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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Chester County

Honorable D. Craig Brown, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ELIZABETH LEANNE HOWZE,

APPELLANT

APPELLATE CASE NO. 2019-002068

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA
COURT OF GENERAL SESSIONS
COUNTY OF CHESTER
2019-GS-12-00661

State of South Carolina

Vs.

Elizabeth Leanne Howze

Chester, South Carolina

October 19, 2019

Before the Honorable R. Lawton McIntosh

APPEARANCES

For the State: Kaitlyn Easler

For the Defendant: William Frick

Reported by: Michael C. Watkins

Official Court Reporter

1 MR. FRICK: Your Honor, I don't believe we are going
2 forward on the probation, if that's what you're looking at.

3 MS. EASLER: We are not.

4 MR. FRICK: We just had a matter we need to put on the
5 record regarding this case. Your Honor -- and the solicitor
6 will speak to this I'm sure -- this is Ms. Howze, she was on
7 the trial list for this week. This is one I think we spoke
8 to you earlier in the week before the other trial. This was
9 the date that we had to enter the plea. In speaking with
10 Ms. Howze, she has indicated to me that her family has
11 retained counsel for her. I have conveyed that to the
12 solicitor and I think they wanted to put some matter on the
13 record regarding that.

14 MS. EASLER: Yes, Your Honor. We wanted to note that
15 we are withdrawing the plea offer as for Ms. Howze, and she
16 is to be in court on November 4th or a bench warrant will be
17 issued --

18 THE COURT: For the next term of court.

19 MS. EASLER: For the next term of court. A bench
20 warrant will be issued if she fails to show up. She is
21 first up for trial that week.

22 THE COURT: Okay. You understand that, Ms. Howze?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: So you'll be here on the 4th with your
25 bells on and ready to go, right?

1 THE DEFENDANT: Yes, sir.

2 MR. FRICK: And probation is going to be continued to
3 the next term of court as well as I understand.

4 THE COURT: Do I need to leave you as counsel or do you
5 move to be relieved as counsel?

6 MR. FRICK: I have no problem waiting to see the letter
7 that says an attorney has been retained.

8 THE COURT: All right. Very good.

9 (End of the hearing.)

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1 STATE OF SOUTH CAROLINA

2 -----x

3 STATE,

4 Plaintiff,

5 Case No.

6 -against-

2019-gs-12-00661 &

7 ELIZABETH LEANNE HOWZE 00662

8 Defendant.

9 -----x

10 November 5, 2019

11 Chester, S.C.

12

13 B E F O R E:

14 HONORABLE D. CRAIG BROWN

15

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

17 KAITLYN EASLER,

18 Attorney for the State

19

20 WILLIAM FRICK,

21 Attorney for the Defendant

22

23

24 Aileen Butler

25 Official Court Reporter

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVD.</u>
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NO EXHIBITS MARKED

1 THE COURT: Is the State ready to proceed?

2 MS. EASLER: Yes, Your Honor.

3 THE COURT: Defense counsel/.

4 MR. FRICK: Yes, sir.

5 MS. EASLER: This is the State of South Carolina
6 versus Elizabeth Leanne Howze on true bill indictment
7 2019-GS-12-662 on distribution manufacturing of
8 methamphetamine and true bill indictment
9 2019-GS-12-661 indictment for distribution of
10 possession with intent to distribute a controlled
11 substance near a school.

12 THE COURT: Can I see the indictments please?

13 Plaintiff Atty: Yes, Your Honor. (Handed)

14 THE COURT: Madam solicitor, defense counsel you
15 all have witness lists?

16 MR. FRICK: I have no additional witnesses.

17 MS. EASLER: Yes, Your Honor. (Handed).

18 THE COURT: All right, ladies and gentlemen the
19 State has called the case of the State of South
20 Carolina versus Elizabeth Leanne Howze. Miss Howze is
21 charged by indictments which I will hold in my hand
22 with two offenses. First indictment reads as follows;
23 Elizabeth Leanne Howze did in Chester County on or
24 about January 10, 2019 manufacturer, distribute,
25 dispense, deliver methamphetamine in violation of

1 44-53-375(B) code of laws of you South Carolina.

2 (WHEREUPON, a juror walks into the courtroom.)

3 THE COURT: Are there any other jurors out there?

4 THE BAILIFF: No, sir.

5 THE COURT: Ladies and gentlemen, when I ask you
6 to be back here please be back here.

7 Again, the case of the State of South Carolina
8 versus Elizabeth Leanne Howze. Miss Howze is charged
9 by two separate indictments. The indictment reads
10 that Elizabeth Leanne Howze did in Chester County on
11 or about January 10 of 2019, manufacturer, distribute,
12 dispense or deliver methamphetamine in violation of
13 section 44-53-375(B) of the South Carolina Code of
14 Laws. Second indictment reads that Elizabeth Leanne
15 Howze did in Chester County on or about January 10,
16 2019, distribute, sell, manufacturer or unlawfully
17 possess with intent to distribute a controlled
18 substance to wit methamphetamine while in, on or
19 within with a one half mile radius of the grounds of a
20 public or private elementary, middle or secondary
21 school, a public playground or park, a public
22 vocational or trade school or technical education
23 center or a public or private college or university in
24 violation of section 44-53-445 of the Code of Laws of
25 South Carolina.

1 discussion.)

2 THE COURT: All right. Lady and gentlemen those
3 those of you who are seated in the jury box you all
4 have been selected as fair and impartial jurors in
5 this case. What we're going to do at this point or
6 what I'm going to do is I'm getting ready to release
7 you here in a few minutes. I'll release for the
8 balance of the day. Okay. The balance of the day.
9 I'll ask you to be back at 9:30 tomorrow morning.
10 Now, when I release you here, you are not to discuss
11 this case at all with anyone. You know very little
12 about this case at this point but you are not to does
13 discuss this case at all with anyone; family, friends,
14 whomever. You're not to discuss this case at all
15 until you are told to do so.

16 In addition, you are not to do any independent
17 research about this case. You, ladies and gentlemen,
18 are to decide this case based solely upon the evidence
19 and testimony that is presented in this courtroom and
20 nowhere else.

21 Now, in addition, while I'm telling you not to
22 talk about the case nobody is suppose to try to talk
23 to you about the case. Okay. If anyone tries to talk
24 to you about this case you you need to inform the
25 court immediately upon your return.

1 Now, let me give you just a few preliminary
2 instructions real quick. As you serve here this week
3 we typically run from about 9:30 an hour and a half,
4 two hours before we take a mid-morning break. That's
5 not set in stone. Let me say this in this trial if
6 one of you need a break just raise your right hand and
7 let me know and I will let all of you go to jury room
8 and we'll take a brief recess. We typically run about
9 hour and a half, two hours between breaks. We'll
10 reassume after that and typically go from somewhere
11 between 12, 12:30 and one o'clock. It's a wide range
12 in there but typically I try to take lunch break
13 around one o'clock, but that may be earlier. Kind of
14 planning purposes for you. Okay. Typically take
15 about an hour and 15 minutes for lunch, hour and a
16 half. It just depends. Reassume at 2:15 and go about
17 hour and a half, take a break and reassume. I don't
18 sit up here, ladies and gentlemen, on the bench and
19 watch that clock and as soon as it strikes five and
20 say we're stopping for the day. Okay. If there's a
21 witness on the stand at five o'clock it will be my
22 intention to finish that witness for the day. Okay.
23 On the other side of that coin, so to speak, if it's
24 about 4:15, 4:30 in the afternoon and the lawyer
25 advise me the next witness may be lengthy I may let

1 you go home at that point for the day rather than take
2 a chance of keeping you here beyond six o'clock. Very
3 rarely will you be here beyond six o'clock. It's a
4 possibility but very rarely. Okay. Again I'm telling
5 you that for planning purposes.

6 Again, I am asking you to be here at 9:30 in the
7 morning. Please be here when I ask you to be here.
8 If one of you is not here we can't go forward. Okay.
9 If an emergency comes up or something, please reach
10 out to the clerk's office here and let somebody up
11 here know what is going on. If I've asked you to be
12 here and you're not here and we have not heard from
13 you I'm going to send one of the Chester County
14 deputies looking for you. So please if something
15 comes up let us know what is going on. Okay.

16 While you're serving up here with me this week, to
17 me it's kind of warm in here today. I don't know if
18 is the air is working in here or not. I'm hot
19 natured. I am going to check on the air when we break
20 here shortly. I sit up here kind of elevated above
21 everyone and you know what they say about the heat.
22 It rises. Okay. But I sit up here, with an
23 undershirt on, a dress shirt, a tie, and this robe as
24 part of my uniform. Okay. So I'm kind of warm right
25 now. If I can get the thermostat down for tomorrow it

1 will be cool in here. Cooler than it is. Okay. So
2 if you're cold natured make sure you bring a jacket.
3 I don't want you to be cold while you're sitting up
4 here, but I want you to be comfortable. Okay.

5 Anything from the State before I release this
6 jury for the balance of the day?

7 MS. EASLER: No, Your Honor.

8 THE CLERK: Defense counsel?

9 MR FRICK: No, sir.

10 THE COURT: You all have a nice evening. See you
11 tomorrow morning at 9:30. Okay. You all are free to
12 go.

13 (WHEREUPON, the juror leave the courtroom.

14 THE COURT: All right. Ladies and gentlemen,
15 those of you who seated out in the audience, a couple
16 of things. When I release you here today you're done
17 for the week. This is the only case that we're going
18 to try this week. Having said that, if you see any of
19 your fellow jurors that were just elected don't tell
20 them I released you for the balance of the week. I
21 may make you come back up here and sit the rest of the
22 week. But I waited to release you all, one, because I
23 want to personally tell you how much I appreciate, how
24 much I thank you for being here this morning. Jury
25 service never ever ladies and gentlemen comes at a

1 convenient time. I can remember when I was practicing
2 law in Florence. I was only lawyer in my office and I
3 was summoned for jury duty over at city court and my
4 first thought was surely -- I was the only lawyer in
5 my office. I had three people working for me. My
6 first thought was surely this judge will let me out of
7 jury duty. She didn't. The judge did not let me out
8 of jury duty. My next thought was, well, surely none
9 of these lawyers are going to put me or select me as a
10 juror because I practice law. I have cases with and
11 against all of them. I got put on five juries that
12 week. All right.

13 Now, first I tired to get excused because I was
14 solo practitioner and I was the only person bringing
15 income in my office and had three people working who
16 for me that expected pay checks on Friday. Again, I
17 was not excused which meant I was at my office every
18 the morning by seven or before. Was at my office
19 until whenever I need to be at the courthouse. Went to
20 the courthouse and was there until I was released and
21 was back at my office that afternoon into the evening
22 for however long I needed to be there to make sure my
23 work was done. I say that not to pat me on the back
24 or anything. I'm telling you that for you all to
25 understand the jury service requires some sacrifice.

1 All right. Jury service is the only true remaining
2 service that we have in this country as citizens.
3 It's not a situation that you get selected to go in
4 the military and you go for a couple of years any
5 more. That's not the case at all. Jury service is
6 the only true remaining service that you have as
7 citizens in this country. Some people go a life time
8 and are never chosen for jury duty. Quite frankly, I
9 think every citizen auto ought to have to serve at
10 some point and you would learn real quick this is not
11 television. In my opinion for what it's worth,
12 television has done more harm to our judicial system
13 then help it. But, as you see or as you've seen here
14 this morning each one of you come from different walks
15 of life so to speak. And that's what makes our system
16 in my opinion at great as it is. If you ladies and
17 gentlemen were seated at one of these tables up here
18 as a defendant, a victim, a plaintiff, or defendant,
19 in a civil case for instance, you would want people
20 such as yourselves serving as jurors in here. You
21 would not want me or any other judge walking in the
22 courthouse on Monday or Tuesday morning looking at the
23 deputies and saying go find me the first 12 people on
24 the street and bring them up here and let's try this
25 case. You would not want a system like that. Nor

1 would you want a system where me or any other singular
2 judge or panel of judges sat up here and made all of
3 these decisions.

4 As jurors it gives you an opportunity to say what
5 goes on in your community in large part. So, there
6 are many people or many parts -- the analogy I kind of
7 use is our judicial system is kind of like a machine.
8 It takes many parts for it to work. You got lawyers,
9 prosecutors in this case, defense lawyers, court
10 staff, court reporter, judge, law clerk, but the most
11 important part of this machine is you all. We can't
12 function without you. So I want to thank you for
13 being here today. I hope that if at some point that
14 you are summoned to serve again that like this time
15 you will understand the importance of your service not
16 only to this community but to this state and to this
17 country as jurors.

18 When I release you here today you are done for the
19 week. I'm assuming madam clerk if they need a work
20 excuse do they need to get it today.

21 THE CLERK: Sure, we will give them one.

22 THE COURT: Okay, you'll get a work excuse and I'm
23 assuming a check will be in the mail, is that right.

24 THE CLERK: No, we do debit cards and they have
25 them.

1 THE COURT: High tech. All right. So you have
2 your check or your debit card, get a work excuse today
3 if you you need it. With that debit card they you
4 gave you might be able to buy happy meal at
5 McDonald's. I don't know what's on it. The truth of
6 the matter is, you can not be compensated adequately
7 for what your service is worth.

8 So thank you again for being here this morning.
9 You all have a nice rest of the week and again if you
10 you see any of the other jurors don't tell them I
11 released you for the week. You all have a nice day.

12 (WHEREUPON, the jury panel leaves.)

13 THE COURT: Do you all have a probation matter?

14 MS. EASLER: We do but he ran back to the office.
15 We'd be happy to take up our pretrial matters.

16 THE COURT: Okay. Yes.

17 MR FRICK: For the record, obviously, my client is
18 is not sitting beside me. I will, as an officer of
19 the court let the Court know -- and we discussed this
20 in chambers -- she was on the trial list for the last
21 term of Court. She advised me that she was going to
22 retain counsel. To my knowledge has not done so up
23 until this time. She was advised on the record in
24 front of the judge in open court that she would be
25 first up for trial for this term of Court. She was

1 also I believe told by probation. She had a probation
2 matter to be here this week. My office has attempted
3 to get her in to talk with her to no avail. So, I
4 would -- I understand we picked the jury at this
5 point. I would ask the Court to consider delaying the
6 case and just simply issuing a bench warrant and see
7 if I can discuss the matters further with my client.

8 THE COURT: Solicitor.

9 MS. EASLER: Your Honor, last term of court which
10 was in October we made Miss Howze a plea offer which
11 she rejected. We put it on the record that she
12 rejected it and that she would be first up for trial
13 this term of Court which is November. She was made
14 aware. She did state she wanted to obtain counsel,
15 private counsel. I did speak to the private counsel
16 she was supposedly going to obtain. He said he never
17 heard of her. Never even made an appointment. I did
18 this at least two times. I would ask that we proceed
19 in her absence. She is clearly not here and was
20 clearly notified by multiple people that she was
21 suppose to be here today.

22 THE COURT: Was she notified that she would be
23 tried in her absence if she failed to appeal.

24 MS. EASLER: I believe it's stated in her bond
25 record.

1 THE COURT: I know it's stated in there.

2 MS. EASLER: I did not specifically state it on
3 the record no, Your Honor. But I did state we would be
4 going forward.

5 THE COURT: Can I see you all clerk'S file on this
6 defendant.

7 THE CLERK: We don't bring that up.

8 THE COURT: It's downstairs?

9 THE CLERK: Yes.

10 MR FRICK: Your Honor, I do have a couple pretrial
11 --

12 THE COURT: I'm sorry, I didn't mean to cut you
13 off. I am issuing a bench warrant for this defendant,
14 Miss Elizabeth Leanne Howxe. I am issuing a bench
15 warrant in Chester County. Whoever serves these bench
16 warrants make all efforts possible to try and locate
17 her today. I'm sorry.

18 MR FRICK: That's fine, Your Honor. And Your
19 Honor, when you get the clerk's file you'll note that
20 I filed a motion to compel for the last term of court.
21 There was an issue regarding -- this is a CI case.
22 There was an issue regarding disclosure of the video.
23 That matter has been resolved so I'm withdrawing that
24 motion.

25 I do have an additional matter regarding -- I

1 don't know the indictment number is, but it's the
2 proximity charge -- I am moving for that indictment to
3 be quashed for lack of specificity. I certainly
4 understand that in a post gentry world I'm not
5 entitled to a whole lot of information in a
6 indictment, but I think if you're going to charge my
7 client for proximity you got to tell me what she's in
8 proximity of and there is no to wit to tell me what
9 proximity she was. Whether it was park, playground or
10 what. It just list what the statute says in very
11 vague terms and no specificity whatsoever.

12 THE COURT: Solicitor.

13 MS. EASLER: Your Honor, the defendant has lived
14 in Chester County her entire life. So she is well
15 aware of where all the parks are, as Mr. Frick is.
16 And to be quite honest, there's probably about a dozen
17 parks in Chester County everywhere you go. You can
18 probably walk down the street and be about a half mile
19 from a school or park right now. He's also seen the
20 video footage and knows exactly where the buy took
21 place and it is not deficient in my opinion because he
22 is notified that the buy did take place near a school
23 or a park.

24 THE COURT: I will take a look at it and let you
25 know.

1 MS. EASLER: Thank you, Your Honor.

2 THE COURT: I've reviewed the clerk's file. More
3 specifically the bond paperwork. I'm not sure who the
4 judge was on July the 15th of this year, signed by the
5 defendant on July 15th of this year as well as the
6 bondsman on September 28th of this year.

7 The defendant's acknowledgement was executed -- it
8 appears to have was executed by the defendant. "I
9 understand for violating conditions of this order a
10 warrant for my arrest will be issued. I understand
11 and have been informed that I have a right and
12 obligation to be present at trial and should I fail to
13 attend the court the trial will proceed in my
14 absence." Further states that it has been explained
15 to me that if I fail to appear before the Court as
16 required a warrant for my arrest will be issued.

17 Each of the attorneys for the State and the
18 defense have advised me that the defendant at the last
19 term of Court was advised she was going to be first up
20 for trial at this term of court and she has failed to
21 appear resulting in the issuance of a bench warrant
22 today. Furthermore, in that same bond paperwork it
23 advised the defendant that she is to appear in the
24 court of General Sessions beginning on 29th of August
25 2019 at 9:30 am here at the courthouse on Main Street.

1 She is to remain throughout the term. If no
2 disposition is made during that term the defendant
3 shall appear and remain throughout each succeeding
4 term of Court until final disposition is made of the
5 case unless otherwise ordered by the court. The
6 attorneys have advised me that she was advised and
7 that she was not excused from this term of court but
8 was advised to be here and that she would be first up
9 for trial this week and has voluntarily for whatever
10 reason is not here. So the Court, with all due
11 respect, Mr. Frick denying your request. What I have
12 done though and what I'm doing is I've already
13 released this jury that we have selected until
14 tomorrow to give you and your office an opportunity to
15 locate your client. I see there is a bondsman on this
16 bond. I don't know if you all reached out to the
17 bondsman, but I would encourage you to reach out to
18 the bondsman as well. This is a \$70,000 bond.

19 MR FRICK: Yes, sir, we understand.

20 THE COURT: Thank you. And I will look at this
21 issue on the indictment. Anything else?

22 MS. EASLER: No, Your Honor.

23 (END OF TRANSCRIPT).
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CERTIFICATION

I, the undersigned Aileen Butler, Official Court Reporter for the 16TH 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 in the captioned case, in the Circuit Court for York County, South Carolina, on the 5TH day of November, 2019.

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

January 31, 2020

S/ Aileen Butler

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STATE OF SOUTH CAROLINA
COURT OF GENERAL SESSIONS
COUNTY OF CHESTER
2019-GS-12-0661 and 0662

State of South Carolina

Vs.

Elizabeth Leanne Howze

Chester, South Carolina

November 6, 2019

Before the Honorable D. Craig Brown

APPEARANCES

For the State: Kaitlyn Easler

For the Defendant: William Frick

Reported by: Michael C. Watkins

Official Court Reporter

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PRETRIAL MOTIONS

1 conviction thereon, it does that. Whether it appraises the
2 defendant of the elements of the offense as intended to be
3 charged, the indictment does that. I think it fills the
4 requirements and obligations of Gentry, State v. Gentry,
5 354SC93, and the State v. Tumbleston, 376SC90. It says an
6 indictment passes legal muster when it charges the crime
7 substantially and the language of the statute -- or so
8 planning that the nature of the offense charged may be
9 easily understood. But your objection is so noted for the
10 record.

11 MR. FRICK: And, Your Honor, I understand the ruling,
12 I'm not arguing against the ruling, I just want to clarify
13 for the record at this point, my objection is that since
14 it's a proximity and it says it has got to be at a
15 particular place, it does not name a particular place. That
16 is my specific objection.

17 THE COURT: And your objection again is so noted for
18 the record.

19 MR. FRICK: Thank you, Your Honor.

20 THE COURT: All right. Anything else?

21 MS. EASLER: No, Your Honor.

22 (Break in proceedings.)

23 THE COURT: All right. After we selected a jury
24 yesterday I issued a bench warrant for Ms. Elizabeth Leanne
25 Howze. I have been advised that law enforcement has still

PRETRIAL MOTIONS

1 not been able to locate her. Have you all reached out to
2 the bondsman in this case?

3 MR. FRICK: I did, Your Honor. I called the bondsman
4 yesterday and notified them that a bench warrant had been
5 issued, they indicated they would be making efforts to try
6 to contact her. I have heard nothing more from them. I
7 will tell you that I looked on the online jail tracker for
8 Chester County Detention Center, she's not listed there. I
9 checked York County, which is the usual place for folks, and
10 she's not there. I didn't find her in any place that I
11 looked. I checked on Bond Link too to see if she has been
12 locked up at some other local.

13 THE COURT: All right. Anything from the State before
14 I bring the jury out?

15 MS. EASLER: No, Your Honor.

16 THE COURT: Anything further from the defense counsel?

17 MR. FRICK: Nothing at this time, Your Honor. I
18 respectfully would ask for a continuance on the matter so
19 hopefully my client could get locked up on the bench warrant
20 and I could have a conversation with her, but I clearly
21 understand how the Court is likely going to rule on it.

22 THE COURT: Well, I mean, from what both of you told me
23 yesterday, back in October she was told that her case was
24 going to be first up for trial, that she's had -- I don't
25 know when that term in October was, whether it was the first

1 of October or end of October, she's been out on bond that
2 entire time and has had every right to come and set up an
3 appointment and talk with you. And I quite often tell
4 defendants your defense lawyer is not your babysitter,
5 you're not her babysitter. You've got enough -- you've got
6 more than enough that you can say grace over, I understand
7 that, and you're certainly doing your job as you always do a
8 good job every time you have been in front me and I
9 understand what you're doing trying to protect your
10 clients's interest, but she was advised and I made the
11 appropriate findings on the record yesterday concerning her
12 voluntarily choosing not to be here. Your motion,
13 objection, et cetera, is so noted for the record.

14 MR. FRICK: Thank you, Your Honor.

15 (Break in proceedings.)

16 THE COURT: When I bring the jury out, any objection to
17 me -- I'm going to go ahead and advise them of the fact that
18 the defendant may be tried in their absence and it is not to
19 be in any way held against or prejudiced the defendant in
20 any way, that the burden throughout rests with the State
21 through guilt beyond a reasonable doubt.

22 MR. FRICK: That's fine, Your Honor, thank you.

23 (The jury returned to the courtroom.)

24 THE COURT: Good morning, ladies and gentlemen, I hope
25 you all had a nice afternoon and evening last night and are

1 ready to work here today. Before we get started I will ask
2 my clerk, Madam Clerk, would you swear the jury, please?

3 (The jury panel was sworn.)

4 THE COURT: All right. Ladies and gentlemen, we're
5 about to try the case of State of South Carolina versus
6 Elizabeth Leanne Howze. Let me tell you this before we get
7 started, you'll notice, ladies and gentlemen, that the
8 defendant is not in the courtroom. I will tell you under
9 the laws of this state a defendant may be tried even if the
10 defendant chooses not to attend trial, but I want to further
11 emphasize to you all that the fact that the defendant is not
12 here may not be considered as evidence against this
13 defendant of guilt in any way. As I will tell you and you
14 will hear me say throughout the trial of this case, the
15 State bears the burden of proving the guilt beyond a
16 reasonable doubt. The State bears the burden of proving
17 something, whether the defendant is here or not here, that
18 burden continuously rests with the State, all right? Now
19 ladies and gentlemen, before we begin the trial I want to
20 tell you that this trial will probably be different from
21 what you might expect. Many people do not have the chance
22 to attend actual court sessions as you're doing now and may
23 think from watching television, reading books or watching
24 movies that trials are always full of intense action and
25 rivetting circumstances. Now, while all of those things may

1 be true at times, please understand, ladies and gentlemen,
2 that this trial is not for entertainment. It's a
3 fundamental part of our democracy and effort to make sure
4 that justice is done between the parties before the Court.
5 In making sure that justice is done, the process is often
6 slow, deliberate and repetitive, the opposite of what you
7 may have seen on television, in movies or read in books.
8 This courtroom, ladies and gentlemen, is a place of honor
9 dedicated to the protection and preservation of citizens'
10 rights through what many have called the greatest justice
11 system ever created. The attorneys that are appearing
12 before you ladies and gentlemen are advocates for the
13 parties that they represent, but first and foremost they are
14 officers of the Court sworn to uphold the integrity and
15 fairness of our judicial system. You should expect them to
16 be professional, competent and ethical in the representation
17 of their client's interests. Now, what I will now say to
18 you ladies and gentlemen is intended to serve as an
19 introduction to the trial of this case, these remarks are
20 not a charge on the law in this case. I will instruct you
21 on the law applicable in this case at the end of the trial
22 before you retire to consider your verdict. This is merely
23 an explanation of the procedure that we will follow in the
24 trial of this case so that you may better understand what
25 may be happening. The defendant in this case, ladies and

1 gentlemen, is charged by indictments filed in this court
2 with the offense of distribution or manufacturing of
3 methamphetamine. And the indictment reads that Elizabeth
4 Leanne Howze did in Chester County on or about January 10,
5 2019, manufacturer, distribute, dispense or deliver
6 methamphetamines in violation of section 44-53-375B. This
7 defendant is also charged by indictment with distribution or
8 possession with intent to distribute controlled substances
9 near and in proximity of a school. And that indictment
10 reads that Elizabeth Leanne Howze did in Chester County on
11 or about January 10 of 2019 distribute, sell, manufacturer,
12 or unlawfully possess with intent to distribute a controlled
13 substance, to wit, methamphetamine while in, on or within a
14 one half mile radius of the grounds of a public or private
15 elementary, middle or secondary school, a public playground
16 or park, public vocational or trade school or technical
17 education center or a public or private college or
18 university in violation of section 44-53-445. The elements
19 of those offenses, ladies and gentlemen, will be explained
20 to you later during the trial of this case but at the
21 conclusion of this case. The indictments, ladies and
22 gentlemen, that I just read to you is simply the charging
23 document by which this case is brought into this Court, and
24 I want you to understand as I've told you from the outset,
25 the indictments are not evidence in this case, they are not

1 evidence in this case, they are simply allegations. The
2 defendant in this case has pled not guilty, therefore the
3 State of South Carolina has the burden of proving each of
4 the elements of the indictment beyond a reasonable doubt,
5 and it will be your duty, ladies and gentlemen, to decide
6 whether the State has met that burden. Now, your purpose as
7 jurors is to find and determine the facts. You ladies and
8 gentlemen are the sole and exclusive judge of the facts. If
9 at anytime I make any comment regarding the facts you must
10 disregard it. You are to determine the facts from the
11 testimony that you hear and other evidence introduced in
12 court. It is up to you to determine the inferences which
13 you feel may properly be drawn from the evidence. It is
14 especially important that you perform your duty of
15 determining the facts diligently and conscientiously,
16 because ordinarily there is no way to correct an erroneous
17 determination of the facts by a jury. Now, on the other
18 hand and with equal emphasis, the same law that makes you
19 the judge of the facts makes me the judge of the law. The
20 law as given by the Court is the only law that you may
21 consider. You must accept and follow it even though you may
22 disagree with it. I cannot, ladies and gentlemen, tell you
23 all what the facts are and you cannot disagree with me about
24 what the law is or should be. Your job is to take the law
25 as I give it to you and apply it to the facts as you find

1 them from the testimony of the witnesses and any other
2 evidence that is introduced. After doing that you will
3 render your verdict under the solemn oath that you just took
4 as jurors. Now, until I tell you to begin your
5 deliberations, ladies and gentlemen, you must not discuss
6 this case with anyone, including your fellow jurors,
7 friends, family members, and anyone involved in this case.
8 Now, the attorneys and the parties involved in this case
9 have been advised that they're not to talk to you at all, so
10 if you see anyone outside of this courtroom that's involved
11 in this case and they don't speak to you, they are not being
12 unfriendly, they are simply following this Court's
13 instructions. Now, during your deliberations you may only
14 discuss the case in the jury room with your fellow jurors
15 because they have seen and heard the same evidence that you
16 have. You must not discuss the case with anyone other than
17 your fellow jurors until you have returned a verdict and the
18 case is at an end. I remind you that you must decide this
19 case based solely on the evidence presented here in this
20 courtroom. This means that during the trial you must not
21 conduct any independent research about the case, the facts
22 of the case, the evidence presented in the case or the
23 people or organizations involved in any way in the case.
24 Please do not, do not try to find out information from any
25 source outside of this courtroom. In other words, you must

1 not look at dictionaries or other reference materials,
2 search the Internet, websites or blogs, or use any other
3 electronic tools to get information about the case to help
4 you decide the case. You may not use computers, telephones,
5 cell phones, smart phones, smart watches, tablets, the
6 Internet or other tools of technology with communication
7 capabilities at anytime while you are in the courtroom or
8 during your deliberations. Now, during your break for meals
9 or overnight if necessary you may use those devices, however
10 you may not use those devices to communicate with anyone
11 about the case until the case is over. This means that you
12 must not use phone calls, emails, text messages, instant
13 messages, Twitter or any blog, chat room or website
14 including Facebook, Google Plus, Myspace, Linked, YouTube or
15 any social media websites to send or receive information
16 about this case, this includes information about a party, a
17 witness, an attorney or court officer, news accounts about
18 the case if there are any, research on topics raised, or any
19 topics that you may think would be helpful in deciding the
20 case or any testimony presented by any witness. During the
21 trial, I don't think you're going to see any, but I'm
22 instructing you not to read, listen to or watch any news
23 reports if there are any about this case. This includes
24 anything that may be in the newspapers, on the internet or
25 on TV or radio. I tell you, ladies and gentlemen, I tell

1 you that because you must not consider anything that you may
2 have heard or read about this case outside of this courtroom
3 whether it be before or during the trial. Information on
4 television, radio, internet or from other sources might be
5 wrong or incomplete. In our judicial system, ladies and
6 gentlemen, it is important that you are not influenced, that
7 you are not influenced by anything or anyone outside of this
8 courtroom. If you become aware, ladies and gentlemen, of
9 another juror's violation of these instructions, please,
10 please inform the Court immediately. It is important that
11 each of you keep an open mind and not decide any issue in
12 the case until all of the evidence has been presented, the
13 parties have made their closing arguments and I have
14 instructed you on the law applicable to this case. Now
15 ladies and gentlemen, it is your solemn responsibility to
16 determine whether the State has proven the defendant guilty
17 beyond a reasonable doubt, and your verdict must be based
18 solely on the evidence as it is presented to you in this
19 trial and on the law as I instruct you during and at the
20 close of the trial. Now, in just a moment, ladies and
21 gentlemen, the prosecutor will make what is called an
22 opening statement in which the solicitor or prosecutor will
23 explain to you the issues in this case, or at least what
24 they think the issues are in this case. The attorney for
25 the defendant may also make an opening statement, although

1 they are not required to do so. What the attorneys tell you
2 during their opening statements, ladies and gentlemen, is
3 not evidence in this case. The evidence in this case,
4 ladies and gentlemen, will be presented to you by the sworn
5 testimony of witnesses from the witness stand and/or by
6 exhibits that may be introduced during the course of this
7 trial. Now, ladies and gentlemen, during the course of the
8 trial you may hear one of the attorneys say something like,
9 "Your Honor, I believe that we have a question of law or a
10 matter of law to discuss," or they may simply request
11 permission to approach the bench, or sometimes I myself
12 might find it necessary to excuse you all from the courtroom
13 while the attorneys and I discuss a matter of law. The
14 reason for this, ladies and gentlemen, is because as I've
15 told you from the outset because you're the judge of the
16 facts of this case, and sometimes when I'm discussing
17 matters of law it may be necessary for me to make some
18 comment as to the facts in connection with ruling whether or
19 not a particular law applies. I am not, I am not supposed
20 to tell you what I think the facts are in this case, so I
21 will excuse you from the courtroom while those discussions
22 take place so that in no way will you be influenced by
23 anything that I might say or do in connection with the
24 facts. Ladies and gentlemen, in determining what the facts
25 are in this case you must decide whether or not the

1 testimony of the witnesses is believable. It will be my
2 responsibility to rule as a matter of law as to whether or
3 not certain testimony is admissible, but once the testimony
4 is admitted whether or not you believe it is solely for you
5 to determine. Now, in deciding whether to believe a witness
6 you have the right to consider the interest of any witness,
7 the bias of any witness, the prejudice of any witness, the
8 opportunity for the witness to have seen the matters and
9 things about which the witness may testify, and the way the
10 witness acts on the witness stand. You have the right to
11 consider anything that is in the record that will help you
12 evaluate the testimony of the witnesses. That means, ladies
13 and gentlemen, that it is your duty to pay close attention
14 to these witnesses, to observe the witnesses, to listen to
15 the witnesses and to pay close attention to the attorneys
16 and to the Court. Please don't let your thoughts wonder but
17 give strict attention to the testimony in this case so that
18 at the end of all of the testimony, after the arguments of
19 counsel and the charge on the law you will then be in a
20 position to determine the facts in this case, to apply the
21 law to those facts and thus render a verdict. Now, later in
22 this case, ladies and gentlemen, a foreperson will be
23 selected to preside over deliberations in the jury room. It
24 will be the foreperson's added responsibility to be the jury
25 spokesperson here in the courtroom as well. It will also be

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1 their responsibility to fill out the verdict form, but I
2 will give further instructions later during the trial as to
3 the foreperson's responsibility. Now, in order to protect
4 everyone's rights I will give the parties an opportunity to
5 object to anything that I have said to you all. Any
6 exception or objection to anything that I've said to the
7 jury from the State?

8 MS. EASLER: No, Your Honor.

9 THE COURT: Defense counsel?

10 MR. FRICK: Nothing from defense.

11 THE COURT: We will now begin the trial of this case,
12 the State is recognized for opening statement.

13 MS. EASLER: Thank you, Your Honor. Ladies and
14 gentlemen of the jury, I want to thank you for being here
15 today. As stated, the defendant is charged with
16 distribution of meth and distribution near a park or a
17 school. This isn't going to be a long convoluted case like
18 you might see on TV, but we do have some witnesses that
19 you're going to hear from today. It took place on a cold
20 January day when our narcotics officers met up with our
21 confidential informant, they spoke with her, they decided,
22 too, they were going to do a buy. They strap her up with a
23 video. She drove to Cestrain Square where they met the
24 defendant, Elizabeth Howze. The defendant got in the van,
25 she sold them some drugs, which will be testified, too, that

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1 it tested positive for methamphetamine. She drove her,
2 dropped her off and then she left. You're going to hear
3 from our narcotics officers, this is standard procedure.
4 You're going to hear from our CI about how this buy took
5 place. You're going to hear from our SLED agent, or our
6 SLED analyst that all of this the -- that the drugs tested
7 positive for methamphetamine, and at the close of all of the
8 evidence I'm going to ask that you return a verdict for
9 guilty. Thank you.

10 THE COURT: Mr. Frick?

11 MR. FRICK: Thank you, Your Honor, solicitor. Ladies
12 and gentlemen, good morning. And I want to congratulate
13 you. You're wondering why am I getting congratulated? You
14 are now part of history, congratulations. You've now gone
15 into the history of jury trials that go way back before the
16 founding of this country and many other countries, back to
17 the Magna Carta in 1215 where they came up with the jury
18 trial system. And while I'm not going to bore you with all
19 of the details of that, you didn't come for a history
20 lesson, I'm a history nerd myself, I enjoy these things, but
21 it has changed dramatically over the years, rules changed,
22 laws changed, procedures change, but the one fundamental
23 thing that is still the same that goes all of the way back
24 then until today, the fundamental rules that we have about
25 how this process worked is the government, the State bears

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1 the entire burden of proving that somebody committed a
2 crime. When they come and accuse you and they bring that
3 indictment and charge you with committing a crime they bear
4 the entire burden. The defendant has no responsibility to
5 prove that they didn't do something. I know we all know
6 that but I want to echo that, because it is a fundamental
7 right that all of us have in this country, and it is an
8 important right that when the government comes after you
9 that they have to bear the highest burden that we have which
10 is beyond a reasonable doubt. What that means is they have
11 got to prove to you every one of those elements that the
12 solicitor is going to tell you about as we go through this
13 trial and the Judge is going to charge you on at the end of
14 this trial. It can't be, okay, there's five elements, they
15 got four out of the five, that's pretty close. This ain't
16 horseshoes, you've got to get all of them, close don't
17 count. Y'all decide. Rather than have legal scholars
18 arguing about minutia of individual words and parsing their
19 meanings and arguing over it, we take citizens from the
20 community who don't really have any connection until they
21 get in this one box and they view the evidence, and you get
22 to weigh the evidence, and you're going to listen to the
23 witnesses from this stand and you're going to see whatever
24 physical evidence the State has and you get to determine
25 what you believe happened. And just because somebody says

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1 it on the stand, swears to tell the truth doesn't mean that
2 you have to believe them. It is your sole province to
3 determine whether you believe they have some motive, whether
4 they have some bias, whether they're just lying, you get to
5 determine whether you want to believe any part, some part or
6 no part of what you hear and see in this courtroom. And if
7 you are not satisfied that the State has carried that
8 burden, a high burden of reasonable -- beyond a reasonable
9 doubt then it is your duty to find the defendant not guilty.
10 Now, what's reasonable doubt? You're going to hear that
11 over and over and over, you're going to hear it again at the
12 end of the case, the Judge is going to maybe give you his
13 definition of it, I'm going to tell you what I believe it
14 is, it is there's no other reasonable explanation. She did
15 what the State accuses her of doing, there's no other
16 reasonable explanation. It is not, okay, they showed me a
17 video and it looks like she did something, maybe she did
18 something, probably she sold that girl some drugs. No. Is
19 there any other reasonable explanation. And, ladies and
20 gentlemen, I tell you, once you've weighed all of the
21 evidence, reviewed all of the evidence the State will not
22 have met that very high burden and you will find Elizabeth
23 Howze not guilty. Thank you very much.

24 THE COURT: Call your first witness, please.

25 MS. EASLER: State calls Ricky Sanders.

RICKY SANDERS - DIRECT

1 The witness, RICKY SANDERS, was first duly sworn and
2 Testified as follows:

3 DIRECT EXAMINATION

4 BY MS. EASLER:

5 Q Can you please state your name for the record?

6 A Ricky Sanders.

7 Q Where are you employed, Mr. Sanders?

8 A Chester Police Department.

9 Q How long have you been employed there?

10 A Seven years.

11 Q What do you do at the police office?

12 A Narcotics investigator.

13 Q What is your rank?

14 A Lieutenant.

15 Q Do you often use confidential informants in your
16 investigation?

17 A Yes, ma'am, I do.

18 Q Can you tell us about that procedure?

19 A We have a confidential informant that we use to
20 purchase illegal narcotics, and we use them to try to go off
21 of people that we're looking for that's selling drugs.

22 Q What happens when you -- what is the procedure when you
23 go do the buys with the confidential informant?

24 A We meet the confidential informant at a disclosed
25 location. We do a very detailed search of the confidential

RICKY SANDERS - DIRECT

1 informant, search their persons, mouth, shoes and we search
2 the vehicle before we do any kind of purchase of illegal
3 narcotics.

4 Q You give them money?

5 A Yes.

6 Q You catalog the money?

7 A Yes, I do.

8 Q Do you recall doing a confidential -- a controlled buy
9 on January 10th, 2019?

10 A Yes, ma'am, I do.

11 Q Can you tell the jury what a controlled buy is?

12 A A controlled buy is when we use narcotics funds to make
13 a controlled buy, illegal narcotics from an individual using
14 a confidential source.

15 Q All right. Can you tell us a little bit about what
16 occurred on January 10th, 2019?

17 A We met with our confidential informant that day and we
18 explained to them we wanted to do a controlled buy of
19 methamphetamine, and we did a controlled buy on Mrs. Howze.
20 We searched her thoroughly, shoes, clothes, mouth, vehicle
21 before we even did the buy. We made sure that the target
22 was there with the illegal narcotics and we sent her to do
23 the buy and we stayed in the area and everything was videoed
24 and audioed while we was in the area. Everything was under
25 our control the whole time.

RICKY SANDERS - DIRECT

1 Q How did you determine to do the controlled by on Ms.
2 Howze?

3 A We put in a phone call to see if she was going to have
4 some illegal narcotics.

5 Q And you gave your CI money?

6 A Correct.

7 Q I'm going to show you what has been marked State's
8 Exhibits 2 and 3.

9 MS. EASLER: May I approach the witness, Your Honor?

10 THE COURT: Yes.

11 Q Is this a fair and accurate description of the money
12 that you gave your CI?

13 A Yes.

14 MS. EASLER: Permission to publish to the jury?

15 THE COURT: They have been admitted?

16 MS. EASLER: May I move --

17 MR. FRICK: No objection.

18 THE COURT: Without objection. What numbers are they?

19 MS. EASLER: Exhibits 2 and 3.

20 THE COURT: Exhibits 2 and 3 admitted without
21 objection. Yes, you may publish them.

22 (The money was received as Exhibits 2 and 3.)

23 Q Now, who was your CI?

24 A Ms. Burrell, Christy Burrell.

25 Q So what happened when you gave Ms. Burrell the money?

RICKY SANDERS - DIRECT

1 A I documented the money, cataloged it and gave her the
2 money and she went and purchased illegal narcotics from
3 Mrs. Howze under our control at the time.

4 Q Where did this take place?

5 A Down on Columbia Street in Chester, South Carolina by
6 Cestrain Square.

7 Q Do you normally record these CI buys?

8 A Yes.

9 Q Was Ms. Burrell -- was Ms. Burrell recording? Did she
10 have a camera on her?

11 A Yes.

12 Q I'm going to show you what has been marked as State's
13 Exhibit 4, which is the video. Is this a fair and accurate
14 copy of the disc that you provided me?

15 A Yes, ma'am.

16 MS. EASLER: The State moves this into evidence.

17 MR. FRICK: No objection to this portion.

18 THE COURT: Without objection State's Exhibit Number 4
19 admitted.

20 (The disc was received as State's 4.)

21 MS. EASLER: Permission to publish the video?

22 THE COURT: Yes.

23 (At this time the video was played.)

24 Q Was that Elizabeth Howze on the video?

25 A Yes, ma'am.

RICKY SANDERS - DIRECT

1 Q Now, can you tell me a little bit more about where that
2 buy took place?

3 A Dollar General parking lot, Cestrain Square on Columbia
4 Street. It's approximately two blocks to the school.

5 MS. EASLER: May I have the witness step down?

6 THE COURT: Yes.

7 Q Can you indicate on the map where the buy took place?

8 A Right here, Cestrain Square parking lot.

9 Q Can you indicate where one of the parks is?

10 A You have a park here.

11 Q How far away is that?

12 A It's .15 miles. And you also have a park here on
13 Brooklyn.

14 Q How far away is that?

15 A .37 miles. You also have the ATL school right here.

16 Q And how far away is that?

17 A Approximately 3.5 miles.

18 Q Thank you. Now, Mr. Sanders, what occurred after Ms.
19 Burrell dropped Ms. Howze off?

20 A We stayed in the area. We monitored Ms. Howze to see
21 where she went to and we also have a narcotics unit
22 following Ms. Burrell back to the meet location. Once we
23 arrived I took control of the illegal narcotics, which was
24 methamphetamine, and we did another thorough search of the
25 vehicle and her again. Same procedure we do before and

RICKY SANDERS - DIRECT

1 after.

2 Q Did you find any contraband other than the drugs that
3 was bought -- that were bought from Ms. Howze?

4 A No, ma'am.

5 Q What happens if you do?

6 A They get charged.

7 Q Okay. What happens with the drugs that you do seize
8 from the buy that were bought from the defendant?

9 A What we do is we'll take it back to our office and
10 we'll take pictures, photo, weigh it, and once we weigh it
11 up we'll do a field test to make sure it's the right drugs
12 that we purchased that day. It was. But we also send it to
13 the lab, because we don't have a lab in Chester County so we
14 send it to the law enforcement division and they do a test
15 on it.

16 Q Can you explain to the jury what a field test?

17 A A field test is just a basic standard procedure where
18 we see -- on the field test kit it will say methamphetamine
19 or cocaine, we just test it and see if it's the right drug
20 that we purchased for that day. And it turns -- if it's
21 correct it turns blue, and that's what it did that day, it
22 turned blue.

23 Q I'm going to show you what has been marked as State's
24 Exhibit 1.

25 MS. EASLER: May I approach, Your Honor?

RICKY SANDERS - DIRECT

1 THE COURT: Yes.

2 Q Is this is a fair and accurate picture of the field
3 test for the drugs?

4 A Yes, ma'am.

5 MS. EASLER: The State moves to admit this into
6 evidence.

7 THE COURT: Any objection?

8 MR. FRICK: Your Honor, I object, it's cumulative.
9 They have SLED testing.

10 THE COURT: Over defense objection I'm going to allow
11 it.

12 MS. EASLER: Thank you, your Honor.

13 (The photo was received as State's 1.)

14 MS. EASLER: Move to publish to the jury?

15 THE COURT: Yes.

16 Q Now, this is a picture of the field test?

17 A Yes, correct.

18 Q And it turned blue?

19 A Correct.

20 Q And that indicates what?

21 A It's positive for the methamphetamine or any kind of
22 drugs they purchased.

23 Q After you're done field testing it what happens?

24 A We put it in a -- we call it a Best Kit, we put it in a
25 lab package form and we send it off to the lab to get

RICKY SANDERS - DIRECT

1 positive results on the test and everything.

2 Q Is the Best Kit sealed?

3 A Yes.

4 Q Do you have anything else to do with the drugs after
5 that?

6 A No, ma'am.

7 Q Based on all of this information, did you have enough
8 to charge Ms. Howze at this point?

9 A Yes, ma'am I did.

10 MS. EASLER: Okay. No further questions.

11 THE COURT: Cross examination?

12 MR. FRICK: Thank you, Your Honor.

13 CROSS EXAMINATION

14 BY MR. FRICK:

15 Q Detective Sanders, when did this event occur?

16 A January 10, 2019, sir.

17 Q When did you make an arrest?

18 A I can't quite recall, sir.

19 Q Hold on one second. Do you recognize what this is?

20 A It's an arrest warrant.

21 Q And this is what y'all get when you arrest somebody?

22 A Yes.

23 Q Does it have a date when it would have been served?

24 A Yes, sir.

25 Q What is that date?

RICKY SANDERS - CROSS

1 A It was June 1st, 2019.

2 Q June 1st. Okay. So you've got an event that takes
3 place January 10th but no arrest until June 1st?

4 A Yes, sir.

5 Q In fact, when did you get the warrant? Isn't there a
6 date on here that you can tell me when you went to a
7 magistrate and got a warrant?

8 A January 16th of 2019.

9 Q So six days. It takes six days to go get the warrant,
10 right?

11 A Yes.

12 Q And then another five months or so to make an arrest,
13 correct?

14 A Correct.

15 Q What's the delay?

16 A When we do a controlled purchase we just don't turn
17 around and go get an arrest warrant, we do paperwork and
18 keep our confidential source as an informant.

19 Q Okay. All right. So you're still working the CI then?

20 A Yes.

21 Q Okay. How do you get these CI's? I keep saying CI, CI
22 is confidential informant, correct?

23 A Yes.

24 Q How do y'all come about getting these?

25 A A lot of people call and say they want to do some work

RICKY SANDERS - CROSS

1 or they want to talk at the detention center and we'll go
2 talk to them.

3 Q So if they're at the detention center they've got
4 charges.

5 A Correct.

6 Q So they're working off charges.

7 A I ain't going to say working off charges but they what
8 you call it, they want to make Chester safe.

9 Q I mean, they're sitting at the jail with charges and
10 call you up because they want to make their community
11 better?

12 A Yeah. Everybody can change.

13 Q And they don't expect anything out of it?

14 A I never make a promise I can't keep, sir.

15 Q Right. Because you can't make the promises, can you?

16 A No, sir.

17 Q That's the solicitor's office, isn't it?

18 A I don't know.

19 Q Are informants ever paid?

20 A Yes, some can be paid.

21 Q In this particular situation how did Ms. Burrell get
22 treated? Was she -- did she have charges or was she being
23 paid?

24 A No, she had charges.

25 Q All right. Well, let's go up to the transaction --

RICKY SANDERS - CROSS

1 well, the basic procedure in your transaction. You got a
2 meeting location, right?

3 A Yes, sir.

4 Q And where did y'all meet here?

5 A It varies.

6 Q I know. In this place though?

7 A We don't meet at the same place.

8 Q I know. But in this case where --

9 A I can't recall where we meet at, we met at different
10 locations, sir.

11 Q But y'all meet up at a place that's down the road from
12 wherever the transaction is supposed to take place, correct?

13 A It can be right next door, it can be down College
14 Street. I can't remember quite sure where we met at that
15 day but we met at a disclosed location.

16 Q But she's in a car and she's driving for a little while
17 before she gets somewhere, right?

18 A Yes, sir.

19 Q So y'all meet some other place, she's wired up with the
20 video.

21 A Yes, sir.

22 Q And then she's sent off to go make this transaction,
23 correct?

24 A Correct.

25 Q How do y'all -- and the person y'all are looking for is

RICKY SANDERS - CROSS

1 called a target?

2 A Yes, sir.

3 Q How do y'all come up with a target?

4 A After talking to different informants they tell who is
5 selling drugs in Chester County and we go from there.

6 Q Okay. So let's say I want to come to you and I say,
7 "Ricky, I want to help you out, man, I want to go buy some
8 stuff off people." Do you tell me who I'm going to go buy
9 from or do I tell you?

10 A No. You tell me who you can purchase narcotics from
11 and we go from there.

12 Q So the person who is working off charges tells you,
13 "This is how I can go do business with."

14 A Yes.

15 Q And generally whose vehicle are they in?

16 A Their vehicle.

17 Q Their vehicle. And this was Ms. Burrell's vehicle?

18 A Yes, sir.

19 Q All right. Now, you said you searched it, right?

20 A Correct.

21 Q What kind of car was it?

22 A It's a minivan.

23 Q And y'all searched the whole minivan.

24 A Yes, sir.

25 Q All parts of the minivan?

RICKY SANDERS - CROSS

- 1 A Everything.
- 2 Q Everything in the minivan. Okay. And you searched
- 3 Ms. Burrell.
- 4 A Correct.
- 5 Q Who searched?
- 6 A I searched when she first got there.
- 7 Q Okay. You searched her?
- 8 A Yes.
- 9 Q Do y'all have a female officer that searched her?
- 10 A No, sir. We don't have a female working narcotics,
- 11 sir.
- 12 Q So you're the officer that's searching the female?
- 13 A Yes. What I do is if she have a pocket I make her
- 14 empty all of her pockets out, take her shoes off, open them
- 15 up, and we don't per se search them, we just use our
- 16 backhand if she did have pockets and we make her shake her
- 17 bra out very detailed.
- 18 Q But basically it's a pat down. Because you don't have
- 19 a female officer the only thing you can do is a pat down,
- 20 right?
- 21 A Correct. But she emptied all of her pockets out.
- 22 Q Emptied her pockets out.
- 23 A Yes, sir.
- 24 Q Okay. And then she's in her car?
- 25 A Correct.

RICKY SANDERS - CROSS

- 1 Q And got y'all's money.
- 2 A Correct.
- 3 Q Okay. And she's the one who makes the phone call to
4 whoever it is she's going to go deal with.
- 5 A Correct.
- 6 Q So the whole game is run by her.
- 7 A No, it was run by us. We was there the whole time
8 beginning to end.
- 9 Q Well, you're just watching it. You didn't go tell her
10 to go call Ms. Howze, did you?
- 11 A Yeah, we called before.
- 12 Q But you didn't say, "Call Ms. Howze."
- 13 A Yeah. We already know that day we was going to use her
14 to purchase from Ms. Howze.
- 15 Q Because she told you, "I can buy from Ms. Howze."
- 16 A Yes.
- 17 Q So other than saying, "Okay. We're going to give you
18 the money and we're going to give you the wire," everything
19 that occurs in the transaction is up to the CI, isn't it?
- 20 A Yes, but we're there. We are in proximity.
- 21 Q I got you. Are you in view of it?
- 22 A Yeah, pretty much. We watched her get inside the
23 vehicle.
- 24 Q Okay. Were y'all over at Bob's or what?
- 25 A We was in the area, that's all you need to know.

RICKY SANDERS - REDIRECT

1 Q And you could see.

2 A Yes.

3 Q But you didn't see the transaction, you see her getting
4 in the car.

5 A Yes, sir.

6 Q So what happens in the car, the only thing we've got is
7 Ms. Burrell's word and the video, right?

8 A Right. The video speaks for itself.

9 MR. FRICK: Thank you, sir, that's all the questions I
10 have.

11 THE COURT: Any redirect?

12 MS. EASLER: Briefly, Your Honor.

13 REDIRECT EXAMINATION

14 BY MS. EASLER:

15 Q Is it normal procedure to wait to arrest a target of a
16 CI buy?

17 A Yes.

18 Q And you kept eyes on Ms. Burrell the entire time?

19 A Yes.

20 Q You had constant contact with her?

21 A Yes.

22 Q Through phone?

23 A Yes.

24 Q Okay. And you searched her person and her vehicle
25 before and after the buy?

RICKY SANDERS - REDIRECT

1 A Correct.

2 MS. EASLER: No further questions.

3 MR. FRICK: Nothing further, thank you.

4 THE COURT: Sir, you may step down, thank you. Call
5 your next witness, please.

6 MS. EASLER: State calls Christian Burrell.

7 The witness, CHRISTY BURRELL, was first duly sworn and
8 Testified as follows:

9 DIRECT EXAMINATION

10 BY MS. EASLER:

11 Q Can you please state your name for the record?

12 A Christy Burrell.

13 Q Were you subpoenaed to be here today, Ms. Burrell?

14 A Yes.

15 Q Did you want to be here?

16 A No, ma'am.

17 THE COURT: Can y'all hear? Pull that microphone down
18 to you, please. Thank you. Go ahead.

19 Q How do you know the defendant, Elizabeth Howze?

20 A Through an acquaintance, my husband.

21 Q How long have you known her?

22 A About four years.

23 Q Do you work as a confidential informant for the city
24 police?

25 A (Inaudible.)

CHRISTY BURRELL - DIRECT

1 Q How did that relationship begin?

2 A Through my charges in June.

3 Q Has the State promised you anything in regards to your
4 charges?

5 A No, ma'am.

6 Q Do you recall making a controlled buy on Ms. Howze on
7 January 10th, 2019?

8 A Yes, ma'am.

9 Q Can you tell me about that?

10 THE COURT: I need a yes or no to the questions if it's
11 so appropriate, not a uh-huh or nuh-uh.

12 A I met with Ricky and they searched me, they did their
13 procedure, gave me the money and I went to the Dollar
14 General, she got in the vehicle with me and the money and
15 the drugs was exchanged.

16 Q Can you speak up a little?

17 A Yes, ma'am.

18 Q Whose car were you in?

19 A My mother-in-law's.

20 Q Your mother-in-law's?

21 A Yes, ma'am.

22 Q So you drove there?

23 A Yes, ma'am.

24 Q And she got in your car?

25 A Yes, ma'am.

CHRISTY BURRELL - DIRECT

1 Q And you gave her money?

2 A Yes, ma'am.

3 Q And then she gave you drugs?

4 A Yes, ma'am.

5 Q What happened after that?

6 A She got back out of the car and I went and met back up
7 with Ricky and them.

8 Q What happened when you got -- when you met with Ricky?

9 A They immediately asked me to step out of the car, they
10 searched me and they searched the vehicle.

11 Q Did you give them the drugs?

12 A Yes, ma'am.

13 Q Was it Elizabeth Howze who got in the car with you?

14 A Yes, ma'am.

15 Q Did she hand you drugs?

16 A Yes, ma'am.

17 Q Did you have any other drugs on you at that time?

18 A No, ma'am.

19 Q What about in your car?

20 A No, ma'am.

21 MS. EASLER: No further questions.

22 THE COURT: Cross examination.

23 MR. FRICK: Thank you.

24 CROSS EXAMINATION

25 BY MR. FRICK:

CHRISTY BURRELL - CROSS

- 1 Q How long have you known Elizabeth?
- 2 A Four years.
- 3 Q How many?
- 4 A About four years.
- 5 Q Four years? And you said y'all were acquaintances?
- 6 A Yes, sir.
- 7 Q You were in here when the video got played, weren't
- 8 you?
- 9 A Yes, sir.
- 10 Q Okay. Y'all were chatting about --
- 11 A Mario.
- 12 Q Mario?
- 13 A Yes, sir.
- 14 Q So y'all were more than acquaintances.
- 15 A I met her through Mario and my husband.
- 16 Q Right. But y'all were closer than acquaintances.
- 17 A No, we never hung out or nothing.
- 18 Q Didn't hang or nothing, but she's asking were y'all and
- 19 Mario good, that's something that an acquaintances would
- 20 ask, how you and your relationship were going?
- 21 A I mean, I have.
- 22 Q Okay. So you were working off your charges, weren't
- 23 you?
- 24 A I guess you could say that, yes.
- 25 Q That was your idea, wasn't it?

CHRISTY BURRELL - CROSS

- 1 A That's not what they told me or nothing.
- 2 Q Well, nobody promised you anything, right?
- 3 A No, sir.
- 4 Q But you certainly expected something, didn't you?
- 5 A I expected it to go in my favor, so --
- 6 Q Go in your favor. So what happened?
- 7 A Nothing.
- 8 Q Nothing. What do you mean nothing? Have you still got
- 9 those charges pending?
- 10 A Yes, sir.
- 11 Q Okay. Have you ever had another conviction? Do you
- 12 have a prior drug conviction?
- 13 A Just that one, the one charges.
- 14 Q Just the charges? You didn't have a prior conviction
- 15 in 2018?
- 16 A That's the one. That's the only charge that I've ever
- 17 had.
- 18 Q Well, my question is have you been convicted of them or
- 19 are they still pending?
- 20 A They're still pending.
- 21 Q Okay. So sitting up here today you don't expect to get
- 22 some kind of favor?
- 23 A No, sir.
- 24 Q All right. This was not your vehicle, this was your
- 25 mother-in-law's you said?

CHRISTY BURRELL - CROSS

1 A Yes, sir.

2 Q Okay. You drive it often?

3 A Yes, sir.

4 Q Okay. She let you use it often?

5 A Yes, sir.

6 Q Did you say, "I'm going to go buy some drugs in it
7 today?"

8 A No, sir.

9 Q When you first met with Ricky Sanders to talk about who
10 you could do business with, you told them you could buy from
11 Elizabeth Howze?

12 A They asked me who all I knew, she was the name that
13 come up, yes, sir.

14 Q She was the name that come up.

15 A Uh-huh.

16 Q Because you've known her.

17 A Yes, sir.

18 Q And she's just your acquaintance.

19 A Yes, sir.

20 Q And you don't expect to get anything out of this today?

21 A No, sir.

22 MR. FRICK: Thank you, ma'am, no further questions.

23 THE COURT: Any redirect?

24 MS. EASLER: Briefly.

25 REDIRECT EXAMINATION

CHRISTY BURRELL - REDIRECT

1 BY MS. EASLER:

2 Q Ms. Burrell, have you been promised anything for your
3 charges?

4 A No, ma'am.

5 MS. EASLER: Thank you.

6 MR. FRICK: Nothing further, thank you.

7 THE COURT: Ma'am, you may step down.

8 MS. EASLER: State calls Terry Roberts.

9 The witness, TERRY ROBERTS, was first duly sworn and
10 Testified as follows:

11 DIRECT EXAMINATION

12 BY MS. EASLER:

13 Q State your name for the record.

14 A Terry Michael Roberts, Jr.

15 Q Where are you employed?

16 A Chester City Police Department.

17 Q How long have you been employed there?

18 A Seven years.

19 Q Were you present at the controlled buy that occurred on
20 January 10th, 2019?

21 A Yes, ma'am.

22 Q Did you seize the drugs?

23 A Lieutenant Sanders received the drugs from our CI.

24 Q But you were present?

25 A Yes, ma'am.

TERRY ROBERTS - DIRECT

1 Q Did you see the drugs?

2 A I did, yes, ma'am.

3 Q Are these the drugs that were seized?

4 A Yes, ma'am.

5 Q Was it tampered with in any way?

6 A No, ma'am.

7 MS. EASLER: Permission to enter it into evidence.

8 THE COURT: Any objection?

9 MR. FRICK: I don't think the full foundation has been
10 laid at this time.

11 MS. EASLER: One moment.

12 (Break in proceedings.)

13 Q But these are the drugs?

14 A Yes, ma'am, it is.

15 Q Have they been altered in any way?

16 A No, ma'am. Once it is seal it is sealed.

17 MS. EASLER: Okay. No further questions.

18 THE COURT: Cross examination?

19 MR. FRICK: No questions for this witness.

20 THE COURT: Sir, you may step down.

21 MS. EASLER: State calls Anna Jagger. Your Honor, may
22 Ms. Burrell be released from her subpoena?

23 THE COURT: Any objection?

24 MR. FRICK: No objection.

25 THE COURT: You are excused.

ANNA JAGGER - DIRECT

1 evidence room.

2 Q Who takes the evidence to SLED?

3 A Myself and one of the other officers that works in
4 evidence.

5 Q What happens when you take the evidence to SLED?

6 A We drop off the evidence at SLED and they have the very
7 strict custody paperwork as well. We have to go online and
8 enter this drugs into the I-lab system which is like an
9 online request form. We put what it is, what we think it
10 is, what kind of testing we want and then we print out a
11 sheet, we bring that and we sign it. And then when we get
12 there we timestamp it to make sure that, you know, that this
13 was the drugs, this was when I dropped it off, and then we
14 secure it in a locker and then they take over from there.

15 Q Do you get the drugs back after that?

16 A Yeah. One of us will go to SLED and pick it up, and
17 then, of course, it's the same thing, we sign for it and
18 they record that we took it on what date and what time.

19 Q Did you bring those drugs to court today?

20 A I did, yeah. That's the Best Kit that we got back from
21 SLED.

22 Q So these are the drugs?

23 A That's correct.

24 MS. EASLER: At this time the State moves State's
25 Exhibit 5 into evidence.

ANNA JAGGER - CROSS

1 THE COURT: Any objection?

2 MR. FRICK: No objection.

3 THE COURT: Without objection so admitted, State's
4 Exhibit 5.

5 (The drugs were received as State's 5.)

6 MS. EASLER: I have no further questions for this
7 witness.

8 THE COURT: Any cross?

9 CROSS EXAMINATION

10 BY MR. FRICK:

11 Q Ms. Jagger, you are the evidence custodian, correct?

12 A Yes, sir.

13 Q Which means that you're over there at city hall keeping
14 up with the evidence, correct?

15 A Yes, sir.

16 Q You don't go out in the field, correct?

17 A Only to assist emergency situations.

18 Q Did you go in the field on this case?

19 A No, sir, I didn't.

20 Q And when it came to you it was already packaged in the
21 Best Kit, correct?

22 A We make sure it's sealed before we do anything.

23 Q You did no testing on this, correct?

24 A No, sir.

25 MR. FRICK: Thank you, ma'am, no further questions.

ANNA JAGGER - CROSS

1 THE COURT: Any redirect?

2 MS. EASLER: No, Your Honor.

3 THE COURT: Ma'am, you may step down, thank you.

4 MS. EASLER: Your Honor, I have a matter to take up
5 outside the presence of the jury.

6 THE COURT: Okay. All right. Ladies and gentlemen,
7 we're going to take a break right now. I'm going to let you
8 all take a break, please step to the jury room, do not
9 discuss the case at all and I will get you back out here
10 very shortly hopefully.

11 (The jury left the courtroom.)

12 THE COURT: Yes, ma'am?

13 MS. EASLER: Your Honor, I told my analyst to be here
14 at 11:00, it's not quite 11:00 yet, I apologize for that.

15 THE COURT: That's okay. Is that all?

16 MS. EASLER: That's all.

17 THE COURT: All right. Stand down for a few minutes,
18 let me know when you are ready.

19 (A recess was taken.)

20 THE COURT: Anything from the State before I bring the
21 jury back out?

22 MS. EASLER: No, Your Honor.

23 THE COURT: Defense counsel?

24 MR. FRICK: None from defense.

25 THE COURT: All right. Bring me the jury, please, sir.

LAWRENCE ZIVKOVICH - DIRECT

1 (The jury returned to the courtroom.)

2 THE COURT: All of the jurors are present. We're going
3 to continue at this time. State can call your next witness,
4 please?

5 MS. EASLER: State calls Lawrence Zivkovich.

6 The witness, LAWRENCE ZIVKOVICH, was first duly sworn

7 And testified as follows:

8 DIRECT EXAMINATION

9 BY MS. EASLER:

10 Q Mr. Zivkovich, can you spell us your name for the
11 record, please?

12 A Lawrence Zivkovich, Z-i-v-k-o-v-i-c-h.

13 Q And where are you employed, Mr. Zivkovich?

14 A The South Carolina Law Enforcement Division, commonly
15 known as SLED.

16 Q And what do you do there?

17 A I am a forensic chemist. The tasks before me are to
18 examine evidence submitted by outside agencies for the
19 presence of controlled substances.

20 Q Can you tell us a little bit about your educational
21 background, please?

22 A Yes, ma'am. I received a degree in Bachelor of Science
23 in Chemistry from the University of South Carolina. After I
24 was hired at SLED I received approximately six months
25 training as a forensic scientist, and then I was sent to

LAWRENCE ZIVKOVICH - DIRECT

1 seminars at the University of West Virginia and also the
2 Drug Enforcement Administration.

3 Q What specific training do you have in the field of
4 chemical analysis, specifically drug analysis?

5 A Those were the things that I was trained on as far as
6 training at SLED and also the seminars I trained in.

7 Q Have you ever been qualified as an expert in the field
8 of chemical and drug analysis?

9 A I have.

10 Q How many times?

11 A Approximately 54.

12 Q How many?

13 A Fifty-four.

14 Q How are samples submitted to your lab at SLED for
15 analysis?

16 A Ma'am?

17 Q How are samples submitted to your lab for analysis?

18 A Outside agencies will bring the samples in and either
19 do a hand to hand transfer with our technicians if one is
20 available, and if not we have secure lockers so that they
21 can drop off the evidence and go back to their place of
22 employment. And if they drop them off in the secure lockers
23 then as technicians become available they will go and
24 retrieve the evidence from the lockers and log them in.

25 MR. FRICK: Your Honor, may we approach for a quick

LAWRENCE ZIVKOVICH - DIRECT

1 second?

2 THE COURT: Yes.

3 (A bench conference was held.)

4 THE COURT: All right, you may continue.

5 MS. EASLER: Your Honor, I would like to offer
6 Mr. Zivkovich as an expert in the field of chemical
7 analysis.

8 THE COURT: Chemical and drug analysis?

9 MS. EASLER: Yes, Your Honor.

10 THE COURT: Any objection?

11 MR. FRICK: No objection, Your Honor.

12 THE COURT: Ladies and gentlemen, before we go any
13 further let me give you a quick charge real quick. Normally
14 a person cannot give opinion testimony. Normally when a
15 person testifies they must testify as to what they either
16 saw, heard or sensed by smell or something of that nature.
17 However, there is an exception when one is qualified as an
18 expert because of education or experience they are allowed
19 to give opinion testimony. This particular witness is being
20 qualified in the area of chemical and drug analysis to give
21 opinion testimony in that area. That does not, that does
22 not mean that you must accept the opinion, but is evidence
23 for you to use in any way that you deem appropriate. You
24 may continue.

25 MS. EASLER: Thank you, Your Honor.

LAWRENCE ZIVKOVICH - DIRECT

1 Q What procedures are followed to maintain the integrity
2 of the evidence that's submitted to you?

3 A When our technicians pick up the evidence, first they
4 inspect to see if it's sealed or not sealed. If it's
5 unsealed they'll take photographs and annotate it in our
6 information systems and then they'll seal it afterwards. If
7 any evidence is ever found to be unsealed it will still be
8 examined, but then when the report is issued it will state
9 across the top that the evidence was unsealed when received.

10 Q Did you have the opportunity to perform an analysis in
11 the case concerning the drugs submitted in SLED lab number
12 1902556?

13 A I did.

14 Q Can you tell me how many items were submitted for that?

15 A There was a submission of a ziplock bag containing a
16 crystal substance.

17 Q How was the items described in your report?

18 A That was the way I described it is a ziplock bag
19 containing a crystal substance.

20 Q I am going to show you what's been marked as State's
21 Exhibit 5. Can you tell me if you recognize it?

22 A Yes, ma'am. This is a heat sealed bag containing the
23 case called 19-02556 that I examined.

24 Q What was the results from that testing?

25 A I found it to contain methamphetamine with the weight

LAWRENCE ZIVKOVICH - CROSS

1 of 0.47 grams.

2 Q Can you state that result to a reasonable degree of
3 scientific certainty?

4 A I can.

5 Q And is this method of analysis generally accepted among
6 the scientific community?

7 A It is.

8 MS. EASLER: I have no further questions.

9 THE COURT: Cross examination.

10 CROSS EXAMINATION

11 BY MR. FRICK:

12 Q Mr. Zivkovich --

13 A Yes, sir.

14 Q -- your office is on Broad River Road down in Columbia,
15 isn't it?

16 A Yes, sir.

17 Q And do you ever go out in the field to collect
18 evidence?

19 A I do not.

20 Q And you did not in this case.

21 A That's correct.

22 Q Okay. Let me show you something real quick. Do you
23 recognize this?

24 A Yes, sir. This is a drug report issued by me for
25 L19-02556.

LAWRENCE ZIVKOVICH - CROSS

1 Q Now, I note on here it says confidence level for the
2 weight and you've got a percentage on there?

3 A Yes, sir.

4 Q What is the percentage on that?

5 A Are you talking about the confidence level?

6 Q Yes, sir.

7 A It is plus or minus .01 grams.

8 Q Right. But then there is?

9 A Oh, the confidence for the level is 99.7 percent.

10 Q What does that mean?

11 A Well, anytime you take a measurements anywhere in life,
12 whether it's speed, weight, volume, anything as a certain
13 degree of uncertainty, there's nothing that can be measured
14 exactly so that's what that number indicates. When it says
15 99.78 percent, if I took a thousand measurements of the same
16 item 997 times it would equal exactly that, and
17 approximately three times it might vary a little bit by
18 .01 grams.

19 Q Okay. So you would expect it to vary at some point?

20 A I wouldn't expect it to, but statistically if I took
21 1,000 measurements, three of them might vary by .01.

22 Q Statistically it could vary?

23 A Yes, sir.

24 Q All right. And as I said you conduct this down in your
25 lab on Broad River Road in Columbia, correct?

1 A That's correct.

2 Q And you just deal with what you're handed here in
3 State's Number 5, correct?

4 A That's correct.

5 Q Okay. And it's sealed up when you get it, it comes to
6 you as it is, correct?

7 A Yes, sir. I actually wrote on the evidence when I
8 received it seal was intact on 7/22/19, which is when I
9 picked it up.

10 MR. FRICK: Thank you, sir. That's all of the
11 questions I have.

12 THE COURT: Any redirect?

13 MS. EASLER: No, Your Honor.

14 THE COURT: Sir, you may step down, thank you.

15 MS. EASLER: At this point, Your Honor, the State
16 rests.

17 THE COURT: Will the lawyers come over here just a
18 minute?

19 (A bench conference was held.)

20 THE COURT: Ladies and gentlemen, the State has rested
21 the case. What we're going to do now, there's some matters
22 of law that we need to take up outside of your presence,
23 what I will do is go ahead and go to lunch, take an early
24 lunch, as I said, there's some matters of law that we need
25 to take up. I'm going to ask you to be back here at 1:30,

1 be back here at 1:30 and we'll resume as promptly at that
2 time as possible. You all have a nice lunch. Do not
3 discuss this case at all with anyone, and as I told you from
4 the outset, you are to decide this case based solely on the
5 evidence and testimony that is presented in this courtroom.
6 You all have a nice lunch, I will see you back at 1:30.

7 (The jury left the courtroom.)

8 THE COURT: Any motions at this time from the defense
9 counsel?

10 MR. FRICK: Yes, sir. At this time, of course, I renew
11 my objections and motions regarding the indictment and
12 whatever other pretrial matters we discussed. At this time
13 the defense would also request a directed verdict. Taking
14 the evidence in the light most favorable to the State I
15 don't think there's enough evidence for it to be considered
16 by the jury, it can be decided as a matter of law and I
17 would ask you to direct a verdict of not guilty at this
18 time.

19 THE COURT: Anything in response from the State?

20 MS. EASLER: Yes, Your Honor. Obviously the evidence
21 has to be taken in the light most favorable to the State.
22 The State has proved all elements of the crime. We have
23 evidence of her, the defendant, passing the drugs to our CI
24 on video and doing so within proximity of three schools --
25 or two parks and a school within less than a half mile. I

1 would respectfully ask that you deny the motion.

2 THE COURT: All right. With all due respect to defense
3 counsel the Court is denying defendant's motion for a
4 directed verdict as to each charge. And as each of you
5 know, if there's any direct or substantial circumstantial
6 evidence reasonably tending to prove the guilt of the
7 accused the Court is required by law to submit the case to
8 the jury. It's not my job to judge credibility of
9 witnesses, that's the jury's job, but your objection, your
10 motions for a directed verdict as well as all prior motions,
11 objections, et cetera, are so noted for the record and the
12 Court's ruling as to each remain the same. All right.
13 Anything else at this time?

14 MR. FRICK: Your Honor, I do not anticipate calling any
15 witnesses.

16 THE COURT: Well, ordinarily at this time I would
17 advise your client of his or her right to testify, obviously
18 they're not here so hopefully between now and 1:30 they can
19 get here. All right. Anything else at this point?

20 MS. EASLER: Not from the State, Your Honor.

21 THE COURT: Any specific requests to charge? I think
22 it's pretty straight up and down.

23 MR. FRICK: Yes, sir. I don't think there's any lesser
24 included on this.

25 THE COURT: It's a straight up distribution based on

1 the testimony, there's evidence in the record on the
2 proximity as well, the video evidence of distribution so
3 we'll work on a charge.

4 MR. FRICK: Your Honor, the circumstantial evidence
5 charge, do you give the longer Logan charge or -- I would
6 request that if you have it.

7 THE COURT: I do have it and I've been giving that.

8 (Break in proceedings.)

9 THE COURT: All right. Anything else?

10 MR. FRICK: Nothing from the defense.

11 MS. EASLER: Nothing from the State.

12 (A lunch break was taken.)

13 THE COURT: Has the State had an opportunity to review
14 the proposed charge?

15 MS. EASLER: I have, Your Honor.

16 THE COURT: Any exception or objection?

17 MS. EASLER: No, Your Honor.

18 THE COURT: Defense counsel?

19 MR. FRICK: None from the defense.

20 THE COURT: Let me ask you this, I failed to do this
21 with the jury before we broke for lunch, I intended to tell
22 them when they came back to select a foreperson. Do you
23 mind if I send the bailiff back there and just tell them to
24 select the foreperson, write it on a piece paper and let
25 them know?

1 MR. FRICK: That sounds fine to me.

2 MS. EASLER: I have no issue with that, Your Honor.

3 THE COURT: Anything from the State before we bring the
4 jury back out?

5 MS. EASLER: No, Your Honor.

6 THE COURT: Defense counsel?

7 MR. FRICK: Judge, we are in a weird world where I am
8 not exactly sure how the order of closing arguments are
9 supposed to be anymore. I think it's the situation where if
10 I ask you to do it the new way that we can do it the new way
11 but I don't want to ask where she will open, then I will
12 close and then we will hush.

13 THE COURT: That's how we're going to do it. Any
14 objection?

15 MS. EASLER: I have no objection to that, Your Honor.

16 THE COURT: You will get last argument.

17 MR. FRICK: Thank you, sir.

18 THE COURT: Ms. Hemphill, juror number 58, is the
19 foreperson. Let me ask you this, it is something I have
20 started doing, it is not something I have always done but I
21 have started doing it, and that is giving my charge first,
22 followed by closing arguments and then I will give some
23 conclusive remarks. Any objection to that by the State?

24 MS. EASLER: No, Your Honor.

25 THE COURT: Defense counsel?

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1 MR. FRICK: I can't conceive of one, no, sir.

2 THE COURT: I like to give them the law up front, and
3 that way y'all are not having to sit there and -- obviously
4 you have got copies of the charge and you wouldn't be
5 presupposing what I'm going to say because you've got a copy
6 of the charge, but that way I think it's personal opinion
7 that it is best to hear from you all last rather than me.
8 Bring me the jury, please, sir.

9 (The jury returned to the courtroom.)

10 THE COURT: All of the jurors are present. All right
11 Ms. Hemphill? You are my forelady. All right. That's
12 going to be your seat throughout the remainder, okay? The
13 rest of you all, other than the alternate -- sir, if you
14 would move over to this other chair, the two alternates, you
15 can sit in one of those two seats, the remainder of you all
16 can sit wherever you so desire when you come into the
17 courtroom, okay? Prior to us breaking for lunch, ladies and
18 gentlemen, the State rested its case. At this time I will
19 recognize defense counsel.

20 MR. FRICK: Your Honor, defense rests.

21 THE COURT: All right. Ladies and gentlemen, the
22 defense has rested its case. Any renewal of any --

23 MR. FRICK: Your Honor, at this time defense would
24 renew all objections and pretrial motions previously ruled
25 upon and renewed my directed verdict motion.

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1 THE COURT: All right. So noted for the record, the
2 Court's rulings as to each remain the same but they are so
3 noted for the record. All right. Ladies and gentlemen, you
4 have heard all of the testimony and evidence that you're
5 going to hear in this case, what we're going to do now is
6 I'm getting ready to charge you on the law in this case.
7 Once I finish charging you on the law the lawyers will give
8 their closing arguments. The State will go first followed
9 by defense counsel, and then I will give you some conclusory
10 remarks before I send you back to deliberate on this case,
11 okay? Please listen very carefully to this charge, ladies
12 and gentlemen. It is now my duty as the trial judge to
13 instruct you -- to charge and instruct you on the law
14 applicable to this case. It is your duty as jurors to
15 accept and apply the law as I will now state it to you.
16 Furthermore, it is your exclusive duty to decide all the
17 issues of fact in this case and to determine the effect,
18 value and weight of the evidence. Both the State and the
19 defendant have a right to expect that you will carefully
20 consider and evaluate the evidence and apply the law of this
21 case to it, so that in the end both the State of South
22 Carolina and the defendant will receive a fair and impartial
23 trial. I want you to understand that when I use the word
24 defendant I refer to Ms. Elizabeth Leanne Howze.
25 Furthermore it is important to understand that the State of

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1 South Carolina charges the defendant with distribution of
2 methamphetamine and distribution of a controlled substance
3 within proximity of a school or park. Now, to these charges
4 the defendant has entered a plea of not guilty. This plea
5 of not guilty places the burden of proof on the State to
6 prove the guilt of the defendant to you, the jury, beyond a
7 reasonable doubt. Now, I'll remind you, ladies and
8 gentlemen, the fact that the defendant was arrested, charged
9 and indicted in this case is not evidence in this case and
10 cannot be considered by you as evidence of guilt in this
11 case, nor does it create any presumption or inference of
12 guilt. The indictment, as I've told you, is simply the
13 charging document, the formal written instrument which
14 contains the charge or charges in this case made against the
15 defendant. It is the formal document by which this case is
16 brought into this court. Now, as I said, the indictment in
17 this case alleges two separate offenses against the
18 defendant; distribution of methamphetamine and distribution
19 of a controlled substance within proximity of a school or
20 park. Each indictment charges a separate and distinct
21 offense. You must decide each indictment separately on the
22 evidence and the law applicable to it uninfluenced by your
23 decision as to any other indictment. The defendant may be
24 convicted or acquitted on any or all of the offenses
25 charged. You will be asked to write a separate verdict of

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1 guilty or not guilty for each indictment. Now, during this
2 trial, ladies and gentlemen, you and I have had separate
3 duties to perform. As the trial judge it is my
4 responsibility to preside over this trial, and I also have
5 the duty to rule upon the admissibility of the evidence
6 offered during the process of this trial. In that regard
7 you are to consider only the competent evidence before you.
8 You are to consider only the testimony which has been
9 presented from the witness stand together with any exhibits
10 admitted into the record of this case. Furthermore, I have
11 the additional duty to charge you on the applicable law of
12 this case, and in that regard I am the sole judge of the law
13 in this case. It is your duty to accept and apply the law
14 as I state it to you. If you have any preconceived ideas as
15 to what the law is or ought to be and it does not agree with
16 what I tell you the law is, you are obligated under your
17 oath to abandon these preconceptions because you are sworn
18 to accept the law precisely as I state it to you. Now,
19 ladies and gentlemen, in this trial you are the sole and
20 exclusive judge of the facts and I'm the judge on the law.
21 Do not infer that I have any opinion about the facts in this
22 case from anything that I have said during the course of
23 this trial in ruling upon the admissibility of evidence or
24 otherwise, or from anything that I say during the course of
25 this charge to you. The law simply does not, it does not

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1 permit me to have an opinion about the facts. As jurors it
2 is your duty alone to determine the effect, value and weight
3 of the evidence presented during the course of this trial.
4 Now, in determining what the facts in this case are you must
5 decide the credibility, which simply means the believability
6 of the witnesses and the value of weight to be given to
7 their testimony. You alone must decide the force and effect
8 of the testimony. In making this decision there are many
9 things that you may and should take into consideration such
10 as the appearance and manner of the witness on the stand, a
11 characteristic often referred to as the demeanor of the
12 witness. Was the witness forthright or hesitant? Was the
13 witness' testimony consistent or did it contain
14 discrepancies? What was the ability of the witness to know
15 the facts about which he or she testified? Did the witness
16 have a cause or reason to be biased and prejudiced in favor
17 of the testimony that he or she gave? Was the testimony of
18 the witness corroborated or made stronger by other testimony
19 and evidence or was it made weaker or impeached by such
20 other testimony and evidence. As jurors please understand
21 that you have the right to believe a small portion of the
22 witness' testimony and discard the larger portion or vice
23 versa. You may believe all of a witness' testimony or none.
24 You may believe the testimony of a single witness against
25 that of many witnesses, or the other way around. In

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1 exercising your mental processes and attempting to decide
2 the verdict the law simply requires that you exercise your
3 good judgment, your common sense, your sense of logic and
4 reason, and your experiences in life, you then apply these
5 attributes to the evidence and apply the law as I state it
6 to you and thus arrive at a verdict. Now, ladies and
7 gentlemen, it is vital, it is vital to understand that a
8 defendant is presumed under the law to be innocent of the
9 crimes for which she is charged. A defendant has no
10 obligation to prove her innocence. It is a fundamental rule
11 of our law that a defendant, irrespective of the seriousness
12 of the charge or charges against her, is always presumed
13 innocent of the crimes for which he is charged unless and
14 until her guilt has been proven by evidence that satisfies
15 you, the jury, beyond a reasonable doubt. The presumption
16 of innocence is not a mere legal theory or a legal phrase,
17 the presumption of innocence is very important and you need
18 to understand that this presumption accompanies the
19 defendant from the time of her arrest and appearance in this
20 court and continues with the defendant even after you retire
21 to the jury room to deliberate. In other words, a defendant
22 receives the benefit of the presumption of innocence until
23 the very end of her trial when you, they jury, will
24 deliberate upon the evidence and decide whether the State
25 has proven her guilt beyond a reasonable doubt. Now, ladies

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1 and gentlemen, what is a reasonable doubt in the law? A
2 reasonable doubt is the kind of doubt that would cause a
3 reasonable person to hesitate to act. Proof beyond a
4 reasonable doubt is proof that leaves you firmly convinced
5 of the defendant's guilt. Now, there are very few things in
6 this world that we know with absolute certainty, so even in
7 criminal cases the law does not require proof that overcomes
8 every possibly doubt. If based upon your consideration of
9 the evidence you are firmly convinced that the defendant is
10 guilty of the crime or crimes charged, you must find her
11 guilty. If on the other hand you think there is a real
12 possibility that she is not guilty, you must give her the
13 benefit of the doubt and find her not guilty. Ladies and
14 gentlemen, please understand that reasonable doubt may arise
15 from evidence which has been presented in the case or from
16 the lack of evidence in the case. It is your responsibility
17 to determine whether or not reasonable doubts exists as to
18 the guilt of the defendant. I charge you that the defendant
19 is entitled to every reasonable doubt arising in the whole
20 case. If upon any issues of fact essential to conviction
21 and a verdict of guilty you have a reasonable doubt as to
22 how that issue should be resolved it would be your duty to
23 resolve that reasonable doubt in favor of the defendant.
24 Again, it is important to understand that a defendant is not
25 required to prove her innocence, instead as I have said from

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1 the outset, the State is required by law to prove every
2 essential element of the offense or offenses charged against
3 the defendant by evidence which satisfies you of guilt
4 beyond a reasonable doubt, only then can you convict the
5 defendant and find her guilty. Now, there are two types of
6 evidence which are generally presented during a trial,
7 direct evidence and circumstantial evidence. Direct
8 evidence directly proves the existence of a fact and does
9 not require deduction. Direct evidence is the testimony of
10 a person who claims to have actual knowledge of a fact such
11 as an eye witness. It is evidence which immediately
12 establishes the main fact to be proved. Circumstantial
13 evidence, ladies and gentlemen, is proof of a chain of facts
14 and circumstances indicating the existence of a fact. It is
15 evidence which immediately establishes collateral facts from
16 which the main fact may be inferred. Circumstantial
17 evidence is based on inference and not on personal knowledge
18 or observation. Crimes may be proven by circumstantial
19 evidence, however to the extent the State relies on
20 circumstantial evidence all of the circumstances must be
21 consistent with each other, and when taken together point
22 conclusively to the guilt of the accused beyond a reasonable
23 doubt. If these circumstances merely portray the
24 defendant's behavior as suspicious, the proof has failed.
25 The law makes absolutely no distinction between the weight

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1 or value to be given to either direct or circumstantial
2 evidence, nor is a greater degree of certainty required of
3 circumstantial evidence than of direct evidence. You should
4 weigh all of the evidence in the case. If after weighing
5 all of the evidence you are not convinced of the guilt of
6 the defendant beyond a reasonable doubt you must find the
7 defendant not guilty. As I have said, the burden rests with
8 the State regardless of whether the State relies on direct
9 evidence, circumstantial evidence, or some combination of
10 the two. The State has the burden of proving the defendant
11 guilty beyond a reasonable doubt. Now, as I told you at the
12 outset, ladies and gentlemen, under the laws of this State a
13 defendant may be tried even if the defendant does not attend
14 the trial, but the fact that the defendant is not present
15 may not be considered against the defendant in any manner
16 whatsoever. I also instruct you and emphasize the fact that
17 the defendant did not testify is not a factor to be
18 considered by you in any way in your deliberations and in
19 your consideration on the question of the guilt or the
20 innocence of the defendant. It must not be considered by
21 you in any manner whatsoever. A defendant has the
22 constitutional right to remain silent, and the assertion of
23 this right must not be considered by you in your
24 deliberations. I repeat, under your oath you are to draw no
25 conclusion whatsoever from the fact that the defendant in

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1 this case did not testify. The fact that this defendant did
2 not testify should not even be discussed in the jury room.
3 The burden of proof, again as I have stated, is on the State
4 of South Carolina. The defendant is not required to prove
5 her innocence. The burden of proof remains on the State to
6 prove guilt beyond a reasonable doubt. Now, in this case,
7 ladies and gentlemen, you heard the testimony of an
8 individual who was qualified as an expert. As I told you
9 before, the rules of evidence ordinarily do not permit
10 witnesses to testify as to opinions or conclusions. An
11 exception to this rule exists for witnesses that we call
12 expert witnesses. A witness who because of their education
13 and experience has become an expert in some art, science,
14 profession or calling may state an opinion as to a relevant
15 and material matter in which the witness claims to be an
16 expert and may also state the reasons for the opinion. You
17 should consider any expert opinion received in evidence in
18 this case, and like any other evidence, give it the weight
19 that you think it deserves. If you decide that the opinion
20 of an expert witness is not based on sufficient education
21 and experience, or if you conclude that the reasons given in
22 support of the opinion are not sound or that the opinion is
23 outweighed by other evidence, you may disregard the opinion
24 entirely. Furthermore an expert's testimony is to be given
25 no greater weight than that of other witnesses simply

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1 because the witness is an expert. You are not required to
2 accept an experts opinion even though it is not
3 contradicted. Now, ladies and gentlemen, in order to
4 establish criminal liability, criminal intent is required.
5 For example, the mental state required to be proven for the
6 State for a particular crime might be purpose, intent,
7 knowledge, recklessness or criminal negligence. Criminal
8 intent must be proven by the State beyond a reasonable
9 doubt. Criminal intent is always a matter that must be
10 determined by the jury from the circumstances surrounding
11 the situation. There is no way to prove intent to a
12 mathematical certainty. There is no way that medical
13 science can dissect a person's brain and determine what the
14 person had in mind, so the law says that criminal intent may
15 be inferred from the circumstances shown to have existed,
16 this is how you make a determination of whether or not the
17 element requiring intent was present. It is not necessary
18 to establish intent by direct and positive evidence, but
19 intent may be established by inference in the same way as
20 any other fact by taking into consideration the acts of the
21 parties and all of the facts and circumstances of the case.
22 Criminal intent is a mental state, a conscious wrongdoing.
23 It is up to you to determine what the defendant intended to
24 do based on the circumstances shown to have existed.
25 Criminal intent can arise from action or a failure to act,

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1 it may arise from negligence, recklessness or an
2 indifference to duty or to consequences that is considered
3 by the law to be the equivalent of criminal intent. Now,
4 the defendant, ladies and gentlemen, is charged with
5 distribution of methamphetamine. The State must prove
6 beyond a reasonable doubt that the defendant distributed
7 methamphetamine. Distribution means to deliver or to
8 actually, constructively or attempt to transfer a drug other
9 than by administering or dispensing. Deliver means to
10 actually, constructively or attempt to transfer a drug. A
11 transfer can involve an exchange for money, a barter or a
12 gift. There's does not have to be anything given in
13 exchange of the drugs for a transfer to constitute
14 distribution. The defendant is also charged with
15 distribution of methamphetamine within proximity of a school
16 or park. The State must prove beyond a reasonable doubt
17 that the defendant distributed, sold, purchased,
18 manufactured, or unlawfully possessed with intent to
19 distribute methamphetamine while in, on or within one half
20 mile of the grounds of a public, private, elementary, middle
21 or secondary school, a public playground or park, a public
22 vocational or trade school, or technical education center,
23 or a public or private college or university. The defendant
24 must have had knowledge that she was in, on or within one
25 half mile of the grounds of a public or private elementary,

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1 middle or secondary school, a public playground or park, a
2 public vocational or trade school or technical education
3 center, or a public or private college or university. Now,
4 ladies and gentlemen, I have given you the charge on the
5 applicable law in this case. As I told you a few minutes
6 ago after I gave you the charge on the law the lawyers, the
7 State first followed by defense counsel, would make their
8 closing arguments to you, after they do such I am going to
9 give some conclusory instructions before giving the case to
10 you. Before I recognize the attorneys for closing
11 arguments, ladies and gentlemen, let me remind you that the
12 arguments of counsel are not evidence in this case, it's not
13 evidence in this case. At this time the State is recognized
14 for closing arguments.

15 MS. EASLER: Thank you, Your Honor. Ladies and
16 gentlemen, I want to thank y'all for sitting here today and
17 listening patiently to all of the testimony. You just heard
18 the Judge tell you what it means to distribute drugs and to
19 distribute within a half mile of a school or a park. The
20 State contends that it has met each one of these elements.
21 You heard testimony today that the defendant, Elizabeth
22 Howze, did distribute methamphetamine. You heard testimony
23 from the CI that she got in the car and she drove to
24 Cestrain Square and met Elizabeth Howze at a Dollar General.
25 She gave Elizabeth Howze money in exchange for

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1 methamphetamine. You heard testimony from Ricky Sanders,
2 the officer, who said they had eyes on Christian Burrell the
3 entire time. They searched her before and after, they found
4 no other drugs at the time. They seized the drugs, they
5 took it to SLED, it was tested, it tested positive for
6 methamphetamine. The SLED analyst said that he was
7 99.7 percent confident that it was methamphetamine. Ricky
8 Sanders also testified that the buy location took place
9 right here. You have a park, which is .15 miles from the
10 Dollar General. You have another park that is .37 miles
11 from the Dollar General, and then you have a school that is
12 .35 miles. So not only do we have two parks, and we have
13 one school. Ms. Howze has lived here her entire life, she
14 knows the area. She knows where she's going. On the video
15 you can clearly hear her say, "Hey, meet me here." She knew
16 where she was going. She knew where she was going to be
17 distributing those drugs. So finally, ladies and gentlemen,
18 I ask you after hearing all of the testimony if you are not
19 firmly convinced of this defendant's guilt please let the
20 video speak for itself.

21 (At this time the video was played.)

22 MS. EASLER: Sorry about the volume. If you would like
23 the hear the audio you can always ask the Judge to have you
24 play it.

25 (At this time the video continued playing.)

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1 MS. EASLER: Ladies and gentlemen, as you just saw, you
2 saw Ms. Burrell handing Ms. Elizabeth Howze money and you
3 see her handing her a quantity of methamphetamine. I ask
4 you to return a verdict of guilty of distribution of
5 methamphetamine and distribution near the proximity of a
6 school or park. Thank you.

7 THE COURT: Mr. Frick?

8 MR. FRICK: Thank you, Your Honor, solicitor, ladies
9 and gentlemen of the jury. No more history lesson, I
10 promise, but I do have to continue with the civics lesson.
11 As the Judge told you and I told you about reasonable doubt,
12 and we're going to talk about reasonable doubt a little bit
13 more, it is entirely the State's burden as you've heard over
14 and over again and I'm going to probably say another half
15 dozen times or so, it is entirely the State's burden when
16 they charge somebody with a crime to prove each and every
17 element of the crime for which they have charged someone.
18 So in this case essentially what the State has got to prove
19 is, one, it is in fact Elizabeth Howze; two, it was, in
20 fact, methamphetamine; three, a transaction did, in fact,
21 occur. Now, there's a video, you've seen the video, you are
22 to rely on this video and the testimony of the State's
23 snitch, that's it. That's all you have. Why are we here,
24 ladies and gentlemen? Because Christian Burrell got in
25 trouble and wanted to get herself out of trouble. You heard

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1 her very testimony from this stand, "While they didn't
2 promise me anything I do expect to be treated favorably,"
3 for her pending charges she has. Now, that was not out of
4 the goodness of her heart, that's because she wanted to help
5 herself out. So what does she do? She called up someone
6 she knew, a friend, not an acquaintance, you remember the
7 video earlier when they were sitting there chatting about
8 stuff, that's not chit chat between acquaintances, those are
9 people that know each other well. She set her friend up to
10 help herself out, that's what happened. It's her call. She
11 even gets to control the camera. If you remember at the
12 very beginning it's pointing off into fuzzy land and then
13 all of the sudden as Elizabeth is supposedly getting in this
14 car, the camera flips over. Her car, she gets to manipulate
15 the camera. So she's searched. Ricky Sanders told you from
16 the stand there, he couldn't fully search her because they
17 don't have a female officer which means they can't go
18 places. She was not fully searched, they checked her
19 pocket, that's what they did. "Have you got anything on
20 you? No. Okay. Here is 60 bucks, go set your friend up."
21 So they meet. Supposedly this transaction occurs. Do you
22 really believe that they searched an entire minivan? A
23 minivan. This ain't a Dodge Dart, this ain't a little
24 Taurus, we're talking about a minivan. It has got all kinds
25 of crevices and crooks and nannies in it. They didn't

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1 search all of it. She gets to manipulate the camera. What
2 else did she get to manipulate in this situation? Folks,
3 that is reasonable doubt. I tell you that is reasonable
4 doubt when I told you before my definition of reasonable
5 doubt. Is there some other reasonable explanation? You
6 bet. You bet. Christian Burrell had every reason to set
7 her friend up to help herself out to save her own hide and
8 that's what she did. As the Judge told you, you get to
9 believe all, part or none. You get to believe their
10 demeanor, you saw how she was on the stand. That was not
11 someone who was up there doing this out of the goodness of
12 her heart, she hung her head. Why? She was ashamed of what
13 she did, that's why. You get to determine whether she had
14 any bias. I just told you what the bias was, she had every
15 reason in the world to save her own hide. Ladies and
16 gentlemen, they've got to prove it was Elizabeth, they've
17 got to prove it was drugs, they've got to prove this
18 transaction did occur, they've got to prove there's no other
19 reasonable explanation. Now, you heard the SLED analyst,
20 whatever made it to SLED was, in fact, methamphetamine. But
21 how do we know that that wasn't in that car that didn't get
22 searched, or it wasn't on Christian Burrell that didn't get
23 searched? Ladies and gentlemen, that is reasonable doubt,
24 that's what this is about. It's not "I watched that video
25 and it sure looks like she sold that girl some

1 methamphetamine." It's not, "Well, she was around Chester,
2 she probably knows where all of parks are." No. They have
3 got to prove is there any other reasonable explanation.
4 They have not met the burden, I ask you to find Elizabeth
5 Howze not guilty. Thank you for your time, attention and
6 service.

7 THE COURT: All right. Ladies and gentlemen, I want
8 you to clearly understand that you're not parisons or
9 advocates for the State of South Carolina or the defendant.
10 It is your duty, it is your duty by your joint deliberations
11 to determine the facts in this case giving to the defendant
12 the benefit of every reasonable doubt on each and every
13 issue, then to the facts as you find them are determined to
14 be true you should take and apply the law which has been
15 given to you by this Court and thus arrive at a verdict in
16 this case. When you have accomplished these
17 responsibilities you will have satisfied your oath as jurors
18 and you will have discharged your duty to this Court. Now,
19 once you all retire to the jury room the bailiff will give
20 the verdict form to you, Madam Forelady. When you, the
21 jury, when you, the jury, arrive at a verdict as to the
22 offenses charged in this case you, Madam Forelady, will
23 indicate the verdict on the verdict form. If the State has
24 failed to prove the guilt of the defendant beyond a
25 reasonable doubt, you will indicate your verdict by placing

1 an X beside not guilty. Likewise, if the State has proven
2 the guilt of the defendant beyond a reasonable doubt your
3 verdict will be an X beside guilty. The verdict that you
4 render in this case, ladies and gentlemen, must be the
5 verdict of each and every juror. It must be your unanimous
6 verdict. All 12 jurors must agree on the verdict which you
7 authorize the forelady to write for the jury. Ladies and
8 gentlemen, I want you to further understand that the order
9 in which the choices of verdict appear on the verdict form
10 are not suggestive of any verdict on the part of the Court.
11 The verdict in this case is to be determined by you, the
12 jury, not the Court. Furthermore, please understand that
13 even though I will give the verdict form to the forelady, it
14 is not her verdict alone, it is the verdict of all 12 of
15 you, and I emphasize again it must be unanimous. Now,
16 ladies and gentlemen, I am getting ready to ask you all to
17 retire to the jury room but do not begin your deliberations
18 at this point. The law requires that I consult with the
19 attorneys to make sure that I have not left anything out of
20 these instructions. After I have spoken with the attorneys
21 the bailiff will bring in the items of evidence and copy --
22 well, bring in the items of evidence and the verdict form
23 for you all, for you, Madam Forelady, to fill out once you
24 all have reached a unanimous verdict. During your
25 deliberations should you have any questions, Madam Forelady,

1 it will be your responsibility to reduce such question to
2 writing, knock on the door, let my bailiff know that you
3 have a question, they will get it to me and I will answer it
4 however I deem appropriate, okay? Once you all have reached
5 a verdict and filled out, signed and dated the verdict form,
6 Madam Forelady, likewise knock on the door, let the bailiff
7 know that you all have reached a verdict and we will get you
8 back in the courtroom as quickly as possible. Before I ask
9 you all to go to the jury room, everyone on the jury feel
10 okay? Anyone not feeling well? All right. I'm going to
11 ask that you all step to the jury room but do not, do not
12 begin your deliberations until you are instructed to do so.
13 Thank you.

14 (The jury left the courtroom.)

15 THE COURT: Any objection to me relieving the two
16 alternates in the back?

17 MR. FRICK: No, sir.

18 MS. EASLER: No, sir.

19 (Break in proceedings.)

20 THE COURT: Any exception or objection to the charge by
21 the State?

22 MS. EASLER: No, Your Honor.

23 THE COURT: The defense?

24 MR. FRICK: Not from the defense.

25 (The jury began deliberations and returned with a

1 Question.)

2 THE COURT: I have marked this as a Court's Exhibit.
3 The first couple of questions they asked was, "Who made the
4 first call to Howze and who named the place of meeting? Can
5 we hear it?" After consultation with the attorneys in
6 chambers, the State and defense counsel, the Court wrote a
7 written response to those two questions saying that the
8 attorneys agree that Christian Burrell made the first call
9 to Howze, and also if they wished to see the video of the
10 Burrell and Howze they could do so. That note, or that
11 response -- those responses to those initial questions were
12 sent back to the jury room, and within a matter of minutes
13 they sent another wrote on the back of this piece of paper,
14 "Who asked Burrell to call Howze? Time? Who called the
15 location. When did Officer Sanders tell Burrell to call
16 Howze, before video and location, place, who called for the
17 location?" Based upon those questions, after consulting
18 with the attorneys, I'm going to bring the jury out and tell
19 them that they can simply listen to it, but first they are
20 to consider only the testimony and items of evidence that
21 have been introduced in reaching their verdict, and if they
22 wish to hear the testimony of any of these witnesses again
23 that they are free to do so. Any exception or objection
24 from the State with regard to that?

25 MS. EASLER: No, Your Honor.

1 THE COURT: Defense counsel?

2 MR. FRICK: No, sir.

3 THE COURT: Bring me the jury, please, sir.

4 (The jury returned to the courtroom.)

5 THE COURT: We have all of the jurors present. Madam
6 Forelady, ladies and gentlemen of the jury, I received the
7 initial questions for which I responded to after consulting
8 with the attorneys. Upon receiving your second batch, so to
9 speak, of questions, what I wanted to do is to call you all
10 and bring you all back in the courtroom and tell you all
11 that you, ladies and gentlemen, are to decide this case
12 based solely, based solely on the testimony presented from
13 this witness stand and the items of evidence that have been
14 introduced during the course of this trial. Now, you've
15 asked the questions here and these questions all have been
16 made a Court's Exhibit. If you wish to listen to any or all
17 of any witness' testimony again, I can have my court
18 reporter cue it up and we can play as much or as little as
19 you want to hear again. But you are, as I said, to decide
20 this case based upon the evidence and testimony presented in
21 this courtroom and to decide based upon that evidence and
22 testimony presented here and whether or not the State has
23 proven the guilt of the defendant beyond a reasonable doubt.
24 I'm going to ask you to return to the jury room, continue
25 your deliberations. Madam Forelady, if you all wish to hear

1 any further testimony, any or all of the testimony again you
2 send out a note and let us know and we'll make sure you all
3 hear as much or as little as you want it hear, okay?

4 FOREPERSON: Yes, sir.

5 THE COURT: Y'all can return to your deliberations.

6 (The jury left the courtroom.)

7 THE COURT: Any exception or objection to anything I
8 said to the jury from the State?

9 MS. EASLER: No, Your Honor.

10 THE COURT: Defense counsel?

11 MR. FRICK: None from the defense.

12 (The jury continued deliberations.)

13 THE COURT: I have been advised that the jury has
14 reached a verdict. Anything from the State before I bring
15 the jury back out?

16 MS. EASLER: No, Your Honor.

17 THE COURT: Defense counsel?

18 MR. FRICK: No, sir.

19 THE COURT: I will remind everyone in the courtroom
20 that no matter what the verdict is to keep your emotions in
21 check, failure to do so could result -- could very well
22 result in you being held in contempt of court with the
23 penalty of a fine and/or incarceration. If you do not think
24 you can keep your emotions in check now is your time to
25 leave the courtroom.

JURY VERDICT

1 (The jury returned to the courtroom with a verdict.)

2 THE COURT: Madam Forelady, ladies and gentlemen of the
3 jury, have you reached a unanimous verdict?

4 FOREPERSON: Yes, sir.

5 THE COURT: All right. The verdict appears to be in
6 order. You may publish the verdict.

7 THE CLERK: Your Honor, this is case number
8 2019-GS-12-6610, and 19-GS-12-66620 (sic), the State of
9 South Carolina versus Elizabeth Howze. As to the charge of
10 distribution of methamphetamine we, the jury, unanimously
11 find the defendant, Elizabeth Howze, guilty. As to the
12 charge of distribution of a controlled substance within the
13 proximity of a school or a park, we, the jury, unanimously
14 find the defendant, Elizabeth Howze, guilty. If this is
15 your verdict please say so by the raising of your right
16 hands.

17 THE COURT: Let me see the verdict form, please. I
18 have corrected on the heading of the verdict form, it has
19 2019-GS-12-6610, it is 661, not zero, I struck through the
20 zero and initialed that. The other indictment number is
21 2019-GS-12-662, it's listed on here as 6620, I have stricken
22 through that zero as well and initialed by that as well.
23 That was printed on there, that was typed in wrong, okay?
24 Any exception or objection from the State on that?

25 MS. EASLER: No, Your Honor.

JURY VERDICT

1 THE COURT: Defense counsel?

2 MR. FRICK: No, Your Honor.

3 THE COURT: All right. Anything from defense counsel
4 at this time?

5 MR. FRICK: Not at this time.

6 THE COURT: All right.

7 (The jury was dismissed.)

8 THE COURT: Because the defendant was out on bond and
9 chose not to be here a bench warrant was issued for the
10 defendant yesterday, was issued for the defendant in an
11 effort to try to get the defendant here. Once that
12 defendant is picked up, once Ms. Howze is picked up on this
13 bench warrant that I issued, two bench warrants I issued
14 yesterday she would be brought back before the Court,
15 probably will not be me, but she will be brought back before
16 a circuit court judge and that sentence will be unsealed and
17 imposed upon her at that time. Does the State have
18 sentencing sheets already prepared?

19 MS. EASLER: No, Your Honor, I need a moment to prepare
20 those.

21 THE COURT: If you will prepare the sentencing sheets,
22 Mr. Frick, I know at least I have been told that the
23 defendant's mother and grandmother may be here, if they want
24 to speak at the appropriate time I will hear from them.

25 MR. FRICK: Yes, sir.

1 THE COURT: But what we're going to do right now is we
2 are going to stand down while the State gets sentencing
3 sheets and then we will reconvene and I will hear from
4 whoever wishes to be heard. Thank you.

5 (The jury was dismissed.)

6 THE COURT: Is the State ready to proceed?

7 MS. EASLER: Yes, Your Honor.

8 THE COURT: Let me hear from the State first. I
9 believe the State has to put sufficient evidence in that
10 it's a third or subsequent.

11 MS. EASLER: I do have the certified copies of her
12 indictments, or sentencing sheets from her prior convictions
13 if Your Honor would like to see them. I would ask that the
14 Court sentence her to the maximum sentence possible. She
15 clearly has no regard for the laws of our state, she keeps
16 committing drug offenses over and over again and she's on
17 the run, she hasn't cared to be a part of her trial, we
18 can't find her. A jury has found her guilty, I would just
19 ask that you give her the maximum as possible.

20 THE COURT: All right. It appears that the defendant
21 was sentenced on June 13, 2018 on three separate drug
22 offenses, one being a manufacture distribution of cocaine
23 base first whereupon she received five years suspended upon
24 three years of probation. And on that same day it looks
25 like a manufacture distribution -- excuse me, manufacture

1 possession with intent to distribute first, is that
2 marijuana?

3 MS. EASLER: I will have to look.

4 THE COURT: Schedule one, two, three.

5 MR. FRICK: What's the CDR code on it?

6 THE COURT: CDR code 186.

7 MR. FRICK: That would be marijuana.

8 THE COURT: Two counts of that wherein she received a
9 sentence of five years suspended on three years probation,
10 those occurred in June of 2018. Then it appears that she
11 was sentenced in July, July 25, I'm assuming this is in 2018
12 as well, it just says July 25th -- for possession of a
13 controlled substance schedule one to five first offense
14 whereupon she received a sentence of six months suspended
15 upon one year of probation. In addition -- and it was in
16 '18, the other sentence sheet was possession of cocaine
17 first offense, sentenced July 25 of 2018 for one year
18 suspended upon one year of probation. Does defense in any
19 way contest those prior convictions?

20 MR. FRICK: Judge, I'll be honest --

21 THE COURT: Which would make them third, this
22 particular -- these particular convictions today a third
23 offense.

24 MR. FRICK: I reviewed this very thoroughly when I was
25 preparing for this trial last month trying to figure out a

1 way to make these not a third offense, I could not figure
2 out a way so I would concede that it is a third.

3 THE COURT: So on this particular distribution third or
4 subsequent it's a minimum ten up to 30.

5 MS. EASLER: Yes, Your Honor.

6 THE COURT: And on the proximity it's up to ten.

7 MR. FRICK: Yes, sir.

8 THE COURT: All right. Mr. Frick, I'm happy to hear
9 from you, sir?

10 MR. FRICK: Thank you, Your Honor. Your Honor, I have
11 represented Mrs. Howze for a little while on this, I
12 represented her on a couple of charges for which she has
13 convictions which she was on probation for. Judge, she is a
14 drug addict, that's what her record reflects, I think that's
15 what this case reflects. This is someone who is not
16 necessarily a drug dealer as such but a person who is
17 feeding a habit. Your Honor, you saw the entire video, you
18 saw the chatting between the two people in the case, I would
19 contend that they are far more than acquaintances. This was
20 someone who she knew, probably someone who she has done
21 drugs with before, as such I would ask you to consider an
22 accommodation offense. Now, I was researching it and I'm
23 not sure it entirely applies with a scheduled two case, but
24 in light of my client's -- I've seen worse records and I
25 know you have, too, and I don't know that this is what the

1 legislature contemplated when they put the range that they
2 put. I know you're not going to pronounce sentence, but
3 this is not my first rodeo so I certainly understand what a
4 likely sentence may be here today. I am asking you to take
5 all of that into consideration when passing sentence,
6 consider that it is a possibility of an accommodation I
7 think. It doesn't make it right, but that is what our
8 statute contemplates in a reduction, or treating it as a
9 reduction even though it is a third or subsequent offense.
10 Your Honor, she has family here, I think one may wish to
11 speak to the matter if you would hear from her, I think it's
12 her mom, if you would hear from her at this time.

13 THE COURT: Tell me your name for the record, please.

14 SPEAKER: Beth West.

15 THE COURT: Yes, ma'am, Ms. West?

16 SPEAKER: I just want to let you know, it breaks my
17 heart. This child was raised a whole lot better than this,
18 and I don't know what happened because we never -- she went
19 to church, and when she got a divorce, I mean, it's just
20 like everything went haywire. But I want you to know this
21 child was a good child at one time. And I know she's got
22 problems, I really do, and you talk to her, "No, no, no
23 mama. Oh yes, Leanne," that's what we call her. But I just
24 want -- she needs help, she needs help and she won't admit
25 it. So I wish you would consider that. Because, I mean, if

1 you tell her, "Leanne, go talk to somebody, go to drug
2 rehab. I don't need that." And then she gets real mad at
3 me and then I don't know where she goes. So I would just --
4 she is a good person, she really is, but she's just with the
5 wrong people, she needs help and she won't admit it. So, I
6 mean, I just want you to maybe see if she can get help.
7 With you, you might can -- she can get help but she won't
8 listen to me. So and -- and I'm not in good health myself
9 so I can't worry about her and stuff. I done had a heart
10 attack, a stroke and stuff and I just can't worry about her
11 like this because I know she needs help. She will not admit
12 it.

13 THE COURT: Thank you.

14 SPEAKER: She's a good person. She would help you, she
15 would give you the shirt off of her back if she could help
16 you, it's just the type person she is.

17 THE COURT: Thank you, ma'am.

18 SPEAKER: But I appreciate you listening to me.

19 THE COURT: Yes, ma'am.

20 MR. FRICK: Judge, the only other issue I have in the
21 sentencing range that we're facing in this is you heard in
22 there talk about a person named Mario, that is a person
23 she's a codefendant with in another case. It's my
24 understanding he's actually in federal custody, and my grave
25 concern in this situation is he's the drug dealer in this

1 situation, she is kind of a middle man in it and she is
2 likely going to end up with a higher time in prison than he
3 will and that frustrates me as a defense attorney and I ask
4 you to take all of that into consideration.

5 THE COURT: Thank you, Mr. Frick. Other than these --
6 other than the prior drug convictions, what other kind of
7 record does she have?

8 MS. EASLER: She has an entry on another land after
9 notice and a breach of peace. And then she has several
10 financial transaction card fraud pending warrants that we
11 plan on dismissing as a result of this conviction, and
12 several other drug charges that we will be dismissing as a
13 result of this conviction as well.

14 THE COURT: Distribution charges?

15 MS. EASLER: Yes. She has --

16 MR. FRICK: Your Honor, it's a PWID. It was a traffic
17 stop with Mario as I was telling you before and drugs were
18 found in the car.

19 MS. EASLER: And there's another distribution case as
20 well.

21 MR. FRICK: I stand corrected, it was a distribution of
22 pills of some sort.

23 MS. EASLER: Yes.

24 THE COURT: Madam Clerk, have you got an envelope? All
25 right. She will be picked up on the bench warrant, it will

1 be unsealed and it will be imposed.

2 (End of trial proceedings.)

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1 I, the undersigned, Michael C. Watkins,
2 Official Court Reporter for the Sixth Judicial
3 Circuit of the State of South Carolina, do hereby
4 certify that the foregoing is a true, accurate and
5 complete transcript of the proceedings had and
6 evidence introduced in the trial of the captioned
7 case relative to appeal in Court of General Sessions
8 for Chester County, South Carolina, on the 6th day
9 of November, 2019.

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

12

13

February 12, 2020

14

15


Michael C. Watkins

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Court Reporter

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1 STATE OF SOUTH CAROLINA
2 COURT OF GENERAL SESSIONS
3 COUNTY OF CHESTER
4 2019-GS-12-0661 and 0662

5 State of South Carolina

6 Vs.

7 Elizabeth Leanne Howze

8

9 Chester, South Carolina

10 December 2, 2019 (Sentencing)

11 Before the Honorable Brian M. Gibbons

12 APPEARANCES

13 For the State: Kaitlyn Easler

14 For the Defendant: William Frick

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16 Reported by: Michael C. Watkins

17 Official Court Reporter

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1 MS. EASLER: Thank you, Your Honor. Before you is
2 Elizabeth Howze. She was before the Court during the
3 November term of court, we did a trial in her absence for
4 distribution third offense and distribution near a school.
5 Judge Craig Brown sealed her sentence and we would ask you
6 to unseal it.

7 THE COURT: All right. Mr. Frick, any other issues you
8 wish to put on the record before I unseal the sentence?

9 MR. FRICK: Not at this time.

10 THE COURT: All right, thank you. All right. Let the
11 record reflect I am unsealing the sentence sheet as well as
12 the exhibits. And let the record also reflect that it is
13 very well sealed up. We have double glue. All right. Ms.
14 Howze, on indictment 19-GS-12-661, you were tried in your
15 absence for two charges, distribution of methamphetamine
16 third or subsequent and then I guess within the proximity of
17 a school, you were found guilty by a jury of your peers and
18 Judge Brown sentenced you to 17 years in prison on
19 indictment 662, ten years on indictment 661 with credit for
20 time served, and both sentences will run concurrently. All
21 right. So that is the sentence of the Court. Mr. Frick,
22 anything you wish to say?

23 MR. FRICK: Your Honor, first and foremost I would ask
24 you to reconsider the sentence. I know you were not the
25 trial judge on this case and I believe you and I had this

1 situation about a year ago. I point you to the State versus
2 Smith, which is 276SC494, it's a 1981 case and they said
3 clearly the sealed sentence is not the judgment of the Court
4 until it is opened and read to the defendant, so that makes
5 you the sentencing judge, which would make it appropriate at
6 this time for me to ask you to reconsider that sentence.
7 Judge, part of the issue that I had in the sentencing on
8 this case was my client had a codefendant so to speak of a
9 person who is now in federal custody. I do believe that
10 that person is truly the drug dealer in this case. She, in
11 fact, mentioned on the video that the drugs came from this
12 person. I think my client is an addict, not truly a seller
13 of drugs, she was supporting a habit. My concern is my
14 client stands before you with a 17 year sentence and I
15 believe she's going to have to do 85 percent of that
16 sentence. The codefendant, who is federal custody, in my
17 experience they pile up charges on you and then offer you to
18 plead to a nice conspiracy charge for ten years. I don't
19 know exactly his situation but I would surmise that's kind
20 of what he's looking at. It troubles me that he would be
21 looking at less time than she would be looking at given her
22 prior record. She was on probation, I know we're prepared
23 to go forward with the probation violation, but it's really
24 a true third offense, and that's the concern I have --

25 THE COURT: What's the mandatory minimum for a true

1 third?

2 MR. FRICK: Ten. And, of course, frankly as a defense
3 attorney I don't think that's appropriate given her
4 circumstances but that is the statutory scheme that we
5 operate under. I do believe it is suspendible the way the
6 laws are interpreted on drug convictions now, but I would
7 ask you to reconsider the sentence. She does have family
8 that -- I think family wanted to address you. Where are you
9 at?

10 THE COURT: I'll be glad to hear from whoever. Before
11 I do that let me hear from the State and then from -- well,
12 let me hear from probation first. What was she on probation
13 for?

14 AGENT WIX: She was on probation -- she had several
15 different offenses; manufacturing distribution of cocaine
16 base first, manufacturing possession of scheduled one, two,
17 three first offense, two counts on that, possession of
18 cocaine first, and possession of other controlled substances
19 first.

20 THE COURT: And obviously this conviction would be in
21 violation of that?

22 AGENT WIX: Correct.

23 THE COURT: What's the suspended sentence that is
24 hanging over her head?

25 AGENT WIX: The highest one, I believe, is either six

1 years or five.

2 MR. FRICK: I think it's five.

3 THE COURT: All right.

4 AGENT WIX: Six years, I'm sorry, on the Lancaster
5 case.

6 THE COURT: Any arguments on that?

7 MR. FRICK: No, sir. I would just ask you to run
8 whatever concurrent.

9 THE COURT: I find this conviction is a willful
10 violation of your probation, revoke in full, run concurrent
11 with whatever sentence I am ultimately going to impose, so
12 that's the order on that. All right. Talk to me, Madam
13 Solicitor, about the sentence here.

14 MS. EASLER: Thank you, Your Honor. I believe this
15 sentence is an appropriate one for the Court. Ms. Howze had
16 every opportunity to come in and plead guilty. We offered
17 her a very fair plea offer in this case, I believe it was
18 eight years suspended on a term of probation after she
19 completed that eight year sentence. She has a very bad
20 record, all of -- most of them are drug convictions. She
21 has no -- she just keeps going out and committing drug
22 violations. On the video that we showed in court it was
23 clearly her distributing these drugs. She had multiple
24 other charges for distributing drugs that we dismissed, as
25 well as several other charges that we dismissed. So I would

1 ask you to uphold the sentence. And I can read off her
2 record if you would like, Your Honor.

3 THE COURT: Sure. The record needs to hear it.

4 MS. EASLER: All right. She has an entry on another's
5 land after notice. A breach of peace. A possession of a
6 controlled substance, another possession of cocaine. A drug
7 manufacturing or distribution. A possession with intent to
8 distribute, another possession with intent to distribute. A
9 possession of controlled substance. And then those other
10 charges that we dismissed, Your Honor, which were all drug
11 charges with the exception of financial transaction card
12 fraud.

13 THE COURT: All right. So prior record is the actual
14 distribution --

15 MS. EASLER: She had two other distribution charges,
16 Your Honor.

17 THE COURT: The video here of the trial, I wasn't at
18 the trial, was her actually selling --

19 MS. EASLER: Yes, Your Honor. It was a clear --

20 THE COURT: The prior record, those were made based on
21 the weight, not on actual sell?

22 MS. EASLER: To my -- I have no knowledge of those.

23 THE COURT: Well, it was a PWID.

24 MS. EASLER: I assume so.

25 THE COURT: Didn't want to undercut your argument but

1 I'm listening.

2 MR. FRICK: I just wanted to clarify, because I had to
3 review this very thoroughly. I tried every way possible to
4 see if I could get this off of a third offense, it is a true
5 third offense. The charges that you heard, they are charges
6 that are together in some circumstances which is why I --
7 under the statute that if they are events that happen at the
8 same time, not necessarily just pled together but happened
9 at the same time, that that counts as one offense. In my
10 calculation it did add up to this being a true third
11 offense, which is why I'm asking for the reduction in the
12 sentence.

13 THE COURT: Okay. Anybody else want to talk?

14 MR. FRICK: Any family wants to speak. It is not
15 necessary but if someone feels they must.

16 SPEAKER: Your Honor, I just want to --

17 THE COURT: What's your name?

18 SPEAKER: My name is Beth West, I'm her momma. I just
19 want to tell you that this child wasn't raised like this,
20 she was raised in church, always did things, I just don't
21 know what happened when she went south, you know. But truly
22 she is a good person. She would do anything in the world
23 for you so I don't know what happened. I don't know if it
24 was easy money or what, but -- I don't know. Just take that
25 into consideration, please. She helps my mom. My mom is

1 almost blind and she helps my mom a good bit because I can't
2 drive anymore because I've had a stroke and a heart attack
3 and I can't see as well and I don't want to drive, I gave my
4 own license up so I have no way to go check on my mom. So I
5 just wish you would just take that into consideration.

6 THE COURT: Thank you, ma'am. All right, I will.
7 Anything else from the State?

8 MS. EASLER: One more thing, Your Honor. She does have
9 two bench warrants for failure to appear. And I would like
10 to note that she did have an extra term of court to plead,
11 she was up for trial in October and she ended up going to
12 trial in November in her absence.

13 THE COURT: All right. Well, those bench warrants are
14 vacated obviously because she's in custody now. Okay. Mr.
15 Frick, anything else?

16 MR. FRICK: No, sir. Ms. Howze wants to address you.

17 THE COURT: Yes, ma'am, what you want to tell me?

18 THE DEFENDANT: Your Honor, I just want to say that I
19 know I messed up by not coming to court. I've never been
20 faced with anything like this in my life, I've never been to
21 prison. I got around the wrong crowd and I know I messed
22 up. Please have mercy on me.

23 THE COURT: Ms. Howze, let me put it to you as bluntly
24 as I can but also trying to be merciful as I can to you.
25 You're 35 years old, this ain't your first run in the park.

1 You heard your record, you know your record, and not only
2 that, that's just a record of the times you've been caught,
3 okay? It's clear to me you have a long history of drug
4 abuse and it's finally caught up to you. You know, the easy
5 thing to do is to put you in jail for the whole amount, I
6 don't know if that's necessarily the best thing to do
7 because, you know, prison isn't a place for addicts, okay?
8 Prison is a place for drug dealers and violent criminals,
9 okay? And I know that, okay? There's only so much I can do
10 here, you know, it's a mandatory minimum sentence which is
11 ten years, all right? Now, based upon what I've heard from
12 your prior record and the evidence, you know, I looked
13 through here, it's contained in this sealed package, I don't
14 think it's a mandatory -- I don't think it's a minimum case
15 based upon that, however I am going to have some mercy on
16 you, okay? I am going to reconsider the sentence pursuant
17 to that case, State versus Smith, and I'm going to sentence
18 you to 12 years, concurrent with the ten year sentence that
19 Judge Brown did on indictment 661. So the mechanics of
20 doing that Mr. Frick and Ms. Easler, are y'all going to have
21 to do a new sentencing sheet or -- he's already signed this
22 sentencing sheet, it hadn't been filed. I don't know.

23 MR. FRICK: If you prefer I can draft up an order.

24 THE COURT: Well, why don't we do a new sentencing
25 sheet, I will write on this -- I don't know. And I'm glad

1 we're having a record here to read. Have you run into this
2 before?

3 MS. LIVELY: Well, Your Honor, I'll tell you where the
4 problem -- if you don't do a new sentence sheet then SCDC is
5 the problem, so I think we need to do a new one and attach
6 it.

7 THE COURT: Let the record reflect I'm vacating the
8 sentence sheet of 19-GS-12-662 based upon my authority as
9 the judge who unsealed the sentence, okay? I'm vacating
10 that. Based upon the information presented to me now, I'm
11 sentencing you, Ms. Howze, on indictment 19-GS-12-662 to 12
12 years concurrent with the Judge Brown's sentence of ten
13 years, credit for time served. Good luck to you. Y'all do
14 up a new sentencing sheet before she's transported.

15 (End of the hearing.)

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1 I, the undersigned, Michael C. Watkins,
2 Official Court Reporter for the Sixth Judicial
3 Circuit of the State of South Carolina, do hereby
4 certify that the foregoing is a true, accurate and
5 complete transcript of the proceedings had and
6 evidence introduced in the trial of the captioned
7 case relative to appeal in Court of General Sessions
8 for Chester County, South Carolina, on the 2nd day
9 of December, 2019.

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

12

13

February 12, 2020

14

15



16

Michael C. Watkins

17

Court Reporter

18

19

20

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25

WITNESSES

Rickey Sanders (CPD)

v T. Roberts

DOCKET NO. 2019-GS-12-661

The State of South Carolina

County of Chester

COURT OF GENERAL SESSIONS

OCTOBER TERM 2019

ARREST WARRANT NUMBER/DOA

2019A1220100012 (DOA-6-1-19)

ACTION OF GRAND JURY

TRUE BILL

Wally Hobbey
Foreperson of Grand Jury

Date: 10-1-19

VERDICT

Elizabeth Leanne Howze

THE STATE
vs.

Indictment for Distribution or PWID of
Controlled Substance near School

SC Code: § 44-53-445(B)(1)
§44-53-445(B)(2)
CDR Code: 107,
Class: Felony E, Felony D

For person of Petit Jury

Date: 1

OFFICE OF THE CLERK
COURT OF COMMON PLEAS
COUNTY OF CHESTER

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHESTER)

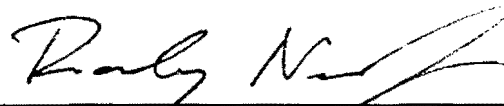
INDICTMENT

At a Court of General Sessions, convened on October 1, 2019, the Grand Jurors of Chester County present upon their oath:

DISTRIBUTION OR PWID OF CONTROLLED SUBSTANCE NEAR SCHOOL

That Elizabeth Leanne Howze did in Chester County on or about January 10, 2019, distribute, sell, manufacture, or unlawfully possess with intent to distribute a controlled substance, to wit: Meth , while in, on, or within a one-half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical education center; or a public or private college or university, in violation of §44-53-445 of the *Code of Laws of South Carolina, (1976), as amended*.

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



Randy E. Newman, Jr., SOLICITOR

WITNESSES

Rickey Sanders (CPD)-

V.T. Roberts

DOCKET NO. 2019-GS-12-662

The State of South Carolina

County of Chester

COURT OF GENERAL SESSIONS

OCTOBER TERM 2019

ARREST WARRANT NUMBER/DOA

2019A1220100013 (DOA-6-1-19)

ACTION OF GRAND JURY
TRUE BILL

Wally H. Stalvey
Foreperson of Grand Jury

Date: 10-1-19

VERDICT

Elizabeth Leanne Howze

THE STATE
vs.

Indictment for

Distribution/Manufacturing of
Methamphetamine-3rd Offense

SC Code: § 44-53-375(B)

CDR Code: 3200

Class: Felony, D

Foreperson of Petit Jury

Date:

CLERK OF COURT CHESTER SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)

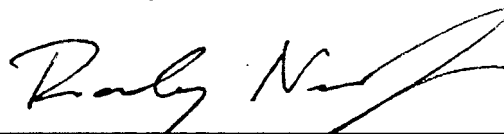
INDICTMENT

At a Court of General Sessions, convened on October 1, 2019, the Grand Jurors of Chester County present upon their oath:

DISTRIBUTION/MANUFACTURING OF METHAMPHETAMINE – 3RD OFFENSE

That Elizabeth Leanne Howze did in Chester County on or about January 10, 2019, manufacture, distribute, dispense, or deliver methamphetamine, in violation of § 44-53-375(B), *Code of Laws of South Carolina, (1976), as amended.*

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



Randy E. Newman, Jr., SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF 126 Chester
STATE VS. Elizabeth Leanne Howze
AKA:
Race: WHITE Sex: F Age: 35
DOB: SS#:
Address: Webber Ave
City, State, Zip: Chester, SC 29706-1802
DL#: SID#:

INDICTMENT/CASE#: 2019GS12661
A/W#: 2019A1220100012
Date of Offense: 1/10/2019
S.C. Code §: 44-53-0445(B)(1)
CDR Code #: 0107

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was
TO: Drugs / Distribute, sell, manuf. or pwid, of cont. sub., near school

CONVICTED OF or PLEADS

in violation of § 44-53-0445(B)(1) of the S.C. Code of Laws, bearing CDR Code # 0107
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Lively, Candice 102695 Defendant Frick, William SCB69739 Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

PTUP
days/hours Public Service Employment

Recipient:

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$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/Probation) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114(BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, 3% to County (if paid in installments) \$ 8 25. TOTAL \$ 283.25

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 61.6 requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Clerk of Court/ Deputy Clerk Sue H. Carpenter
Court Reporter: Mike Watkins
SCCA/217 (07/2016)

Presiding Judge
Judge Code:
Sentence Date: 12/2/19

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

127

COUNTY OF Chester VS. STATE

INDICTMENT/CASE#: 2019GS12662

Elizabeth Leanne Howze

A/W#: 2019A1220100013

AKA:

Date of Offense: 1/10/2019

Race: WHITE Sex: F Age: 35

S.C. Code § : 44-53-0375(B)(3)

DOB: SS#:

CDR Code #: 3200

Address: Webber Ave

City, State, Zip: Chester, SC 29706-1802

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 TO: Drugs / Distribution, etc. of methamphetamine, 3rd or sub. (Excludes manufacturing meth; see CDR Code 3778)

CONVICTED OF or PLEADS

in violation of § 44-53-0375(B)(3) of the S.C. Code of Laws, bearing CDR Code # 3200

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initials)

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

ATTEST: Lively, Candice SC Bar# Defendant Frick, William SCB69739 Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 12 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

CONCURRENT or CONSECUTIVE to sentence on: The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135. Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP Total: \$ plus 20% fee: \$ Payment Terms: Set by SCDPPPS

Recipient: *Fine: § 14-1-206 (Assessments 107.5 %) § 14-1-211(A)(1) (Conv. Surcharge) \$100 \$100.00 § 14-1-211(A)(2) (DUI Surcharge) \$100 \$ § 56-5-2995 (DUI Assessment) \$12 \$ § 56-1-286 (DUI Breath Test) \$25 \$ Proviso 61.6 (Public Def/Probation) \$500 \$ § 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00 § 14-1-213 (Drug Court Surcharge) \$150 \$ 150.00 § 50-21-114(BUI Breath Test Fee) \$50 \$ § 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ 3% to County (if paid in installments) \$ 225

TOTAL \$283.25

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:

Clerk of Court/ Deputy Clerk Sue H. Carpenter Court Reporter: Mike W. Perkins

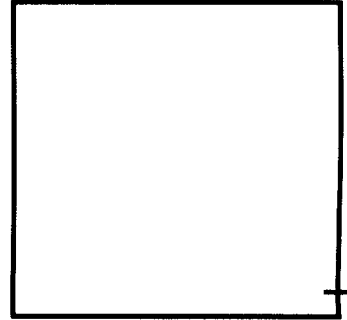
Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge Judge Code: Sentence Date: 12/2/19

ARREST WARRANT
2019A1220100012

STATE OF SOUTH CAROLINA
 County/ Municipality of
CHESTER

THE STATE
against



ELIZABETH LEANNE HOWZE
Address: WEBBER AVE
CHESTER SC 29706

Phone: 45 SSN: [REDACTED]
Race: W Height: 5-2 Weight: 165
DL State: SC DL#: [REDACTED]

DOB: [REDACTED] Agency OR#: SC0120100
Prosecuting Agency: CITY OF CHESTER POLICE
Prosecuting Officer: RICKEY SANDERS
Offense: DRUGS / DISTRIBUTE, SELL OR PWID
NEAR SCHOOL Offense Code: 0107
Code/Ordinance Sec: 44-53-0445 (A)

This warrant is CERTIFIED FOR SERVICE in the
 County/ Municipality of

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

Signature of Judge _____ (L.S.)
Date _____ Time _____

RETURN
A copy of this arrest warrant was delivered to
defendant ELIZABETH LEANNE HOWZE
on 01/10/2019

Signature of Constable/Law Enforcement Officer
[Signature]

RETURN WARRANT TO:
MUNICIPAL COURT
2740 DAWSON DRIVE
CHESTER, SC 29706

STATE OF SOUTH CAROLINA
 County/ Municipality of
CHESTER

AFFIDAVIT

Personally appeared before me the affiant RICKEY SANDERS who

being duly sworn deposes and says that defendant ELIZABETH LEANNE HOWZE
did within this county and state on 01/10/2019 to 01/10/2019 violate the criminal laws of the
State of South Carolina (or ordinance of County/ Municipality of CHESTER
in the following particulars:
DESCRIPTION OF OFFENSE: 44-53-0445 (A) / DRUGS / DISTRIBUTE, SELL OR PWID NEAR SCHOOL

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

ON 01/10/2019 THE DEFENDANT, ELIZABETH HOWZE DID WILLFULLY AND KNOWINGLY VIOLATE SOUTH CAROLINA DRUG LAWS BY
DISTRIBUTING QUANTITY OF METHAMPHETAMINE TO A RELIABLE CONFIDENTIAL SOURCE WORKING UNDER THE DIRECT CONTROL AND
SUPERVISION OF THE NARCOTICS UNIT. THE TRANSACTION WAS ELECTRONICALLY MONITORED. THIS OFFENSE DID OCCUR WITHIN A ONE-
HALF MILE RADIUS OF THE GROUNDS OF A PUBLIC OR PRIVATE SCHOOL, A PUBLIC PLAYGROUND OR PARK ON COLUMBIA STREET IN THE
CITY LIMITS OF CHESTER, SOUTH CAROLINA 29706.

FILED
11 MAY 19 PM 2:14
CLERK OF CRT CHESTER SC

Signature of Affiant

STATE OF SOUTH CAROLINA
 County/ Municipality of
CHESTER

Affiant's Address WEST END ST
CHESTER SC 29706
Affiant's Telephone (803) 581-2132

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that
on 01/10/2019 defendant ELIZABETH LEANNE HOWZE
did violate the criminal laws of the State of South Carolina (or ordinance of _____) as set forth below:
 County/ Municipality of CHESTER
DESCRIPTION OF OFFENSE: DRUGS / DISTRIBUTE, SELL, MANUF. OR PWID, OF CONT. SUB.,
NEAR SCHOOL

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

Sworn to and subscribed before me _____)
on 01/16/2019 3:30 PM)
Date Time (L.S.))
THEODORE WILDER JR.)
Judge Code: 8211)

Judge's Address 2740 DAWSON DRIVE
CHESTER SC 29706
Judge's Telephone 803-581-2133
Issuing Court: Magistrate Municipal Circuit

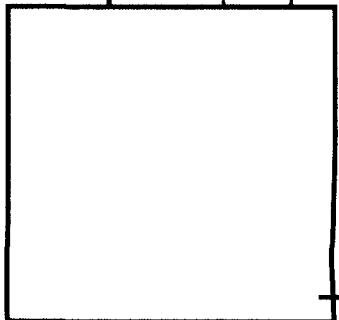
ORIGINAL

Case: 20190070

ARREST WARRANT
2019A1220100013

STATE OF SOUTH CAROLINA
 County/ Municipality of
CHESTER

THE STATE
against



ELIZABETH LEANNE HOWZE
Address: WEBBER AVE
CHESTER SC 29706

Phone: 45 SSN
Sex: W Race: W Height: 5-2 Weight: 165
DL State: SC DL#: Agency OR#: SC0120100

DOB: [REDACTED]
Prosecuting Agency: CITY OF CHESTER POLICE
Prosecuting Officer: RICKEY SANDERS

Offense: DRUGS / DISTRIBUTION, ETC. OF
METH. 3RD OR SUB Offense Code: 3200

Code/Ordinance Sec. 44-53-0375 (B) (3)

This warrant is CERTIFIED FOR SERVICE in the
 County/ Municipality of

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

Signature of Judge (L.S.)

Date Time

RETURN

A copy of this arrest warrant was delivered to
defendant ELIZABETH LEANNE HOWZE

on 01/16/2019
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

MUNICIPAL COURT
2740 DAWSON DRIVE
CHESTER, SC 29706

STATE OF SOUTH CAROLINA
 County/ Municipality of
CHESTER

AFFIDAVIT

Personally appeared before me the affiant RICKEY SANDERS

being duly sworn deposes and says that defendant ELIZABETH LEANNE HOWZE
did within this county and state on 01/10/2019 to 01/10/2019 violate the criminal laws of the
State of South Carolina (or ordinance of County/ Municipality of CHESTER)
in the following particulars:

DESCRIPTION OF OFFENSE: 44-53-0375 (B) (3) / DRUGS / DISTRIBUTION, ETC. OF METH. 3RD OR
SUB

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

ON 01/10/2019 THE DEFENDANT, ELIZABETH HOWZE DID WILLFULLY AND KNOWINGLY VIOLATE SOUTH CAROLINA DRUG LAWS BY
DISTRIBUTING QUANTITY OF METHAMPHETAMINE TO A RELIABLE CONFIDENTIAL SOURCE WORKING UNDER THE DIRECT CONTROL AND
SUPERVISION OF THE NARCOTICS UNIT. THE TRANSACTION WAS ELECTRONICALLY MONITORED. THIS OFFENSE DID OCCUR ON COLUMBIA
STREET IN THE CITY LIMITS OF CHESTER, SOUTH CAROLINA 29706.

Signature of Affiant

STATE OF SOUTH CAROLINA
 County/ Municipality of
CHESTER

Affiant's Address WEST END ST
CHESTER SC 29706

Affiant's Telephone (803) 581-2132

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that
on 01/10/2019 defendant ELIZABETH LEANNE HOWZE

did violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of CHESTER) as set forth below:

DESCRIPTION OF OFFENSE: DRUGS / DISTRIBUTION, ETC. OF METHAMPHETAMINE, 3RD OR SUB.
(EXCLUDES MANUFACTURING METH; SEE CDR CODE 3778)

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

Sworn to and subscribed before me)

on 01/16/2019 2:00PM)

Date Time (L.S.))

THEODORE WILDER JR.

Judge's Address 2740 DAWSON DRIVE

CHESTER SC 29706

Judge's Telephone 803-581-2133

Issuing Court: Magistrate Municipal Circuit

ORIGINAL

Case: 20190070

FILED
11 JUN 19 PM 2:14
CLERK OF CRT CHESTER SC

BAIL PROCEEDING
FORM II

FILED

2019 OCT -2 AM 10:00

STATE OF SOUTH CAROLINA
COUNTY OF CHESTER

IN THE MUNICIPAL COURT OF CHESTER

STATE OF SOUTH CAROLINA

ORDER SPECIFYING METHODS AND CONDITIONS OF RELEASE

Elizabeth Leann Hester
NAME OF DEFENDANT

Offense Charged:

At a bail proceeding conducted by the undersigned judge, for the defendant named above, it was determined by the court (check one or both):

- The release of the defendant on recognizance will not reasonably assure his appearance as required.
- The release of the defendant on recognizance will result in an unreasonable danger to the community.

This determination was based upon the following findings of fact: Nature of offense

[Considerations: Nature and circumstances of the offense charged, the defendant's family ties, employment, financial resources, character and mental condition, the length of his residence in the community, his record of convictions, and any record of flight to avoid prosecution or failure to appear at other court proceedings.]

THEREFORE, IT IS HEREBY ORDERED:

1. That the above named defendant be released from custody on the condition that he will personally appear before the designated court at the place, date and time required to answer the charge made against him and do what shall be ordered by the court and not depart the State without the permission of the court and be of good behavior.
2. That the above named defendant be released from custody provided as follows (check all that apply):

CASH IN LIEU OF BOND

70,000.00

The defendant, acknowledges himself to be indebted to the State of South Carolina in the sum of _____ to secure his release from custody. Should the defendant fail to comply with all terms and conditions of this Order, this sum of money is subject to being forfeited to the State.

CASH PERCENTAGE IN LIEU OF BOND

The defendant, acknowledging himself to be indebted to the State of South Carolina in the full amount of _____, his release to be obtained by payment to the court of _____ % (not to exceed 10%) of the full amount of the bond, deposits _____ to secure his release from custody. Should the defendant fail to perform the conditions of this Order, the full amount shall be levied on his real and personal property for the use of the State.

APPEARANCE RECOGNIZANCE WITH SURETY

The defendant will provide good and sufficient surety approved by the court, in the form hereinafter set forth in this Order, acknowledging an indebtedness to the State in the amount of 70,000.00

3. That the defendant shall appear at (check one):

the term of COURT OF GENERAL SESSIONS beginning on 29 Aug 2019
at 9:30 o'clock, AM, at 140 MAIN STREET, CHESTER, SC 29706
and remain there throughout that term of court. If no disposition is made during that term, the defendant shall appear and remain throughout each succeeding term of court until final disposition is made of his case, unless otherwise ordered by the court.

the session of MUNICIPAL COURT OF CHESTER beginning on _____
at 5:00 o'clock, PM, at 2740 DAWSON DRIVE, CHESTER, SC 29706
If no final disposition is made during that session, the defendant shall appear at such other times and places as ordered by the court.

INITIALS OF DEFENDANT

ECH

4. That the defendant will notify the court promptly if he changes his address from the one contained in this order and he will comply with those conditions described hereinafter in the Order.

Thad E. ...
SIGNATURE OF JUDGE

July 15 2019
DATE

ACKNOWLEDGEMENT BY DEFENDANT

I understand that if I violate any condition of this Order, a warrant for my arrest will be issued.

I understand and have been informed that I have a right and obligation to be present at trial and should I fail to attend the court, the trial will proceed in my absence.

It has been explained to me that if I fail to appear before the court as required, a warrant for my arrest will be issued.

DEFENDANT INFORMATION: ADDRESS (Webb Ave., Chester S.C. 29706), CITY/STATE/ZIP, TELEPHONE, SOCIAL SECURITY NUMBER, DRIVER'S LICENSE OR ID NUMBER, SIGNATURE OF DEFENDANT, DATE (7-15-19), ATTORNEY REPRESENTING ACCUSED (IF KNOWN)

SPECIAL CONDITIONS OF RELEASE

a. [] Placement in custody. The defendant is placed in the custody of: _____ NAME OF PERSON OR ORGANIZATION

who agrees (1) to supervise the defendant as set forth by the court, (2) to use every effort to assure the appearance of the defendant at all scheduled hearings before the court, and (3) to notify the court immediately in the event the defendant violates any conditions of his release or disappears.

SIGNATURE OF CUSTODIAN (IF APPROVED) _____ DATE _____

b. [] Restrictions on Travel, Association or Residence. The defendant will comply with each of the following conditions:

c. [] Part-time Release. The defendant will be released from custody from _____ o'clock, _____ to _____ o'clock, _____ on _____ on condition that he return to the custody of _____ at _____ as designated.

d. [] Other Conditions. The defendant will comply with the following other conditions of release:

APPEARANCE RECOGNIZANCE WITH SURETY
On the 28th day of September, 2019, personally appeared before the undersigned judge the surety named below who acknowledged himself indebted to the State of South Carolina, in the sum of \$70,000, such sum to be levied on his real and personal property for the use of the State, should named defendant fail in performing the conditions of this Order.

The surety, being duly sworn, says that he is a resident and free holder within the State and is worth the sum acknowledged and underwritten herein, over all his debts and liabilities, and exclusive of property exempt from execution.

SURETY INFORMATION: NAME OF SURETY BONDSMAN COMPANY (Apex), TELEPHONE (803) 255-2222, SIGNATURE OF SURETY BONDSMAN, ADDRESS OF SURETY BONDSMAN (P.O. Box 3207, Lancaster SC 29701), CITY/STATE/ZIP, SIGNATURE OF JUDGE (Arden M. Lewis), DATE (9/28/2019), NAME OF INSURANCE COMPANY (US Fire 105 Company), ADDRESS OF INSURANCE COMPANY (P.O. Box 2807, Houston TX 77252), CITY/STATE/ZIP

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

Feb 05 2021

SC Court of Appeals



Sarah E. Shipe
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 5th day of February, 2021.