT: All right, we'll take about a ten-minute break before we bring the jury back in.

Let me, let me ask the defense. Do you wish to call any witnesses in the case?

MS. GIBBES: May we have a moment to speak with our client?

MS. GIBBES: Sure. I'm going to inquire of him concerning his right to testify, so you may want to discuss that with him as well.

(A PAUSE.)

MS. HOLMES: The defense will not call any witnesses, Your Honor.

THE COURT: I'm sorry?

MS. HOLMES: We will not call any witnesses.

THE COURT: Okay. Let me explain to him his right to testify, too, on the record so I'm sure he's aware of the situation. I assume he's informed you he does not wish to testify.

MS. HOLMES: He did, Your Honor.

THE COURT: Okay. Please place the defendant under

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oath.

(WHEREUPON, THE DEFENDANT IS DULY SWORN.)

THE COURT: All right, Mr. Myers, we have reached the point of this trial where you would have the right to present a defense if you choose to do so, but you're not required to present any defense. But I do need to make you aware of certain of your rights at this point in time, and of course the fact that you have the right to make a decision as to whether or not to testify in this case yourself, and that decision is yours and yours alone.

What I'm going to talk about are certain guarantees that are made to you under the United States Constitution, but in particular I'm talking about the Fifth Amendment to that constitution. And that amendment reads in part that no person could be compelled in any criminal case to be a witness against himself.

Now, what that means is that while you have the right to testify in this trial if you wish to do so, you also have to right to remain silent. The right to remain silent in a personal right. It belongs only to you, and you are the one that has to make a decision as to whether or not you wish to testify, or whether you wish to exercise your right to remain silent and not testify in the case.

Of course, I will make you aware if you decide not to testify -- excuse me -- I will instruct the jury that the

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fact that you did not testify will not even be allowed to be considered by them in reaching a verdict in this case. In other words, the fact that you do not testify should be of no prejudice to your case at all.

If you do testify, your testimony would be subject to cross-examination by the, by the state, and if they believe there's convictions involving dishonesty or fraud, or if they believe that there are convictions that carry a potential penalty of more than one year that are less than ten years of age, and the court makes a determination that that information, that the probative value of that information outweighs its prejudicial effect to you, they may be able to use prior convictions to attack your credibility.

Now, the decision as to whether or not to testify is left entirely up to you. You have to exercise the decision freely and voluntarily. Your attorneys have told me that you do not wish to testify, but I also need to make you aware that you have the right to make that decision on your own.

Now, do you understand the rights that I just explained?

DEFENDANT: I, I believe so.

THE COURT: Well, if you, if you have any questions about them, I'll be happy to answer them for you, or allow

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your attorneys to talk to you about it.

DEFENDANT: Well, I just had one statement basically. I was...

(COUNSELORS CONFER WITH THE DEFENDANT.)

MS. GIBBES: I believe he understands, Judge.

THE COURT: Did you talk to your attorneys about this?

DEFENDANT: Yes.

THE COURT: Did they answer your questions?

DEFENDANT: Yes.

THE COURT: So, you understand that my concern right now is whether or not you wish to testify in this case or not. I'm not concerned with any prior statements you may have made. You understand that?

DEFENDANT: Yes.

THE COURT: So, do you understand that you do have the right to testify in this case?

DEFENDANT: Yes.

THE COURT: Or you have the right to decide not to testify in this case. Do you understand that?

DEFENDANT: (NO AUDIBLE RESPONSE.)

THE COURT: Now, have you talked -- that was an affirmative nod you gave. You have to speak verbally so that it goes onto the record. So, you understand that you have those rights? You understand that?

DEFENDANT: Yes.

THE COURT: All right. Thank you. Now, sir, do you wish to testify in this case?

DEFENDANT: No, sir.

THE COURT: Okay. Thank you very much.

Now, anything further from the state before we proceed to closing arguments?

MR. SMITH: Nothing from the state, Your Honor.

THE COURT: All right, anything further from the defense?

MS. HOLMES: Nothing from the defense, Your Honor.

THE COURT: Now, I don't believe defense has introduced any evidence in the case. Am I correct?

MS. HOLMES: You are, Your Honor.

THE COURT: Okay. That means the state will be going first, followed by the defendant. There will be no follow up from the state.

MR. SMITH: Yes, Your Honor.

THE COURT: All right. Now, I'll give you about ten minutes to think, get together your thoughts. I'm going to stay on the bench, and in about ten minutes we'll resume.

Now when we come back, I'll bring the jury in. I'll ask if you have any -- they don't know you've rested. I'll ask you if you have any witnesses. Of course, I guess you'll tell me no, and then we'll proceed directly into arguments. We'll be in recess for about ten minutes.

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(OFF THE RECORD.)

THE COURT: All right, I'd ask the counsel. Are there any specific requests to charge from the state?

MR. SMITH: Nothing from the state, Your Honor.

THE COURT: All right, any specific requests from the defense?

MS. GIBBES: Judge, the only thing I would say is about the inference weight as far as -- the jury be instructed that just because of the inference weight, they don't have to automatically believe that that ---

THE COURT: Well, what I'm going to do as far as that -- you're talking about the weight of the heroin being an inference of, of ---

MS. GIBBES: Distribution.

THE COURT: I, I will charge that, that that's an evidentiary fact that they can take into consideration, along with other evidence, and they give it the weight they think it deserves. Is that what you're asking me to do?

MS. GIBBES: Yes, Your Honor.

THE COURT: Okay. I do intend to do that.

Now as to the heroin charge, right now I would anticipate charging also the lesser-included offense of simple possession of heroin if they don't believe the inference. Any objection from the state for me charging the lesser-included simple possession of heroin?

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MR. SMITH: No objection from the state.

THE COURT: And any objection from defense?

MS. HOLMES: None from the defense.

THE COURT: All right.

MS. GIBBES: Your Honor.

THE COURT: That will be only if they find him not guilty of possession with intent to distribute that they would consider that charge.

MS. GIBBES: Yes, Your Honor, and also may -- would you consider charging mere presence as well?

THE COURT: I think that's included in the charge that I have. I'll check it while you're arguing. I don't have any problem with charging mere presence in the case. There is a question of whether or not -- since it wasn't in his actual possession, it's a constructive possession case.

MR. SMITH: Your Honor, we were going to ask if you would -- to make sure that you would charge actual and constructive possession, but it sounds like...

THE COURT: I will. I mean, I intend to let them know there are two types of possession, actual and constructive, and I'll tell them the difference.

MR. SMITH: Thank you, Your Honor.

THE COURT: Okay. All right, are we ready for the jury? Any -- state ready?

MR. SMITH: State's ready, Your Honor.

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THE COURT: Defense ready for the jury?

MS. HOLMES: Defense is ready, Your Honor.

THE COURT: Bring them in.

(THE JURY ENTERS AT 10:30 A.M.)

THE COURT: All right, the record will reflect the jury has returned to the courtroom.

The state had completed the presentation of its evidence, and at this time the defense has the right to call witnesses.

Does the defense wish to call witnesses?

MS. HOLMES: Your Honor, at this time the defense rests, and we would also like to renew all of our motions just to preserve them for the record.

THE COURT: Those motions are noted. The court would make the same ruling at this time.

All right, that completes the presentation of evidence in the case. At this time, I told you the attorneys would be given the opportunity to make a summation or closing argument to you. The state, having the burden of proof, they'll be going first in the opening statement.

You may proceed, counselor.

MR. SMITH: Thank you, Your Honor. May it please the court?

THE COURT: Yes, sir.

MR. SMITH: Good morning again, ladies and gentlemen.

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I told you this wasn't going to be a long case. Here we are again.

Today you've heard evidence from two witnesses about the defendant, Worth Glover Myers, on July 18th of last year that he was speeding between 92 and 97 miles per hour in a 55 zone, and the South Carolina Highway Patrol pulled him over for speeding. You heard that when the officer walked up to the car, he saw in plain view, just sitting right there on the center console, a few little pills, smelled marijuana. You heard that he asked the defendant and the other passengers in the vehicle to step out. He patted them down and he searched them. They didn't have anything on their person.

You heard that he ran the defendant's registration and license. Came back that it was the defendant's car. The defendant was driving the vehicle, and that law enforcement searched the vehicle. You heard that the officer saw several pills in the driver's seat where the defendant was sitting. He saw several pills on the center console, and ultimately he found a bag full of pills, four different types of pills, as well as a bag of heroin tucked between the driver's seat and the center console just inches from where the defendant was sitting.

Now, there are five charges in this case: four of them are possession, one of them is possession with intent to

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distribute. So, you can break it into two different types of charges, possession and possession with intent to distribute.

For the four possession charges, the alprazolam, the hydrocodone, the oxycodone, and the fentanyl, my job is to prove to you that the substance is what we say it is. And you heard Jessie Ziepfel say on the stand that when she tested those drugs, she found oxycodone, she found hydrocodone, she found alprazolam, and she found the fentanyl. That was tagged as oxycodone but was fentanyl.

I also have to prove to you that the drugs were in the possession of the defendant. Now in South Carolina, we recognize two separate types of possession. You have what's called actual possession and constructive possession. Actual possession would be is if somebody was stopped by the police, they searched their pocket, and they pulled out pills or, or drugs or something like that. They're actually in possession.

Constructive possession is just as real as actual possession, and the law states as such. Constructive possession states that a person has dominion or control or the right to exercise dominion or control over the object, over the drugs, or over the premises in which the object was located.

The object and the premises were under the defendant's

control. It was his car; he was driving the car. The objects were right next to him, inches from him. Close enough that some of the pills were sitting in his seat or were sitting on the center console next to where he was sitting while driving his car.

This is a case of constructive possession, and it's a case of possession where the defendant would have known that those drugs are right there. You heard Trooper Wampler even talk about where they were and how he had already seen them when he walked up, seen the first few sitting on that console and found more on the seat.

Now, when it comes to the heroin charge, that's possession with intent to distribute, so I would call that possession plus. So, you have possession, same with constructive possession. That heroin was found in that same baggie that was sitting right next to him just inches from where he was sitting.

For it to be intent to distribute, the State of South Carolina recognizes what's called an inference weight, and it says that above a certain weight of a drug, the jury can infer that that drug was used for distribution. In the case of heroin in South Carolina, the law states that 2 grains of heroin is that line. Anything under 2 grains of heroin is possession. Anything above it allows the jury to infer that it was with an intent to distribute because

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that's a lot of heroin, 2 grains is. This defendant was found with 9.18 grams -- grains of heroin, four and a half times the inference weight that the State of South Carolina recognizes for intent to distribute.

Now, when it comes to this case -- and I'm going to use this document reader, so it's going to pop up on these screens to you. When it comes to these inference weights or when it comes to these drugs and with these charges, the law in the State of South Carolina says that it's unlawful for any person to create, distribute, dispense, deliver, all of that language, or possess with intent to distribute any controlled substance which is a narcotic drug and Schedule 1, 1(C) or (C). Possession of more than 2 grains of heroin is *prima facie* guilty of this subsection. It says that the jury can decide that that is -- that weight, anything above 2 grains, is possession with intent to distribute.

We've heard what the drug analyst said. She said that she found heroin. Heroin fits that description. It's a Schedule 1 narcotic drug. That inference weight is 2 grains, and as I just said a minute ago, the amount of, the amount of heroin found on the defendant in this case: 9.182 grains, four and a half, over four and a half times the weight, the inference weight.

This is a case about possession and possession with

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intent to distribute. I have to prove to you beyond a reasonable doubt the defendant committed these acts, and as I said before, reasonable doubt is not no doubt at all. Reasonable doubt is that you're firmly convinced that he committed this. To believe that he did not possess these drugs and possess this quantity of heroin, you would have to believe that he was sitting in his car with this inches from him, right next to him, pills under where he was sitting, pills next to him on the center console, and had no idea that they were in there. Had no ability to possess or control them.

Ladies and gentlemen, this is a case about possession. This is a case about possession with intent to distribute, and this is a case in which the defendant was caught speeding down the road with a bag full of pills and heroin sitting right next to him, tucked between his seat and the center console.

I asked you at the beginning of this case to listen closely to what was said on the stand, to listen to what -- the law that the judge is about to give you, and then apply your own common sense because I firmly believe if you do that, knowing what we know about what happened on that night, seeing what we have here, knowing what we all know just in our common sense, I believe that the only appropriate verdict in this case is that the defendant is

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guilty. He is guilty of possession of alprazolam, he's guilty of possession of hydrocodone, he's guilty of possession of oxycodone, he's guilty of possession of fentanyl, and he's guilty of possession of heroin with intent to distribute. Thank you.

THE COURT: Defense, you may proceed.

MS. HOLMES: Thank you.

THE COURT: Yes, ma'am.

MS. HOLMES: Ladies and gentlemen, you've heard the testimony, and soon you'll be able to go into your jury deliberation room, and you'll be able to make your determination based off of what you've heard today.

Now, I'd just like to just go back through everything with you, especially the testimony of the state's key witness. Officer Wampler said that he was patrolling that night when he noticed that a car was speeding. He sat here and he said initially that the car was doing 92. But then when I questioned him about his report and in -- his report saying that the car was doing 97, he then said, yeah, he was doing 97.

Mr. -- or Officer Wampler said he walked up to the car and that he immediately saw drugs laying on the center console, but he also told you that those drugs were not the reason why he searched the car. But he said that, you know, if, if he had seen drugs there, then he would have

noted that as a reason for searching the car.

So, were those drugs really there? We don't know. There were no pictures. There was no body cam video. We just don't if those drugs were there. That alone is reasonable doubt.

Now, going to the pills that he said he found in my client's seat, he says that my client was virtually sitting on these pills. However, when I asked him why that wasn't in his report, he didn't have -- he, he couldn't tell us, but he did admit that it wasn't in his report. He also admitted that if those drugs were found in his seat, then that would have been in his report. That's pretty important information, where he found those drugs.

The first time that we're -- you know, that he's telling us that these drugs were found in the seat, that was today. That, that wasn't in his report. So, were those drugs just sitting in my client's seat? We don't know. There were no pictures; there was no video. That alone is reasonable doubt.

Now I'm going to the drugs that the officer is saying that he found tucked between my client's seat and the center console. He sat there today and he told you that those drugs were found on the floorboard there, but kind of sort of, sort of in the center. But then I questioned him on the video because there, there is a video. Why you

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didn't see the video, I can't tell you. That's the state's burden. But when I questioned him about that video and a statement in that video when he was speaking with his corporal, he admitted that he -- that, you know, there was a statement that the drugs were found a little bit towards the back, and that they could have been put there by the person that was sitting in the back. Mr. Myers was driving the car, yes. The car owned by Mr. Myers, yes, but that does not in itself make him in possession of the drugs there. There were other people there. The officer himself said that the person in the backseat could have stashed those drugs there.

However, we still doesn't have any pictures of exactly where even those drugs were found, and we still don't have a video to show us exactly where those drugs were found. So, that alone, that's a reasonable doubt as well. There is just no way that we can say that Mr. Myers had those drugs there. We don't know where they were. We don't how they, how they got there. The state has the burden of proving that. The state should have told you how the drugs got there, but they can't. That's reasonable doubt.

Now, when Officer Wampler was up there, he told you that, you know, that there was someone else in the backseat. He also admitted that that person was also charged with those drugs. He said that they were charged

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because they couldn't determine whose drugs there -- they were. So, even the state's key witness told you that they could not determine whose drugs these were. They couldn't make a determination, but they're asking you to do that. That's reasonable doubt.

Now, when I, when I stood up here before, I did tell you that just because a person is sitting there or is near drugs, that that is not enough. You, you need more. You need to know that they knew that they were there and that they intended to be there. We just, we don't know where the drugs were, so we can't say that Mr. Myers intended or that he knew that those drugs were there.

The state also charged him with possession with intent to distribute. Virtually what they're saying is that he intended to sell these drugs or that he was selling these drugs. However, there was no money. There was no money found. There were no scales found. There were no baggies found. There was nothing that was found that would make you believe that Mr. Myers actually intended to sell these drugs.

There is not any information or any evidence there that shows that Mr. Myers even knew that those drugs were there. The officer said the only drugs that we really know about are the ones that were tucked in, and he said that they were tucked -- they were a little bit towards the

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back, and that that backseat passenger drive -- that backseat passenger could have put them there, and that he was also charged with those drugs.

Now why was Mr. Myers charged? I can't tell you that. I'm thinking it was his car and he was driving, but that, that's just not enough to convict him of these drugs.

Again, there were no photos. There is no video. There was no DNA forensics done. They said that these drugs were found in a plastic bag. There would have been fingerprints on that plastic bag. If the state really wanted to prove their case, they would have done fingerprint testing in order to determine who had those drugs in their hands.

There were other people in the car. The state didn't bring in those witnesses. They could have brought them in to tell you that the drugs were Mr. Myers's or that the drugs weren't theirs, but they failed to do so. Instead, they brought one officer who came in with an inconsistent story from the night of until now, and that is just not enough.

All of those things create reasonable doubt, and that's all you need to find my client not guilty, and that is what I hope that you will do. Thank you.

*JURY CHARGE*

THE COURT: All right, ladies and gentlemen of the

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jury, that completes the summation or closing arguments by the lawyers. At this time, it's my responsibility to charge you on the law that you're to apply in this case.

When we did jury selection, I went over with you the indictments briefly. I'm going to go over the indictments with you again. This will be a little tedious but I, I have to go over them with you so that you understand the charges, and there are five of them. So, bear with me as we go through these.

The first one I'll discuss with you is possession with the intent to distribute heroin. This is case number 1981. The indictment states that:

> In Beaufort County, South Carolina, on about January 10, 2019, the defendant, Worth Glover Myers, did manufacture, distribute, dispense, deliver, purchase, or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase or possess with the intent to manufacture, distribute, dispense, deliver, or purchase heroin, which is a controlled substance classified in Schedule 1(B) or (C), which was a narcotic drug, a lysergic acid diethylamide, or Schedule 2 drug, which was a narcotic drug. And Worth Glover Myers had been ---

Just one second.

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--- all in violation of section 44-53-370(B0(1) of the code of laws of South Carolina against the peace and dignity of the state and contrary to the statute and such case and provided.

That's the first indictment I'll go over. The second one is 2018-1137. This is for possession of furanylfentanyl. The indictment states that:

In Beaufort County, South Carolina, on or about July 18, 2018, the defendant, Worth Glover Myers, did knowingly or intentionally possess furanylfentanyl, which was a controlled substance that was a narcotic drug classified and in Schedule 1(B) or (C), or lysergic acid diethylamide, or was a narcotic drug classified in Schedule 2, all in violation of section 44-53-370(D)(1) of the code of laws of South Carolina against the peace and dignity of the state and contrary to the statute and such case made and provided.

The next indictment is for the possession of oxycodone. This is indictment number 18-1138. This indictment states that:

In Beaufort County, South Carolina on about July 18, 2018, the defendant, Worth Glover Myers, did knowingly or intentionally possess oxycodone,

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which is a controlled substance that was a narcotic drug classified in Schedule 1(B) or (C), or lysergic acid diethylamide, or was a narcotic drug classified in Schedule 2, all in violation of section 44-53-370(D)(1) of the code of laws of South Carolina against the peace and dignity of the state and contrary to the statute and such case made and provided.

The next indictment is 2019, number 83. That is, states that:

In Beaufort County, on or about July 18 of 2018, the defendant, Worth Glover Myers, did knowingly or intentionally possess a controlled substance. This is alprazolam, which ---

Excuse me.

--- is classified as Schedule 1 through 5, alprazolam, and Schedule 4, all in violation of section 44-53-370(D)(2) et al., of the South Carolina Code of Laws against the peace and dignity of the state and contrary to such statute made and provided.

The next indictment is case number 1982 for possession of hydrocodone. This indictment states that:

In Beaufort County, South Carolina, on or about January 10, 2019, Worth Glover Myers did

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knowingly and intentionally possess hydrocodone, which was a controlled substance that was a narcotic drug classified in Schedule 1(B) or (C), lysergic acid diethylamide, or a narcotic drug classified in Schedule 2, all in violation of section 44-53-379(D)(1), 44-53-370(C), and 44-53-470(A)(3) of code of laws of South Carolina against the peace and dignity of the state and contrary to the statute and such case made and provided.

Now, those are the indictments in this case. I've told you earlier that those are informational documents; they are the charges that bring the cases in the court. They inform the defendant of the charges lodged against him and us of the charges to be tried in this case, but they cannot be considered by you as evidence in the case.

The defendant pled not guilty to each of those indictments, and that plea places the burden of proof upon 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'll tell you it's an important rule of law that a defendant in a criminal case is always presumed to be innocent of the crimes for which an indictment has been issued until such time as guilt has been proven to you, the jury, by proof

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beyond a reasonable doubt of the defendant's guilt. This presumption of innocence doesn't end when you begin your deliberations. It accompanies the defendant throughout the trial until such time as you, the jury, reach a verdict of guilt based upon evidence that satisfies you of the defendant's guilt beyond a reasonable doubt.

So, the presumption of innocence is not a mere legal theory, and it's not a, just a legal phrase. It's a substantial right that all defendants are entitled to until and unless you, the jury, find the defendant guilty beyond a reasonable doubt.

Now, each of the indictments is a separate charge. It has to be considered on its own merits. You will be called upon to write a verdict, a separate verdict as to each of the charges, and you'll have to consider them separately, uninfluenced by your decision on any of the other charges. So, in other words, each charge is a separate charge and requires a separate verdict from the jury.

Now, you've heard me talk about already that the state has the burden of proving its case beyond a reasonable doubt, and you may ask yourself, well, under the law, just what do you mean by reasonable doubt? What is a reasonable doubt? And I will tell you that the cases that have defined that phrase have said that a reasonable doubt is that kind of doubt that would cause a reasonable person to

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hesitate to act. And the state has the burden of proving the defendant guilty beyond a reasonable doubt.

I do want to point out to you if you've ever been involved in a civil case, now a civil case is where someone is seeking monetary damages. That can be because someone breached a contract. Somebody failed to pay a debt. It can be because someone injured someone and they're seeking damages, but the, but the relief being sought is monetary damages. In those cases, the standard of proof is different. I don't want you to be confused. In civil cases, the standard of proof for someone to win is by the greater weight of the evidence. They describe the scales of justice in those cases tilting ever so slightly. When you weigh the evidence on that scale, if it tilts ever so slightly in favor of the plaintiff, the plaintiff gets the verdict. If those scales tilt ever so slightly in favor of the defendant, then the defendant gets the verdict. That's the standard of proof in a civil case.

This is not a civil case. It's a criminal case. The standard of proof is more powerful than that. Proof beyond a reasonable doubt is that kind of proof that would leave you firmly convinced of the defendant's guilt.

I'm going to tell you there's very few things that go on in this world that can be proven beyond any doubt whatsoever, and that's not the standard to which the state

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is held. The state does not have to present proof that overcomes every possible doubt. I will tell you if after weighing the evidence and you consider the evidence, if you are firmly convinced of the defendant's guilt beyond a reasonable doubt, you must find the defendant guilty. However, on the other hand, if you think there is a real possibility that the defendant is not guilty, you must give the defendant the benefit of that doubt and find the defendant not guilty. So, that's what we mean by proof beyond a reasonable doubt.

I remind you that I pointed out to you just a little while ago that you and I have different duties to perform, and it's been my job to preside over the case. There weren't too many objections or anything of that nature, but it is my responsibility now to charge you on the law.

And I will tell you don't take from anything that I say during this charge or during the trial of the case to indicate that I have an opinion as to how you should decide the facts in this case. I've told you earlier. It remains true. You are the sole judges of the facts in the case. The law doesn't allow me an opinion concerning the facts, so I have no opinion as to how you should decide the facts in this matter. That's a decision that's left entirely up to you.

I do have the duty of charging you on the law, and

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that's because I am considered the sole judge of the law in this case. The law as I give it to you now is the law that you must apply to the facts as you decide the facts to be. You can't -- you're not allowed to disagree with me concerning the law I give you. I'm not allowed to disagree with you concerning the facts as you find them to be.

So, again leave any notions that you may have had or preconceived ideas about the law outside of the jury room. Take the law as I give it to you, and apply it to the facts as you determine the facts to be. Again, you are the sole judges of the facts in this case, and that makes you the sole judges to determine the effect, the value, the weight, and the truth of the evidence which you've heard in this matter.

Now in deciding a case, a jury has the right to consider two types of evidence. Let me explain to you what I mean by two types of evidence. That may be -- you maybe have not looked at it in this fashion in the past. The law divides evidence into either direct evidence of what we refer to as circumstantial evidence, and a jury has the right to consider either or both of those types of evidence in reaching a verdict.

Now, what direct evidence is, that's testimony from a witness who claims to have actually seen, heard, felt, smelled the facts about which that witness has testified.

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They're testifying from direct knowledge as to the fact that they're seeking to prove. That's what we mean by direct evidence.

Now, circumstantial evidence is different. Circumstantial evidence is proof of a chain of facts or circumstances which indicated the existence of another fact. It's been described as proof of collateral facts from which a main fact could be reasonably inferred.

Now, that's a lot of big language, and I like to use a fairly simple example as to what we mean by proving a fact by circumstantial evidence. Let's say last night before you went to bed at your home, you walked over to the window in your bedroom and you looked outside, and as you looked outside, you could see the stars shining. It's a clear night, calm night, a beautiful night outside. So, you went to bed, and you slept well all night. Didn't wake up at all. The next morning you get up, and that same window, you look over to the window. The sun's shining, so you walk over to the window and look outside. Now, when you look outside, you notice something has changed. Outside there's puddles in the, in the walkway or the driveway in front of the house, or maybe by the road out in front of the house. There's water dripping out of the trees. There's water on the lawn; it's really thickly covered with water on the lawn.

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Now, you slept all night, so you didn't see it rain. You didn't hear it rain. You don't have any direct knowledge of whether it rained or not, but from the collateral facts that you know to be true -- puddles where they weren't there before, water dripping out of the trees, heavy water on the lawn -- from those facts, those collateral facts, you could reasonably infer the existence of a main fact. That is, that sometime during the night it rained. So, that's what we mean by proof of a main fact from collateral facts. That's what we mean by proof of a fact by inference, from a chain of facts or circumstances that you know to be true.

Now, the law doesn't make a distinction between the weight or the value you, the jury, can give to either direct evidence or circumstantial evidence. You have the right to weigh it. You give it the weight you think it deserves.

You should weigh all of the evidence in the case, and I will tell you after you've weighed all of the evidence in the case, if you are not convinced of the defendant's guilt beyond a reasonable doubt, you must give the benefit of that doubt to the defendant and find the defendant not guilty. However, on the other hand, if you are firmly convinced of the defendant's guilt beyond a reasonable doubt, you must find the defendant guilty of the crimes

charged.

Now, you also are required to determine credibility of witnesses. We only had a couple, but anytime someone testifies, you have to make a decision as to the credibility of the testimony that's been offered. That means believability. I told you just a minute ago that it's your duty to analyze and to evaluate the evidence. You determine what convinces you of its truth.

In determining believability of witnesses, you can believe part of, none of, or all of what a witness tells you. You can believe one against others. You have the right to consider those factors I told you: whether or not a witness has a stake in the outcome of the case, whether or not the witness exhibited a bias or prejudice, whether or not the witness actually had the ability to know what they testified about. You observed them as they testified. Apply your common sense. Make a determination as to the credibility of the testimony that you've heard in the trial of the case.

Now, we had one witness who was qualified as an expert. I told you I'd talk to you a little more about that. And I told you at that time that generally the rules of evidence don't allow witnesses to state opinions, don't allow them to draw conclusions from what they are testifying to. We make an exception for witnesses declared

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to be experts, and that is a witness who, because of their education or experience in some art, science, or profession, are allowed to state their opinions as to relevant and material matters within the area of their expertise. They also have the right to state the reasons why they have those opinion.

I'll tell you you should weigh the evidence given by an expert, an expert's opinion like every other evidence in the case. You give it the weight you think it deserves. You know, if you were to decide that an expert didn't have sufficient education or experience, or you decided that the reasons given to support the opinions aren't sound, or that the opinions are outweighed by any other evidence, you are not required to accept an expert's opinion even though it's not contradicted by other evidence. In other words, an expert witness's testimony is not to be given greater weight simply because the court declared them to be an expert. You should weigh that evidence like any other evidence. You give it the weight you think it deserves.

Now, I want to instruct you on one thing that I think that you need to be aware of, and that is I'll instruct you and emphasize to you that the fact that the defendant did not testify is not a factor to be considered by you in any way in your deliberations. It must not be considered by you in any manner whatsoever because, you see, a defendant

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has the constitutional right to remain silent at a trial, and the assertion of that right must not be considered by you in your deliberations. I've already told you a defendant has no burden of proving his innocence in the case. I repeat to you: under your oath you are to draw no conclusion whatsoever from the fact the defendant did not testify. The fact that the defendant did not testify should not even be discussed by you in your deliberations. The burden of proof is upon the state and the state alone. And I've stated to you the defendant is not required to prove his innocence in the case, and the burden remains upon the state throughout the trial to prove the defendant guilty beyond a reasonable doubt.

Now, let's talk about the charges themselves in this case. The first one I'm going to talk about is the charge of possession with intent to distribute heroin. The defendant is charged with possession with intent to distribute heroin, and the state must prove beyond a reasonable doubt that the defendant possessed heroin with the intent to distribute it.

Now, I'm going to, I'm going to digress just a minute here. I'll get back to this charge in just a minute, but I want to talk to you a little bit about elements of crimes where intent is required, and that's not unusual. Criminal intent is required in order for someone to be guilty of a

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crime. Criminal intent is a mental state; it's a conscious wrongdoing. But now criminal intent can only be proven to you by circumstantial evidence because, you see, when an event occurs, there's no way for us to be present when that happens. Open up somebody's head, look at their brain, and be able to tell what they intended to do at that moment in time, you can't do that scientifically. So, the element of intent that you hear in criminal charges is always something that has to be inferred from the facts and circumstances that are shown to surround the event. Again, you should consider all the facts and circumstances around that event, and again that is -- meaning that that is always proven by circumstantial evidence, not by direct evidence.

So -- but criminal intent is a conscious wrongdoing. It's a state of mind, and many criminal statutes such as the ones we'll talk about here, the element of intent is required in order for the, the crime to have been committed.

So, again in this case, this first charge, the charge is possession with the intent to distribute heroin. And the state must prove beyond a reasonable doubt that the defendant possessed the drug with the intent to distribute it.

Now to prove possession, the state must prove beyond a

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reasonable doubt that the defendant had both the power and the intent to control the disposition or the use of the drug. And possession under our law can be either actual or constructive. Now, actual possession means that the drug was in the actual physical custody of the defendant, that was on his person or in something under his direct control. That's what we mean by actual possession. Now, constructive possession means that the defendant had dominion and control or the right to exercise dominion and control over either the drug itself or the property on which the drug was found.

I will tell you, however, that merely being present at a scene where drugs are found is not enough to prove possession. The defendant's knowledge and possession, however, can be inferred when a substance is found on property that's under the defendant's control. However, this inference is simply an evidentiary fact. It can be taken into consideration by you, along with other evidence and circumstances in the case. You give it the weight you think that factor should have. And two or more persons can be in joint possession of a drug.

Now, the state also, after proving possession, must prove beyond a reasonable doubt that the defendant intended to distribute the drug. Distribution means to deliver other than by administering or dispensing a drug legally.

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Intent can be shown from acts and conduct of the defendant and other circumstances from which you might naturally and reasonably infer that intent.

Now, in determining whether the defendant had the intent to distribute the drug, you may consider the circumstances surrounding the alleged possession, you may consider the amount of the substance the alleged -- that the defendant is alleged to have possessed, the manner in which it was allegedly possessed, the place where it was allegedly possessed, and any other factors you consider to be important. You must find, in order for the defendant to be guilty of this, that the defendant did not have the intent to solely use the drug for his own use.

Now under the law, possession of more the 2 grains of heroin creates an inference that you have the right to find the defendant possessed the drug with the intent to distribute. Now, this inference does not relieve the state from proving beyond a reasonable doubt that the defendant had the intent to distribute. It's merely another evidentiary fact; it can be considered by you, along with the other evidence in the case. You give that fact the weight that you think it should have.

Now, I will also tell you that there will be, when you get the verdict form, a request for you to consider a lesser-included offense on this possession with intent to

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distribute heroin. And you'll see on the form that if you find the defendant not guilty of that charge, possession with intent to distribute, you will be called upon to consider whether or not the state did, in fact, though, prove the defendant guilty of simple possession of heroin. That's a lesser-included offense. You have the right to consider included offenses should you find the main -- defendant not guilty on the main fact -- main charge. I'll, I'll go over that with the foreperson in just a few minutes and explain how that would work.

Now as to the other charges, and they are possession of fentanyl, oxycodone, alprazolam, and hydrocodone. My next charge has to do with a charge of simple, what we call simple possession or possession of an illegal drug and these -- this charge would apply to all of those charges.

To prove possession, the state must prove beyond a reasonable doubt that the defendant had both the power and the intent to control the distribution or the use of the drugs, and I've just gone over the names of those drugs. And again I'll point out to you possession can be actual or constructive. Again, actual possession is the physical custody of the drug by the defendant, and constructive possession means that the defendant had the dominion or control or the right to exercise dominion or control over either the drug itself or the property on which the drug

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was found.

Again, mere presence at a scene where drugs are found is not enough to prove possession. The defendant's knowledge and possession, however, can be inferred when the substance is found on property under the defendant's control. However, that inference is simply an evidentiary fact. It should be taken into consideration by you, along with other evidence in the case. You give it the weight you think it should have. Two or more persons can have joint possession of a drug.

Now, sir, the gentleman in the back row on the left, your juror number is?

FOREPERSON: 199.

THE COURT: You're going to be the foreperson of the jury. Now, what that means is you'll be the person who leads the discussions of the jury. And should the jury have any questions during deliberations, I'll ask you to get them to agree on the form of the question. You'll write it on a piece of paper, sign it, hand it to the bailiffs. They'll bring it to me, and I'll consider any question that you have during deliberations.

I will point out to you, however, I can't get involved in your decisions on the facts. You're the only judges of the facts. I can't get involved in those things, but I'm not asking you to edit any question. Simply record the

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question, submit it to me. I'll decide what the appropriate response should be to the question, and if it -- I'll explain if I can answer it, and I'll explain why I can't.

Now, also it will be your job to record the verdict once the verdict's reached, and that verdict must be unanimous. So, all of you must agree upon the verdict before a verdict is reached in this matter. The foreperson has no greater say than any other person on that particular subject. So, all of you must agree on the verdict before it is the verdict of the jury as to the questions that are being asked.

Now, I've gone over a good bit with you. I want to talk with the attorneys. We're going to get the evidence and set it aside so you can look at it. Then the witness room -- I want to be sure that goes back to you properly, and they will tell me or I'll give them an opportunity to ask for any amendments to my charge at this time.

So, this was the last time I'll ask you to go back to the jury room. Don't begin discussions yet. I will bring you back for final instructions shortly. It won't be long. Thank you very much.

(THE JURY EXITS AT 11:13 A.M.)

THE COURT: Any objections or request to changes to the charge from the state?

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MR. SMITH: Nothing from the state, Your Honor.

THE COURT: Any from the defense?

MS. HOLMES: None from the defense, Your Honor.

THE COURT: All right, I'm going to ask you to come forward. I don't think there's maybe just one or two exhibits. One, two exhibits. Take at look and be sure we've got the right ones before we send them back. Then if you'll approach the bench, I have a proposed jury form --- a verdict form. I want you to review that before I submit that to the jury.

(COUNSELORS REVIEW EXHIBIT WITH COURT REPORTER.)

THE COURT: Any objections to the verdict form?

MR. SMITH: None from the state, Your Honor.

MS. HOLMES: None from the defense.

THE COURT: All right. You want to get that verdict form? I'll ask you to hand it to him when they get back in here.

Any problems with the evidence? There's a discussion going on. What's the, what's the -- what we got going on?

MR. SMITH: Your Honor, there -- during the stop, there was also an amount of green, leafy substance that was seized, and it's still in the bag, and so we're discussing whether or not to have it opened and removed before sending it back.

MS. GIBBES: I think we ---

THE COURT: It's already in evidence. I don't think I would open it.

MS. GIBBES: The concerning thing is he's not charged and the jury's not considering ---

THE COURT: But there's no evidence that it's anything other than a green, leafy material.

MS. GIBBES: I, I think I would just be worried that it might weight the jury a little bit, prejudice the jury as far as it looks like there's more drugs in the package.

THE COURT: Well, I think it's important that they have an opportunity to look at the drugs in question and how it was packaged and that sort of thing, the size of it. So, I'm, I'm pretty adamant on that at least going back to the jury. Now, I don't know what you're going to do about getting the green, leafy material out of it.

MS. GIBBES: And I think that's all we would ask is we take it, take it out.

THE COURT: Yeah. Well, I'm going to tell them not to take it out. Look at it through the bag.

MS. GIBBES: I think we were hoping that the jury wouldn't even -- it could be taken out before the jury looks at it.

THE COURT: Well, I can, I can call their attention to it and tell them to disregard it if you want me to, or I can act like it's not there.

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(COUNSELORS CONFER BRIEFLY.)

THE COURT: I can give a curative instruction and tell them disregard the material that looks like green plants. It's not part of this case. That's how it went in.

MS. GIBBES: Right. I, I think we would just, we would object to it going back, the marijuana going back, but obviously that is your discretion. There may be some safety issues with the fentanyl, but we would at least like our objection noted and ---

THE COURT: I don't want to ---

MS. GIBBES: --- a curative instruction.

THE COURT: --- send an open package back there with drugs in it.

MS. GIBBES: Yes, Your Honor.

THE COURT: I don't think that's a wise thing to do.

MS. GIBBES: Yes, Your Honor.

THE COURT: That's the way it was introduced into the record; it's in evidence now. So, it would be me tampering with the evidence if I do anything to it at this point in time.

Now, if you want me to give an instruction that they're to disregard that material, I don't mind doing that. I'll tell them that that's not part of this case, got nothing to do with this case.

MS. GIBBES: Yes, Your Honor.

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THE COURT: You want me to do that?

MS. GIBBES: Yes, Your Honor.

THE COURT: Okay. I'll be glad to do that.

All right, you got the verdict form?

BAILIFF: No, sir.

THE COURT: Okay, you're getting ready to get it. Okay, there you go. All right, let's bring the jury in.

(THE JURY ENTERS AT 11:20 A.M.)

THE COURT: All right, the jury has returned to the courtroom.

Mr. Bailiff, if you will pass that verdict first over to the foreman, please?

All right, Mr. Foreman, you might want to -- you got your glasses? You need your glasses? Might want to put those on. There we go.

Now, let me go over that form with you. At the top it has the state and county, the court that we're in, the name of the case, and then there's several different verdict, verdict forms on that one form. Number one is the charge with possession with intent to distribute heroin. The choices on that one are either not guilty or guilty. Once the jury has reached a unanimous verdict on that charge, you will record it by checking or putting a mark on the blank beside the appropriate verdict.

Now, you'll see there's a (1)(A) question. (!)(A)

says that should you find the defendant not guilty of the, the main charge, the possession with intent to distribute, then you must consider whether the state did prove possession of heroin. But if you find the defendant guilty of possession with intent to distribute, you do not have to answer question (1)(A). So, do you understand how that question will work?

FOREPERSON: Yes, sir.

THE COURT: All right. Now, the remainder are straightforward questions on each of the other charges. It is as to those charges, either not guilty or guilty. Again, once you reach a verdict as to each of those, you would check the appropriate blank. Once all verdicts have been reached, then you would sign the form and inform the bailiff outside of the jury room that a verdict's been reached.

So, do you understand how that would work?

FOREPERSON: Yes, sir.

THE COURT: All right. Now, the only exhibit in the case is the State's Number 2. I will tell you that if you are viewing that particular exhibit, there is some material in that. That exhibit is sealed up, and I'm going to ask you don't try to open it. The -- you shouldn't attempt to open that at all. You can view it through the clear plastic bag if you need to do that.

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There is one item of material in that bag that has nothing to do with this case. It appears to be a green, leafy material, and so that has nothing to do with the case. It should be disregarded by you as -- in consideration of the charges in this matter. But it is a bag, it's sealed up, and we did not break the seal to try to take that out of there. So, I'll just make you aware that has nothing to do with the case. Should not be considered by you in any fashion in reaching a verdict in this matter, but that is the exhibit. That's how it was put into evidence, and so we're going to send that back for you to take a look at.

Now, I do note that it's about 11:30, not quite but close. If you decide that your deliberations are going to take long enough that you may need lunch delivered to you, let the bailiff know that. They can make arrangements for that to occur. I will tell you it takes about an hour for that to get to the courthouse if you want to order a lunch. So, be aware of that and work that into whatever schedule you have. I'm not telling you how or how long to deliberate. I'm just saying that's available if you do need that.

Now, if the bailiff comes into the jury room at any time for any purpose, stop deliberations while that -- while somebody's in the room that's not on the jury. Don't

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discuss the case at all until that person has left the room and the door's been closed. So, you should not engage in deliberations when someone else is in the jury room. Do you understand that, Mr. Foreman?

FOREPERSON: Yes.

THE COURT: All right. Well, I appreciate your work on the case thus far. At this point in time, I'm going to ask you to step back to the jury room, begin your deliberations, and work toward a verdict. Thank you very much.

(THE JURY EXITS AT 11:24 A.M.)

THE COURT: Take that back. Thank you, sir.

Any objections to my final instruction from the state?

MR. SMITH: Nothing from the state, Your Honor.

THE COURT: From the defense?

MS. HOLMES: Nothing from defense.

THE COURT: All right, we'll be in recess until such time as we receive a question or the verdict. Thank you very much.

(JURY DELIBERATIONS BEGIN AT 11:25 A.M.)

(OFF THE RECORD.)

(JURY NOTE AND RESPONSE BY THE COURT MARKED INTO EVIDENCE AS COURT'S EXHIBIT NUMBER 2.)

(JURY NOTE MARKED INTO EVIDENCE AS COURT'S EXHIBIT NUMBER 3.)

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THE COURT: All right, I have received a request from the jury. They're asking if I can give them a written definition of the two legal descriptions of possession. I have prepared a printed form of my charge. I'm going to ask the attorneys to step up.

Madame Clerk, if you'll show this to them.

Look at what I have prepared.

(A PAUSE.)

THE COURT: There's another page; it's two pages.

(A PAUSE.)

THE COURT: All right, any objections from the state to the response?

MR. SMITH: Nothing from the state, Your Honor.

THE COURT: Any from the defense?

MS. HOLMES: No objection to the content, Your Honor. However, we would prefer if it could just be read to them. We, we would just object to them actually -- to it being sent back and them actually reading it themselves.

THE COURT: I'm going to hand you the question. I'd like you to take a look at that. They're asking for a written copy; they're not asking for a verbal charge.

(A PAUSE.)

THE COURT: Now if you want, I'll print my entire charge if you want it to be complete, but that's not what they're asking for.

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MS. HOLMES: Your Honor, I, I -- we do -- we have read it, and we do understand that they are asking for a written copy. However, I, I just -- we, we still do object to them actually having ---

THE COURT: On what basis?

MS. HOLMES: --- a written -- I -- we just feel that that it, it may be a bit prejudicial if they were to ---

THE COURT: In what way?

MS. HOLMES: --- read it. I mean, it does, it does say that, you know -- can I, can I read it again?

THE COURT: Certainly.

MS. HOLMES: Apologize.

THE COURT: I want your objection to be specific. I want to know what I'm ruling on.

MS. HOLMES: I mean, I feel like just, just the ---

THE COURT: I think that's exactly what I said to them verbally during the charge, or pretty close to exactly.

MS. HOLMES: I believe that it, it was.

(A PAUSE.)

MS. HOLMES: Your Honor I, I do believe that it is going to be in, in your discretion if you send it back. We were just -- we were just worried ---

THE COURT: Well, I've asked you if you have an objection, and you said you did, and I've asked what that -- and you said somehow it would be prejudicial. I'm

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trying to -- tell me how it would be prejudicial.

MS. HOLMES: Yes.

THE COURT: I'm, I'm interested to know.

MS. HOLMES: Yes, Your Honor. We were just worried that it may be prejudicial in that they may give -- you know, actual reading it -- actually reading it and seeing the words, they may give it a little more deference than they would if they, if they heard it.

THE COURT: Well, and there are cases that say that when juries -- of course, some judges send back written instructions every time. I don't, but I know some judges do. There are cases that say, though, when the jury requests a written portion of the charge, it is a proper objection to say that in the interest of completeness, you want the whole charge sent back so that there's no emphasis being placed on one part or the other. Sometimes I think that may be confusing to a jury when they're asking for a specific portion of the charge to be given to them.

But giving a written charge is not improper. In fact, it's something that's allowed. The question is whether you give the whole thing or give a portion of it, and they requested a specific portion. That's the only reason I prepared it the way I did.

MS. HOLMES: Right, Your Honor, and again, we, we just felt that it, it may be a bit prejudicial having them read

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it ---

THE COURT: So, you do want the whole charge?

MS. HOLMES: --- read it themselves, but we, I guess we don't object to you sending it back there. We just want ---

THE COURT: My choice is either send a portion of it or the whole because they've asked for a written copy.

MS. HOLMES: You can send -- we don't object to sending a portion of it. We just wanted to make that -- have that noted in the record.

THE COURT: I'm going to bring them into the courtroom. I'll give it to them, and I'll ask them not to give it any greater emphasis than any other portion of the charge. But since they specifically requested what I prepared, I'm going to let them have what they requested.

If they want any other portion of the charge read to them or in writing, I'll certainly be happy to provide that to them as well. But if you're not requesting for me to print the entire charge, which I could do but it's thirty-something pages long, I'll be glad to do that and send it to them. Tell them that based on attorneys' request, I've given them the whole thing.

MS. HOLMES: We don't believe that ---

THE COURT: Okay.

MS. HOLMES: --- that we need to do that. Thank you,

Your Honor.

THE COURT: All right. So, you're not asking for the entire charge?

MS. HOLMES: No, Your Honor.

THE COURT: I'll explain to them that, that I'm answering their question, but they shouldn't give it any greater emphasis because it's in writing than what I told them verbally.

MS. HOLMES: Thank you, Your Honor, and we do believe that that is enough.

THE COURT: Okay.

MS. HOLMES: Thank you.

THE COURT: Thank you.

Bring the jury in.

(EXCERPT OF JURY CHARGE MARKED INTO EVIDENCE AS COURT'S EXHIBIT NUMBER 4.)

(THE JURY ENTERS AT 12:27 P.M.)

THE COURT: Mr. Bailiff, if you will hand this over to the foreperson.

Mr. Foreman, ladies and gentlemen of the jury, I received a request from you that you wanted a written definition of the two legal descriptions of possession. I have had that marked as a court's exhibit, and it will be submitted to you.

I do want to caution you. There is some concern by

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courts in the past where judges provide juries with written portions of charges, that sometimes a jury may give that portion of the charge more importance than the spoken charge that I gave you earlier, and I'll caution you. You shouldn't do that. Certainly I want to respond to your question, and I think that will.

I can make the entire charge available to you in writing if you wish to do that, but I will caution you. Just because I've given you that in writing, it should not take precedence over my verbal charge that I gave earlier. Do you understand that?

FOREPERSON: Yes, sir.

THE COURT: Okay. I just wanted to caution you in that regard. If you want the entire charge in writing, that can be done. It would require a longer period of time to get that prepared, but I can do that if the jury finds that necessary.

You may return to your deliberations. Thank you very much.

(THE JURY EXITS AT 12:39 P.M.)

THE COURT: Any objections to the response that I gave to the jury?

MR. SMITH: Nothing from the state, Your Honor.

THE COURT: Any from the defense?

MS. HOLMES: Nothing from the defendant.

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THE COURT: All right, the request will be made an exhibit of the court. The written portion that I gave them has already been made an exhibit and will be made part of the record.

Good luck -- oh, excuse me. We will be in recess until a verdict is reached. Thank you very much.

(OFF THE RECORD.)

THE COURT: While the attorneys are in the courtroom, can I get you to come back, let me put one thing on the record?

(A PAUSE.)

THE COURT: I did receive a request from the jury for a copy of the officer's incident report. I responded to that to the jury to the effect that they -- that it was not placed into evidence. Therefore, I could not produce it. I did that in writing. The attorneys reviewed it before I sent it in to them. It has been marked and put into evidence.

Have I correctly stated our *in-camera* conference?

MS. FOWLER: Yes, Your Honor.

THE COURT: Did I correctly state that?

MS. HOLMES: Yes, Your Honor.

THE COURT: Okay. So, I did not communicate directly with the jury other than to send them a written response that indicated since that report was not in evidence, it

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could not be produced to them. That will be made part of the record. It's already been marked as an exhibit. The jury has the response, but it would be put into the record once deliberations are completed. Just wanted to put that on the record. Thank you very much.

(OFF THE RECORD.)

THE COURT: All right, I've been told there is a verdict in the case previously tried, so if the attorneys would come forward?

(A PAUSE.)

THE COURT: All right, let's come to order, please.

State ready to receive the verdict?

MR. SMITH: State's ready, Your Honor.

THE COURT: Is the defense ready to receive the verdict?

MS. HOLMES: The defense is ready, Your Honor.

THE COURT: Bring the jury in. We've got somebody who needs to move over here. Thank you.

(THE JURY ENTERS AT 2:05 P.M.)

THE COURT: All right, the record will reflect the jury has returned to the courtroom.

Has a verdict been reached, Mr. Foreman?

FOREPERSON: It has, Your Honor.

THE COURT: Pass the form to the bailiff, please. Thank you very much.

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Madame Clerk, you may publish the verdict.

*VERDICT*

CLERK OF COURT: *The State of South Carolina vs. Worth Glover Myers*, we, the jury, unanimously find as to the above-named defendant as follows. In the case number 2019-GS-07-81, possession with intent to distribute heroin, not guilty. As to -- in the case 2018 ---

THE COURT: You need to, you need to read the rest of that verdict there, the one at the bottom.

CLERK OF COURT: Okay. (1)(A): Should you find the defendant not guilty of possession of with intent to distribute heroin, then you must consider the lesser-included offense of possession of heroin. As to the offense, we find the defendant not guilty -- guilty, I'm sorry.

THE COURT: That's correct.

CLERK OF COURT: In the case 218-GS-07-1137 [sic], possession of fentanyl, we find the defendant guilty. In the case number 2018-GS-07-1138, possession of oxycodone, guilty. In the case number 2019-GS-07-83, possession of alprazolam, guilty. In case number 219-GS-07-82 [sic], possession of hydrocodone, guilty.

THE COURT: All right, ladies and gentlemen of the jury, if this is your verdict and still your verdict in all cases, please let me know by raising your right hand.

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(THE JURY COMPLIES.)

THE COURT: Thank you.

Anything further from the state before I release the jury?

MR. SMITH: Nothing from the state, Your Honor.

THE COURT: Anything further from the defense before I release the jury?

MS. HOLMES: Nothing from the defense, Your Honor.

THE COURT: All right, ladies and gentlemen of the jury, this completes your service in this case, and I want to thank you very much for your attention to your duties. Also, this will complete your service on the jury for the entire week, so we're releasing you altogether.

The bailiffs will check you out. You can get an excuse for your work, and they will be sending you a voucher for your jury pay. It's not going to be a lot of money, but it's all the law allows us to pay, and it's certainly not enough for your time. But thank you again for your service.

Throughout the case I told you not to talk to anyone about it. I now will tell you that you have the right to talk about it. You have the right not to talk about it. A citizen owes no one an explanation for what they do in jury service. You are not required to discuss this unless you choose to do so. If anybody were to harass you or bother

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you in any fashion concerning your service on the jury, please report it to the clerk's office. The appropriate action would be taken should that occur. Again, you are free to go.

Now, Mr. Foreman, I'm going to ask you, if you would, to step forward as I release you to see the clerk. There's some things you have to sign on the indictments, and we'll be doing that before you leave.

But again, thank you very much. The rest of you are free to go at this time.

(THE JURY EXITS AT 2:09 P.M.)

(A PAUSE.)

THE COURT: All right, you can approach. Let's come forward. If you'd come forward.

All right, Mr. Myers, having been found guilty by a jury of your peers of possession of heroin, possession of Schedule 1 narcotics, possession of Schedule 1 narcotics, let's see, that's -- and then there's three of those, and a possession of a Schedule 1 to 4 narcotic, all second offenses.

I'm going to consider sentencing in your case. I will advise you that based on the information I have, that each of the convictions carries a possible zero to five-year prison term.

Is that your understanding?

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MR. SMITH: Your Honor, I believe four of the charges carried zero to five. The possession of controlled substances, I believe, carry zero to one year.

THE COURT: You're going to have to help me with that because all of these say zero to five.

MS. HOLMES: This is zero to one.

THE COURT: Oh, I see it. Excuse me. You're right. The Schedule 4 is up to one.

All right, now I'll hear from the defense counsel concerning sentencing at this time. Yes, ma'am.

MS. HOLMES: Thank you, Your Honor. As you can see, Mr. Myers here, he, he has been going through a lot in his life. He is currently battling some form of, of cancer, and so that was, you know, one of our concerns that we spoke with you about prior to the trial and a concern with him being incarcerated. He does have family here who is here supporting him.

And, Your Honor, I do understand that these are all second offenses. However, Mr. Myers is sixty-seven -- sixty-four years old. I, I -- we just do not believe that, you know, a long term of imprisonment is going to rectify anything, especially not with his health. He can barely walk, and he -- his health is, just is deteriorating. Since the first time that I've seen him, I believe that it has gone down since then.

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And so, Your Honor, we just ask if the court is inclined to give him -- to place him on probation and, you know, place him in the care of the people who are here with him so that they can continue to get him the medical treatment that he needs.

He also battles with mental health disorders as well. He has severe depression. He was also diagnosed with bipolar, bipolar and schizophrenia. So, he, he has a lot of things that are going on with him that he does need proper care for, Your Honor. We just do not believe that sentencing him to the Department of Corrections for a long term will help his, his health, or I don't think that it would be beneficial to either party.

THE COURT: One of the concerns I will have in his case if he were not incarcerated, it appears that at least two of these cases are from this year, 2019.

MS. HOLMES: Your Honor, and those were direct indictments in this, this year, but they all came from the July 18th of 2018.

THE COURT: Well, then let's say within the last two years he was driving cars and in possession of the drugs. I'm concerned about that.

MS. HOLMES: And I do believe that that is a ---

THE COURT: Well, maybe you can help me with what type of home incarceration would be available in this

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jurisdiction. I'm not from Beaufort. I'm from another county; I don't know what's available. I would not expect just to simply turn him loose. So, I wonder what, what alternatives you're suggesting.

MS. HOLMES: I do understand, Your Honor, and I know that here in Beaufort County we, we do have an ankle monitor system that we sometimes place our, our clients on as well as curfews. There is a -- you know, you can set a curfew for him.

I do not believe that he will be out driving. He, he can't drive now. He is physically unable to drive. Every time he comes to court, he has to have someone bring him here. He actually hitch hiked one time here, but he cannot drive.

THE COURT: People will fool you about that sometimes, I have found. So, I just wanted -- I have a concern about that.

MS. HOLMES: I understand, Your Honor.

THE COURT: Okay. Thank you.

All right, I'll hear from -- does Mr. Myers, do you wish to say anything at this time?

DEFENDANT: the only drugs I was aware of were in the car was pot, and I thought they'd smoked it. That was the only drug that I was aware of was in that vehicle. Anything you could do so I can get out and take care of my

kids.

THE COURT: You're going to have to speak up. I don't understand what you're saying.

DEFENDANT: All I'm concerned about is my kids.

THE COURT: All right, I'll hear from the state.

MR. SMITH: Your Honor, Mr. Myers has a, a rather lengthy record starting back in the '70s but was -- recently he had three robbery convictions in 1996, for which he was sentenced to twenty-five years in prison. That was suspended to twenty years to serve with eight years' probation. He then has a 2017 possession of cocaine base in which he got a year, suspended to a year of probation plus mental health counseling and, I believe, substance abuse counseling.

With his 1996 robbery conviction, his prison sentence would have ended some time in 2016, and within a year he had reoffended and was arrested for possession. He still would have been under the probation -- he would still be under the probation for those robberies by my calculations right now. They wouldn't end until 2024.

THE COURT: Well, I don't think that's in front of me right now, but of course that may be an issue later on.

MR. SMITH: And, Your Honor, with the possession of cocaine base from 2017, was arrested on that, sentenced on that, and then less than a year later in 2018 was arrested

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on these charges.

The facts of this case are that he was convicted for having multiple different painkillers as high as fentanyl, which we all know how bad fentanyl is. Oxycodone, hydrocodone, alprazolam, and heroin, which is not even a prescribable drug.

There was an offer made for either ten years, recommendation seven years negotiated. It was rejected on the record. At this point, what he has been convicted for carried zero to five four times, or zero to one on the alprazolam, and we would ask for five years.

THE COURT: Anything else from the defense?

MS. HOLMES: Your Honor, other than -- I did want to address. He, he is not currently on probation now. I did make sure to address that with probation.

THE COURT: Well, as I said, that's not in front of me. So, I'm not really going to consider that. He does have the convictions, though, that he stated.

MS. HOLMES: Yes, sir.

THE COURT: Or do you -- are you challenging his record?

MS. HOLMES: No, Your Honor.

THE COURT: Okay.

MS. HOLMES: I did not understand. If you, if you still wanted to hear more on that probation ---

THE COURT: Well, I told him ---

MS. HOLMES: --- then I just wanted to clear up that.

THE COURT: --- when he brought it up that that's not before me today. So, I'm not going ---

MS. HOLMES: Okay.

THE COURT: --- to consider that.

MS. HOLMES: Well.

THE COURT: Now, later on if he is on probation and they choose to seek a violation because of this conviction, that will be for another judge on another day. I'm not going to get into that today. I'm, I'm excluding that from my consideration, okay?

MS. HOLMES: Other than that, nothing further, Your Honor.

THE COURT: All right.

Yes, sir.

MR. SMITH: Your Honor, if I may? Bringing up the probation, I was not contending that Mr. Myers was still currently on probation. I was only just bringing up the prior convictions and the overlap between them.

THE COURT: I understand, and I got, I think I got your point that he quite often has come out of incarceration and very quickly gotten back into trouble. I understand that.

MR. SMITH: Yes, sir.

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THE COURT: I took that for the record that I heard.

All right, anything else that you'd like to share with me?

(COUNSELORS CONFER WITH THE DEFENDANT.)

MS. HOLMES: Your Honor, he would just like for me to note that he did -- he was released from prison in 2010, and it wasn't until 2017 that he picked up that, that charge.

THE COURT: I see. Okay. Now, I assume you've handed up these certified copies of previous convictions?

MR. SMITH: Yes, Your Honor.

THE COURT: Is that correct?

MR. SMITH: Yes, Your Honor.

THE COURT: I'm going to have those made an exhibit for the sentencing.

(SENTENCING SHEETS MARKED INTO EVIDENCE AS COURT'S EXHIBIT NUMBER 5.)

THE COURT: Is he claiming credit for any time that he may have already served on any of these?

MS. HOLMES: I don't -- I believe that he's only spent maybe a day or two.

THE COURT: So, he bonded out fairly quickly?

MS. HOLMES: He said it was a week, Your Honor.

THE COURT: A week ---

MS. HOLMES: Before he bonded out.

THE COURT: --- he was in jail?

MS. HOLMES: Yes, Your Honor.

THE COURT: State have any problem with giving him credit for seven days?

MR. SMITH: No, Your Honor.

*SENTENCE OF THE COURT*

THE COURT: All right, Mr. Myers, it's the order of this court that you be confined in the State Department of Corrections for a period of three years. I've run my sentences concurrently, and that's three years on all cases except case number 2019-07-83. That is a one-year sentence. All are run concurrently. I've given credit for seven days. I've recommended the Addiction Treatment Unit while you're incarcerated. Good luck to you, sir.

**--- END OF TRANSCRIPT OF RECORD ---**

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CERTIFICATE

I, THE UNDERSIGNED ELIZABETH B. HARRIS, CERTIFIED VERBATIM OFFICIAL COURT REPORTER FOR THE FIFTH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE CIRCUIT COURT FOR BEAUFORT COUNTY, SOUTH CAROLINA, ON THE 20TH AND 21ST DAYS OF NOVEMBER, 2018.

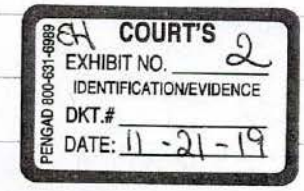
I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST IN ANY PARTY HERETO.

*/S/Elizabeth B. Harris*, CVR-M-CM

COLUMBIA, SOUTH CAROLINA

APRIL 28TH, 2020

May We See a copy of the officers Incidunt Report?




11/21/19
Frederick
KEVIN LIVINGSTON

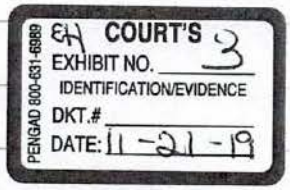
The report was not entered into evidence + therefore cannot be produced to you

Judge

Could we Have a written Definition of the two legal Discriptions of Possession.

11/21/19

FREDERICK KEVIN LIVINGSTON






**POSSESSION**

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 _____ [*drug*]. POSSESSION MAY BE EITHER ACTUAL OR CONSTRUCTIVE.

ACTUAL POSSESSION MEANS THAT THE _____ [*drug*] WAS IN THE ACTUAL PHYSICAL CUSTODY OF THE DEFENDANT.

CONSTRUCTIVE POSSESSION MEANS THAT THE DEFENDANT HAD DOMINION AND CONTROL, OR THE RIGHT TO EXERCISE DOMINION OR CONTROL, OVER EITHER THE _____ [*drug*] ITSELF OR THE PROPERTY ON WHICH THE _____ [*drug*] WAS FOUND. MERE PRESENCE AT THE SCENE WHERE THE DRUGS WERE FOUND IS NOT ENOUGH TO PROVE POSSESSION. THE DEFENDANT'S KNOWLEDGE AND POSSESSION MAY BE INFERRED WHEN A SUBSTANCE IS FOUND ON THE PROPERTY UNDER THE DEFENDANT'S CONTROL.[20] HOWEVER, THIS INFERENCE IS SIMPLY AN EVIDENTIARY FACT TO BE TAKEN INTO CONSIDERATION BY YOU ALONG WITH THE

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[20] State v. Adams, 291 S.C. 132, 352 S.E.2d 483 (1987).

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.

**WITNESSES**

C. Wampler (SCHP)

**ARREST WARRANT NUMBER**

2018A0710200197

**ACTION OF GRAND JURY**

True Bill

*Foreperson of Grand Jury*

*Date:* JAN 17 2019

**VERDICT**

Guilty

Frederick Kevin Dyar

*Foreperson of Petit Jury*

*Date:*

INDICT

**DOCKET NO. 2018GS0701137**

**The State of South Carolina**

**County of Beaufort**

**COURT OF GENERAL SESSIONS**

**January Term 2019**

**THE STATE**

**vs.**

**WORTH GLOVER MYERS**

**Indictment For**

**Possession of Furanyl Fentanyl – 2nd Offense**

SC Code: 44-53-370(d)(1)

CDR Code: 0177

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

Defendant

I _____

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

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA )
)
COUNTY OF BEAUFORT )

INDICTMENT

2018GS0701137

At a Court of General Sessions, convened on January 17, 2019, the Grand Jurors of Beaufort County present upon their oath:

**Possession of Furanyl Fentanyl – 2nd Offense**

That in Beaufort County, South Carolina, on or about July 18, 2018, the Defendant, WORTH GLOVER MYERS, did knowingly or intentionally possess Furanyl Fentanyl, which was a controlled substance that was a narcotic drug classified in Schedule I (b) or (c), or lysergic acid diethylamide (LSD), or was a narcotic drug classified in Schedule II and WORTH GLOVER MYERS had been convicted within the previous ten years of a first violation of a controlled substance offense provision, other than a marijuana offense provision, of Article 3, Narcotics and Controlled Substances, or of another state or federal statute relating to narcotic drugs, depressants, stimulants, or hallucinogenic drugs, all in violation of Section 44-53-370(d)(1), et al. of the Codes of Law of South Carolina.

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

Solicitor

TRUE BILL

**WITNESSES**

C. Wampler (SCHP)

**ARREST WARRANT NUMBER**

2018A0710200198

**ACTION OF GRAND JURY**

True Bill

Michael Fm

*Foreperson of Grand Jury*

*Date:* JAN 17 2019

**VERDICT**

Guilty

Frederick Keesy Jr

*Foreperson of Petit Jury*

*Date:*

INDICT

**DOCKET NO. 2018GS0701138**

**The State of South Carolina**

**County of Beaufort**

**COURT OF GENERAL SESSIONS**

**January Term 2019**

**THE STATE**

**vs.**

**WORTH GLOVER MYERS**

**Indictment For**

**Possession of Oxycodone – 2nd Offense**

SC Code: 44-53-370(d)(1)

CDR Code: 0177

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

Defendant

I

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

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA )
)
COUNTY OF BEAUFORT )

INDICTMENT

2018GS0701138

At a Court of General Sessions, convened on January 17, 2019, the Grand Jurors of Beaufort County present upon their oath:

**Possession of Oxycodone – 2nd Offense**

That in Beaufort County, South Carolina, on or about July 18, 2018, the Defendant, WORTH GLOVER MYERS, did knowingly or intentionally possess oxycodone, which was a controlled substance that was a narcotic drug classified in Schedule I (b) or (c), or lysergic acid diethylamide (LSD), or was a narcotic drug classified in Schedule II and WORTH GLOVER MYERS had been convicted within the previous ten years of a first violation of a controlled substance offense provision, other than a marijuana offense provision, of Article 3, Narcotics and Controlled Substances, or of another state or federal statute relating to narcotic drugs, depressants, stimulants, or hallucinogenic drugs, all in violation of Section 44-53-370(d)(1), et al. of the Codes of Law of South Carolina.

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

Solicitor

TRUE BILL

**WITNESSES**

C. Wampler (SCHP)

**ARREST WARRANT NUMBER**

DIRECT INDICTMENT

**ACTION OF GRAND JURY**

True Bill

*Foreperson of Grand Jury*

*Date:* JAN 17 2019

**VERDICT**

Not Guilty

Guilty Possession

Frederick Kevin

*Foreperson of Petit Jury*

*Date:*

INDICT

**DOCKET NO. 2019GS0700081**

**The State of South Carolina**

**County of Beaufort**

**COURT OF GENERAL SESSIONS**

**January Term 2019**

**THE STATE**

**vs.**

**WORTH GLOVER MYERS**

**Indictment For**

**Possession with Intent to Distribute Heroin – 2nd Offense**

SC Code: 44-53-370(b)(1)

CDR Code: 0184

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

Defendant

I _____

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

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA )
)
COUNTY OF BEAUFORT )

INDICTMENT

2019GS0700081

At a Court of General Sessions, convened on January 17, 2019, the Grand Jurors of Beaufort County present upon their oath:

**Possession with Intent to Distribute Heroin – 2nd Offense**

That in Beaufort County, South Carolina, on or about January 10, 2019, the Defendant, WORTH GLOVER MYERS, did manufacture, distribute, dispense, deliver, or purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase or possess with the intent to manufacture, distribute, dispense, deliver, or purchase heroin, which was a controlled substance classified in Schedule I (b) or (c) which was a narcotic drug, or lysergic acid diethylamide (LSD), or in Schedule II which was a narcotic drug and WORTH GLOVER MYERS had been convicted within the previous ten years of a first violation of a controlled substance offense provision, other than a marijuana offense provision, of Article 3, Narcotics and Controlled Substances, or of another state or federal statute relating to narcotic drugs, depressants, stimulants, or hallucinogenic drugs, all in violation of Section 44-53-370(b)(1), et al. of the Codes of Law of South Carolina.

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

TRUE BILL

**Solicitor**

**WITNESSES**

C. Wampler (SCHP)

**ARREST WARRANT NUMBER**

DIRECT INDICTMENT

**ACTION OF GRAND JURY**

True Bill

*Foreperson of Grand Jury*

*Date:* JAN 17 2019

**VERDICT**

Guilty

Frederick Kevin Singleton

*Foreperson of Petit Jury*

*Date:*

INDICT

**DOCKET NO. 2019GS0700082**

**The State of South Carolina**

**County of Beaufort**

**COURT OF GENERAL SESSIONS**

**January Term 2019**

**THE STATE**

**vs.**

**WORTH GLOVER MYERS**

**Indictment For**

**Possession of Hydrocodone – 2nd Offense**

SC Code: 44-53-370(d)(1), 44-53-370(c), 44-53-470(A)(3)

CDR Code: 0177

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

Defendant

I

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

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA )
)
COUNTY OF BEAUFORT )

INDICTMENT

2019GS0700082

At a Court of General Sessions, convened on January 17, 2019, the Grand Jurors of Beaufort County present upon their oath:

**Possession of Hydrocodone – 2nd Offense**

That in Beaufort County, South Carolina, on or about January 10, 2019, the Defendant, WORTH GLOVER MYERS, did knowingly or intentionally possess hydrocodone, which was a controlled substance that was a narcotic drug classified in Schedule I (b) or (c), or lysergic acid diethylamide (LSD), or was a narcotic drug classified in Schedule II and WORTH GLOVER MYERS had been convicted within the previous ten years of a first violation of a controlled substance offense provision, other than a marijuana offense provision, of Article 3, Narcotics and Controlled Substances, or of another state or federal statute relating to narcotic drugs, depressants, stimulants, or hallucinogenic drugs, all in violation of Section 44-53-370(d)(1), 44-53-370(c), 44-53-470(A)(3), et al. of the Codes of Law of South Carolina.

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

Solicitor

True Bill

**WITNESSES**

C. Wampler (SCHP)

**ARREST WARRANT NUMBER**

DIRECT INDICTMENT

**ACTION OF GRAND JURY**

True Bill

*Foreperson of Grand Jury*

*Date:* JAN 17 2019

**VERDICT**

Guilty

Frederick Kerr

*Foreperson of Petit Jury*

*Date:*

INDICT

**DOCKET NO. 2019GS0700083**

**The State of South Carolina**

**County of Beaufort**

**COURT OF GENERAL SESSIONS**

**January Term 2019**

**THE STATE**

**vs.**

**WORTH GLOVER MYERS**

**Indictment For**

**Possession of Alprazolam – 2nd Offense**

SC Code: 44-53-370(d)(2)

CDR Code: 0180

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

Defendant

I

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

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA )
)
COUNTY OF BEAUFORT )

INDICTMENT

2019GS0700083

At a Court of General Sessions, convened on January 17, 2019, the Grand Jurors of Beaufort County present upon their oath:

**Possession of Alprazolam – 2nd Offense**

That in Beaufort County, South Carolina, on or about July 18, 2018, the Defendant, WORTH GLOVER MYERS, did knowingly or intentionally possess a controlled substance classified in Schedules I through V, alprazolam in Schedule IV and WORTH GLOVER MYERS had been convicted, within the previous ten years of a first violation of a controlled substance offense provision, other than a marijuana offense provision, of Article 3, Narcotics and Controlled Substances, or of another state or federal statute relating to narcotic drugs, depressants, stimulants, or hallucinogenic drugs, and WORTH GLOVER MYERS had at any time been convicted of a second or subsequent violation of a controlled substance offense provision, other than a marijuana offense provision, of this Article or of another state or federal statute relating to narcotic drugs, depressants, stimulants, or hallucinogenic drugs, all in violation of Section 44-53-370(d)(2), et al. of the Codes of Law of South Carolina.

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

TRUE BILL

**Solicitor**

STATE OF SOUTH CAROLINA 0-5 ) IN THE COURT OF GENERAL SESSIONS

COUNTY OF Beaufort )

STATE ) INDICTMENT/CASE#: 2018GS0701137

VS. )

WORTH GLOVER MYERS ) A/W#: 2018A0710200197

AKA: ) Date of Offense: 07/18/2018

Race: White Sex: Male Age: ) S.C. Code §: 44-53-370(d)(1)

DOB: [redacted] 12:00:00 AM SS#: [redacted] ) CDR Code #: 0177

Address: 400 WILLIAM HILTON PKWY; OAKS, Hilton Head Isl, SC 29926 )

DL#: * SID#: ) **SENTENCE SHEET**

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

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: Possession of Narcotics in Schedule I(b), (c), LSD & Schedule II – 2nd Offense

In violation of § 44-53-370(d)(1) of the S.C. Code of Laws, bearing CDR Code # 0177

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ MANDATORY GPS (CSC w minor 1st or CSC w minor 3rd) ☐ §17-25-45

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def's initials)

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

ATTEST: 103810 Brittany Palmer 103287

(Solicitor) (SC Bar #) (Defendant) (Attorney for Defendant) (SC Bar #)

WHEREFORE, the Defendant is committed to the ☒ **State Department of Corrections** ☐ **County Detention Center,**

for a determinate term of 3 ~~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: 11/21/19

☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 7 days

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

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

**SPECIAL CONDITIONS:**

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

Total: $ _____ plus 20% fee: _____ $ _____ _____ days/hours Public Service Employment

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

| | | |
|---|---|---|
| *Fine: | | $ |
| §14-1-206 (Assessments 107.5%) | | $ |
| §14-1-211 (A)(1)(Conv. Surcharge) | $100 | $ 100 |
| §14-1-211 (A)(2)(DUI Surcharge) | $100 | $ |
| §56-5-2995 (DUI Assessment) | $12 | $ |
| §56-5-286 (DUI Breath Test) | $25 | $ |
| Proviso 61.6 (Public Def Prob) | $500 | $ |
| §14-1-212 (Law Enforce. Funding) | $25 | $ 25 |
| §14-1-213 (Drug Court Surcharge) | $150 | $ 150 |
| §50-21-114 (BUI Breath Test Fee) | $50 | $ |
| §56-5-2942(J) (Vehicle Assessment) | $40 each | $ |
| 3% to County (if paid in installments) | | $ 825 |
| **TOTAL** | | $ 283 25 |

☐ Obtain GED

☐ Attend Voc. Rehab. Or Job Corp. _____

☐ May serve W/E beginning _____

☐ Substance Abuse Counseling

☐ Random Drug Alcohol Testing

Fine may be pd. in equal consecutive weekly monthly pmts. of $ _____ Beginning _____

$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel.
Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/Deputy Clerk: Courtney Elizabeth Harris

Court Reporter: _____

Presiding Judge: _____

Judge Code: 335

Sentence Date: 11/21/19

MP-SCCA 217 (04 2018)

0-5

**STATE OF SOUTH CAROLINA** ) **IN THE COURT OF GENERAL SESSIONS**

**COUNTY OF** Beaufort )

STATE ) INDICTMENT/CASE#: 2018GS0701138

VS. )

WORTH GLOVER MYERS ) A/W#: 2018A0710200198

AKA: ) Date of Offense: 07/18/2018

Race: White Sex: Male Age: ) S.C. Code §: 44-53-370(d)(1)

DOB: 5/10/1955 12:00:00 AM SS#: 225-78-2818 ) CDR Code #: 0177

Address: 400 WILLIAM HILTON PKWY; OAKS, Hilton Head Isl, SC 29926 )

DL# * SID# ) **SENTENCE SHEET**

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

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: Possession of Narcotics in Schedule I(b), (c), LSD & Schedule II – 2nd Offense

In violation of § 44-53-370(d)(1) of the S.C. Code of Laws, bearing CDR Code # 0177

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ MANDATORY GPS ☐ §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is ☒ As indicted. ☐ Lesser Included Offense. ☐ Defendant Waives Presentment to Grand Jury. (def's initials)

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

ATTEST:

Andrew J. [illegible] 103810 [illegible] Brittany Haines 103287
(Solicitor) (SC Bar #) (Defendant) (Attorney for Defendant) (SC Bar #)

WHEREFORE, the Defendant is committed to the ☒ **State Department of Corrections** ☐ **County Detention Center,**

for a determinate term of 3 ~~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: 11/21/19

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 76 days

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

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

**SPECIAL CONDITIONS:**

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

Total: $ _____ plus 20% fee: _____ $ _____ _____ days/hours Public Service Employment

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

| | | | |
|---|---|---|---|
| *Fine: | | $ | |
| §14-1-206 (Assessments 107.5%) | | $ | |
| §14-1-211 (A)(1)(Conv. Surcharge) | $100 | $ | 100 |
| §14-1-211 (A)(2)(DUI Surcharge) | $100 | $ | |
| §56-5-2995 (DUI Assessment) | $12 | $ | |
| §56-1-286 (DUI Breath Test) | $25 | $ | |
| Proviso 61.6 (Public Def Prob) | $500 | $ | |
| §14-1-212 (Law Enforce. Funding) | $25 | $ | 75 |
| §14-1-213 (Drug Court Surcharge) | $150 | $ | 150 |
| §50-21-114 (BUI Breath Test Fee) | $50 | $ | |
| §56-5-2942(J) (Vehicle Assessment) | $40 each | $ | |
| 3% to County (if paid in installments) | | $ | 825 |
| **TOTAL** | | $ | 2832.75 |

☐ Obtain GED

☐ Attend Voc. Rehab. Or Job Corp. _____

☐ May serve W/E beginning _____

☐ Substance Abuse Counseling

☐ Random Drug Alcohol Testing

Fine may be pd. in equal consecutive weekly monthly pmts. of $ _____ Beginning _____

$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/Deputy Clerk: Carol Stupp

Court Reporter: Elizabeth Harris

Presiding Judge: [signature]

Judge Code: 2135

Sentence Date: 11/21/19

MP-SCCA 217 (04 2018)

0-5 yrs



STATE OF SOUTH CAROLINA )
COUNTY OF Beaufort )
STATE )
VS. )
Worth Myers )
AKA: )
Race: Sex: Age: )
DOB: SS#: )
Address: )
City, State, Zip: )
DL# * SID# )
*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019-GS-07-0081
A/W#: Direct indictment
Date of Offense: July 18, 2019
S.C. Code §: 44-53-370
CDR Code #: 0177

## SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Possession of heroin, 2nd offense
In violation of § 44-53-370 of the S.C. Code of Laws, bearing CDR Code # 0177
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45 (CSC w/minor 1st or CSC w/minor 3rd))
The charge is: ☐ As indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.
ATTEST:

Solicitor — SC Bar # 10310 — Defendant — Attorney for Defendant — SC Bar # 103287

WHEREFORE, the Defendant is committed to the ☒ **State Department of Corrections** ☐ **County Detention Center,** for a determinate term of 3 ~~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: 11/21/19
☒ 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. 7days

☐ The Defendant is to be placed on 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**

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 |
| §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 |
| §14-1-213 (Drug Court Surcharge) | $150 | $ 150 |
| §50-21-114 (BUI Breath Test Fee) | $50 | $ |
| §56-5-2942(J) (Vehicle Assessment) | $40/ea | $ 825 |
| 3% to County (if paid in installments) | | $ |
| **TOTAL** | | $ 283.25 |

Clerk of Court/Deputy Clerk Carolstrop
Court Reporter: Elizabeth Harris

_____ days/hours Public Service Employment

Obtain GED ☐
Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____
Substance Abuse Counseling ☐

Random Drug/Alcohol Testing ☐
Fine may be pd. in equal consecutive weekly/monthly pmts. of $ _____ Beginning _____
$ _____ Paid to Public Defender Fund

Other: ATU

☐ Appointed PD or appointed other counsel, Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge
Judge Code: 2135
Sentence Date 11/21/19

SCCA/217 (04/2018)

O-5

STATE OF SOUTH CAROLINA ) IN THE COURT OF GENERAL SESSIONS
)
COUNTY OF Beaufort )
STATE ) INDICTMENT/CASE#: 2019GS0700082
VS. )
WORTH GLOVER MYERS ) A/W#: DIRECT INDICTMENT
AKA: ) Date of Offense: 01/10/2019
Race: White Sex: Male Age: ) S.C. Code §: 44-53-370(d)(1)
DOB: [redacted] SS#: [redacted] ) CDR Code #: 0177
Address: 400 WILLIAM HILTON PKWY; OAKS, Hilton Head Isl, SC 29926 )
DL# * SID# ) SENTENCE SHEET

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

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: Possession of Narcotics in Schedule I(b), (c), LSD & Schedule II – 2nd Offense
In Violation of § 44-53-370(d)(1) of the S.C. Code of Laws, bearing CDR Code # 0177

☑ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ MANDATORY GPS (CSC w minor 1st or CSC w minor 3rd) ☐ §17-25-45

The charge is: ☑ As indicted. ☐ Lesser Included Offense. ☐ Defendant Waives Presentment to Grand Jury. (def's initials)
The plea is: ☐ Without Negotiations or Recommendation. ☐ Negotiated Sentence. ☐ Recommendation by the State.

ATTEST

(Solicitor) 103810 (SC Bar #) (Defendant) Brittany Holmes 103287 (Attorney for Defendant) (SC Bar #)

WHEREFORE, the Defendant is committed to the ☑ **State Department of Corrections** ☐ **County Detention Center,**
for a determinate term of 3 ~~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: 11/21/19
☑ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 7days
☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

**SPECIAL CONDITIONS:**

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

Total: $ _____ plus 20% fee: _____ $ _____ _____ days hours Public Service Employment

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

| | | |
|---|---|---|
| *Fine: | | $ |
| §14-1-206 (Assessments 107.5%) | | $ |
| §14-1-211 (A)(1)(Conv. Surcharge) | $100 | $ 100 |
| §14-1-211 (A)(2)(DUI Surcharge) | $100 | $ |
| §56-5-2995 (DUI Assessment) | $12 | $ |
| §56-1-286 (DUI Breath Test) | $25 | $ |
| Proviso 61.6 (Public Def Prob) | $500 | $ |
| §14-1-212 (Law Enforce. Funding) | $25 | $ 25 |
| §14-1-213 (Drug Court Surcharge) | $150 | $ 150 |
| §50-21-114 (BUI Breath Test Fee) | $50 | $ |
| §56-5-2942(J) (Vehicle Assessment) | $40 each | $ 8 25 |
| 3% to County (if paid in installments) | | $ |

☐ Obtain GED
☐ Attend Voc. Rehab. Or Job Corp. _____
☐ May serve W/E beginning _____
☐ Substance Abuse Counseling
☐ Random Drug Alcohol Testing
Fine may be pd. in equal consecutive weekly monthly pmts. of $ _____ Beginning _____
$ _____ Paid to Public Defender Fund
Other: _____

☐ Appointed PD or appointed other counsel.
Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees.

**TOTAL** $ 283 25

Clerk of Court Deputy Clerk: Cassandra Wright
Court Reporter: ELIZABETH HARRIS

Presiding Judge: _____
Judge Code: 2135
Sentence Date: 11/21/19

MP-SCCA 217 (04 2018)

0-1

**STATE OF SOUTH CAROLINA** ) **IN THE COURT OF GENERAL SESSIONS**

**COUNTY OF** Beaufort )

STATE ) INDICTMENT/CASE#: 2019GS0700083

VS. )

WORTH GLOVER MYERS ) A/W#: DIRECT INDICTMENT

AKA: ) Date of Offense: 07/18/2018

Race: White Sex: Male Age: ) S.C. Code §: 44-53-370(d)(2)

DOB: [redacted] 12:00:00 AM SS#: [redacted] ) CDR Code #: 0180

Address: 400 WILLIAM HILTON PKWY; OAKS, Hilton Head Isl, SC 29926 )

DL#: * SID# ) **SENTENCE SHEET**

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

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: Possession of Other Controlled Substances in Schedule I to V – 2nd or Subsequent Offense

In violation of § 44-53-370(d)(2) of the S.C. Code of Laws, bearing CDR Code # 0180

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ MANDATORY GPS (CSC w minor 1st or CSC w minor 3rd) ☐ §17-25-45

The charge is: ☒ As indicted. ☐ Lesser Included Offense. ☐ Defendant Waives Presentment to Grand Jury. (def's initials)

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

ATTEST:

(Solicitor) 103810 (SC Bar #) (Defendant) (Attorney for Defendant) 103287 (SC Bar #)

WHEREFORE, the Defendant is committed to the ☒ **State Department of Corrections** ☐ **County Detention Center,**

for a determinate term of 1 ~~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: 11/21/19

☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 76 days

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

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

**SPECIAL CONDITIONS:**

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

Total: $ _____ plus 20% fee: _____ $ _____ _____ days/hours Public Service Employment

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

| | | |
|---|---|---|
| *Fine: | | $ |
| §14-1-206 (Assessments 107.5%) | | $ |
| §14-1-211 (A)(1)(Conv. Surcharge) | $100 | $ 100 |
| §14-1-211 (A)(2)(DUI Surcharge) | $100 | $ |
| §56-5-2995 (DUI Assessment) | $12 | $ |
| §56-1-286 (DUI Breath Test) | $25 | $ |
| Proviso 61.6 (Public Def Prob) | $500 | $ |
| §14-1-212 (Law Enforce. Funding) | $25 | $ 25 |
| §14-1-213 (Drug Court Surcharge) | $150 | $ 150 |
| §50-21-114 (BUI Breath Test Fee) | $50 | $ |
| §56-5-2942(J) (Vehicle Assessment) | $40 each | $ |
| 3% to County (if paid in installments) | | $ 825 |

**TOTAL** $ 283.25

☐ Obtain GED

☐ Attend Voc. Rehab. Or Job Corp. _____

☐ May serve W/E beginning _____

☐ Substance Abuse Counseling

☐ Random Drug Alcohol Testing

Fine may be pd. in equal consecutive weekly monthly

pmts. of $ _____ Beginning _____

$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel.
Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/Deputy Clerk: Carol Knapp

Court Reporter: ELIZABETH HARRIS

Presiding Judge: _____

Judge Code: 2135

Sentence Date: 11/21/19

MP-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
Oct 01 2020
SC Court of Appeals

s/ Lara M. Caudy
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 1st day of October, 2020.