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1 (Whereupon, court was reconvened on Thursday, 6/30/22)

2 THE COURT: Alright. Good morning, everyone. I asked  
3 everybody to be here at nine o'clock. The jury will be here  
4 at 9:30. I just want to follow up on a few things from  
5 yesterday at the charge conference and following up after  
6 that.

7 Mr. Johnson, have you had a chance to look at the  
8 proposed verdict form?

9 MR. JOHNSON: Yes.

10 THE COURT: Okay. Is that acceptable to the Defense?

11 MR. JOHNSON: Acceptable to the Defense.

12 THE COURT: Okay. And the redacted indictment, which my  
13 understanding would be eliminating Count 3. Is that  
14 acceptable?

15 MR. JOHNSON: Yes, Your Honor.

16 THE COURT: Okay. Okay, now, the other matter we  
17 discussed, and the other requests to charge, Mr. White, did  
18 you have those, or do I need -- I could --

19 MR. WHITE: Your Honor, I have them. But I think the  
20 reason that I did not have these in what I submitted to the  
21 Court is normally the Defense requests burden of proof.

22 THE COURT: Right. Right.

23 MR. WHITE: So --

24 THE COURT: I just know we need that in there. So, I'll  
25 put -- I can get those and just put them in.

1 MR. WHITE: (Indicates to documents) It's --

2 THE COURT: Oh, okay.

3 MR. WHITE: -- I put it in there, and those are added  
4 supplemental. There's burden of proof voluntariness of  
5 statement, as well as the burden of proof generally was in  
6 the charge --

7 THE COURT: (crosstalk). Okay.

8 Mr. Johnson, in looking over State's Supplemental  
9 1.32.19, burden of proof as to voluntariness, any objection  
10 to that?

11 MR. JOHNSON: No.

12 THE COURT: Okay. And State's 1.20.10, burden of proof  
13 reasonable doubt, of course we will take out the phrase that  
14 says, "except insanity." We don't have that in -- on that 1,  
15 2, 3, 4th paragraph it would say: defendant to introduce  
16 evidence or to prove innocent when a defense is raised by  
17 the evidence the burden is on the state to negate or  
18 disprove it beyond a reasonable doubt. I just won't tell  
19 them except insanity, because we don't have that issue in  
20 this case.

21 With that revision, any objection, Mr. Johnson?

22 MR. JOHNSON: No, Your Honor.

23 THE COURT: Okay. Now, also, what I'm going to do, also,  
24 Counsel, and Mr. Johnson, the standard Pattern charges on  
25 indictment and the plea of not guilty, the Court, I'll

1 prepare those and just get them out of the charge book and  
2 give that. I think those two shall be given, but I'll -- I  
3 thought I had the charge book right here. But they're just  
4 the standard charges, and it just talks about the indictment  
5 and plea of not guilty is how the case is brought to trial,  
6 and that's what I'll give on that one.

7           Alright. So, with those issues being resolved, what  
8 I'll -- Yes, sir?

9           MR. JOHNSON: You still have one of those small bottles  
10 of water?

11           THE COURT: Yes, sir, we can have that.

12           Mr. White, do you want one, also?

13           MR. WHITE: Yes, please, Your Honor.

14           THE COURT: Okay.

15           (To bailiff) If can get those, if you will, Jerry.

16           Now, let's go back, and what we'll do, I'm going to go  
17 in there in just a moment, I'll put together sets of these  
18 requests to charge, each side will have those, so when I'm  
19 prepared to read it, you can follow along, you know, and  
20 make sure I read it correctly as it's stated. Okay? And  
21 you'll have that to follow along.

22           Now, Mr. Johnson, at the conclusion of the charge  
23 conference yesterday there was a question about your ability  
24 to issue a subpoena. You were provided two subpoenas from  
25 the clerk's office --

1 MR. JOHNSON: I couldn't catch anyone.

2 THE COURT: You did not get any witness subpoenaed?

3 Okay.

4 Now, you recall yesterday we went over the colloquy  
5 about your decision to testify or not testify?

6 MR. JOHNSON: Yes, sir. I need to ask myself questions.

7 THE COURT: Sir?

8 MR. JOHNSON: I wouldn't be able to ask myself --

9 THE COURT: Well, as I said, I would allow you to use a  
10 narrative format; but, the narrative information, if you  
11 will, still has to comply with rules of evidence and  
12 procedure. So, after having the night to think about it, do  
13 you wish to testify or not testify?

14 MR. JOHNSON: Not testify. I'll just deal with the facts  
15 that was brought up in court.

16 THE COURT: Okay. Alright. And I've already yesterday  
17 put on the record that I'll find that you --

18 MR. JOHNSON: (Crosstalk) copy, but I didn't know if  
19 y'all needed a copy, but --

20 THE COURT: Of what?

21 MR. JOHNSON: I only got two things.

22 THE COURT: Oh --

23 MR. JOHNSON: (crosstalk) all I had. (Indiscernible) --

24 THE COURT: No, sir, you don't give us copies of those,  
25 that's yours.

1 MR. JOHNSON: I was just making sure.

2 THE COURT: Okay. But, I've already found that you made  
3 a decision to not testify, and it is freely and voluntarily  
4 made.

5 So, Mr. White, I think we need -- we were going to  
6 revisit the State's request to charge about if a defendant  
7 testifies. I take it you will withdraw that?

8 MR. WHITE: Yes, Your Honor.

9 THE COURT: Okay. So, State's 28 is withdrawn. And I  
10 will give the charge about the jury not holding Mr.  
11 Johnson's decision to not testify against him.

12 You wish for me to give that, don't you, Mr. Johnson?

13 MR. JOHNSON: As far as who?

14 THE COURT: That I will charge the jury that your  
15 decision to not testify, they cannot use that against you in  
16 their decision in reaching their verdict. You want me to  
17 charge that, don't you?

18 MR. JOHNSON: Yes.

19 THE COURT: Okay. Alright. I'll take care of that.

20 Alright, so, now, what, I believe we're in the position  
21 to do this; when the jury comes back out, again, Mr.  
22 Johnson, I'll say, the State has rested; Mr. Johnson, you  
23 may call your first witness. If you do not wish to call any  
24 witnesses or to testify, then you would simply tell the  
25 Court, I rest. Okay? Once you rest, then, since we've

1 already had the charge conference, we're just going to go  
2 straight into closing arguments, and I'm going to tell the  
3 jury that under the rules the State has an opportunity to  
4 make an opening closing argument, then you would make yours,  
5 then the State would have the opportunity to make the final  
6 closing argument.

7 Mr. White, are you going to open and close?

8 MR. WHITE: Yes, Your Honor.

9 THE COURT: Okay. And that's what the procedure is.

10 Then, I'll just say, the Court will recognize Mr. White for  
11 his closing argument, and we go. Once he's through with the  
12 first part, I'll call on you to make yours, then when you're  
13 through I'll call on him. Once we conclude that, that is  
14 when I read the charges to the jury and send them out. Okay?

15 MR. JOHNSON: I'm glad you said that, Your Honor,  
16 because I think (indiscernible) I've never seen the  
17 prosecution go back after defense, but --

18 THE COURT: Well, in Georgia under the rules --

19 MR. JOHNSON: (crosstalk)

20 THE COURT: -- that's what they can do.

21 Now, and just again procedurally, when I send them out,  
22 the only thing they're going to do is elect the foreperson.  
23 I'll have you and Mr. White look over the exhibits,  
24 determine what is going out with the jury. They'll send me  
25 the name of the foreperson. I'll announce it in court. Then

1 I'll have the bailiff take the proposed verdict form, the  
2 redacted indictment, and the exhibits that go out, and then  
3 they will begin their deliberations. Okay?

4 MR. JOHNSON: (Nonverbal response)

5 THE COURT: Alright. I'll go take care of this, and then  
6 come back, and we'll be ready to proceed.

7 (Whereupon, the Court stepped down and exited to chambers)

8 (Off record)

9 (On record)

10 THE COURT: -- the charges, and I apologize, I should  
11 have at least asked this yesterday. On the, since his  
12 statement was introduced, I know that there was the charge  
13 saying that they would have to find that the State had the  
14 burden to show that the statement was voluntary; but, you  
15 know, there's some additional charges about each  
16 constitutional right that you have to find that he  
17 voluntarily did this, there's three or four of the charges.  
18 I think we probably ought to give all of those just out of  
19 an abundance of caution.

20 Would the State have any opposition to that?

21 MR. WHITE: No, Your Honor. The Defense didn't request  
22 them.

23 THE COURT: Well, and I understand. That's why I'm doing  
24 -- Mr. Johnson, what this --

25 MR. JOHNSON: I was under the understanding between what

1 we discussed in the back room I couldn't bring up anything  
2 about the Constitution.

3 THE COURT: No, no, no. What I'm talking about is, since  
4 you gave a statement while in custody, the statement that I  
5 found at the Jackson-Deno hearing that you freely and  
6 voluntarily gave up your right to remain silent or have  
7 counsel, or terminate the interview, that's what I'm talking  
8 about, the constitutional rights of your Fifth Amendment.  
9 Here, there are some additional charges to the jury that  
10 would say that, for example, the rights that law enforcement  
11 must explain, and the defendant must understand and  
12 voluntarily give up, and that is the right to remain silent,  
13 and if you choose not to remain silent, anything that you  
14 said, wrote, or signed could be used as evidence. It just --  
15 I made the determination, but still the jury could, they  
16 could look at it and say, you know what, we don't feel it  
17 was voluntary.

18 MR. WHITE: As the fact finder the jury is required  
19 to (crosstalk) --

20 THE COURT: Right. But that is something that is  
21 typically requested by the Defense. I'm certainly not  
22 indicating Mr. White --

23 MR. JOHNSON: (crosstalk) constitution.

24 THE COURT: Well, what I'm saying is, the only thing  
25 that you're going to hear about constitution is your right

1 to remain silent.

2 MR. JOHNSON: Just the rights.

3 THE COURT: Not about the statute, not about federal  
4 versus state. That's the constitutional right, the Fifth  
5 Amendment. Okay?

6 MR. JOHNSON: Okay.

7 THE COURT: Okay. I'll add those to them, then.

8 (Whereupon, the Court steps down)

9 MR. JOHNSON: The Constitutional right.

10 THE COURT: Sir?

11 MR. JOHNSON: The Constitutional right, no challenge on  
12 federal versus state, nothing like that?

13 THE COURT: It's just, this says the right to remain  
14 silent, it deals with your Fifth Amendment. Okay?

15 MR. JOHNSON: Wouldn't that make all of them right?

16 THE COURT: No, sir. No, sir. It's just the right about  
17 a statement, a custodial statement, whether or not it was  
18 freely and voluntarily given; the jury as the fact finder  
19 would have to determine that, yes, your statement was, or,  
20 no, it was not. Okay?

21 (Whereupon, the Court exited to chambers)

22 (Off record)

23 (On record)

24 THE COURT: That's the State's on top. Then, that'll be  
25 Mr. Johnson's the next one. Okay.

1 (Whereupon, copies of the jury charge were given to the  
2 parties)

3 THE COURT: Alright, Mr. White, is the State ready?

4 MR. WHITE: Yes, Your Honor.

5 THE COURT: Mr. Johnson, the Defense ready?

6 MR. JOHNSON: Yes, Your Honor.

7 THE COURT: Alright. Let's bring the jury in, please.

8 (Whereupon, the jury was returned to the courtroom)

9 THE COURT: Alright, good morning, ladies and gentlemen.  
10 Hope everyone had a good evening. Thank you for being here  
11 and being on time. As you recall, when we recessed yesterday  
12 the State had rested.

13 So, at this time I call on Mr. Johnson, you may call  
14 your first witness.

15 MR. JOHNSON: The Defense has no witness, Your Honor.  
16 The Defense rests.

17 THE COURT: So, the Defense rests, alright. Thank you,  
18 Mr. Johnson.

19 Ladies and gentlemen, the evidence is closed and we are  
20 now ready to begin with closing arguments. Under the rules  
21 and procedure the State has the opportunity to make an  
22 initial closing argument, then the Defense makes their  
23 closing argument, then the State has the opportunity to make  
24 the final concluding closing argument. After that is done, I  
25 will charge you with the law. So, at this time, the Court

1 will recognize Mr. White for the State's opening closing  
2 argument.

3 MR. WHITE: Thank you, Your Honor.

4 (Whereupon, the State made its initial closing argument)

5 THE COURT: Thank you, Mr. White.

6 The Court will now recognize Mr. Johnson for his  
7 closing argument.

8 (Whereupon, the Defense gave its closing argument)

9 MR. WHITE: Objection (crosstalk) --

10 THE COURT: Wait, wait, Mr. Johnson, Mr. Johnson.

11 MR. JOHNSON: I didn't go (indiscernible) --

12 THE COURT: There's no facts in evidence to support that  
13 position.

14 MR. JOHNSON: (Indiscernible)

15 THE COURT: Come up. Come up --

16 MR. JOHNSON: (Indiscernible crosstalk)

17 THE COURT: -- No. Come up here. Okay? Don't keep  
18 talking, either side, when I ask you not to.

19 (Whereupon, a conference was held at the bench)

20 THE COURT: Mr. White?

21 MR. WHITE: Your Honor, he's attempting to testify as to  
22 why he -- and my concern is it's improper. He can't argue  
23 that if (indiscernible) something.

24 THE COURT: You can't argue why you did not introduce  
25 it.

1 MR. JOHNSON: Alright, Your Honor, I will not argue why

2 --

3 MR. WHITE: Please keep your voice down, sir.

4 MR. JOHNSON: (Indiscernible)

5 THE COURT: Well, I know, but I'm making sure that you  
6 can hear me. This conversation, they're not supposed to  
7 hear.

8 MR. JOHNSON: Oh, I'm sorry. Alright.

9 THE COURT: But you can't argue any facts that are not  
10 in evidence.

11 MR. JOHNSON: I'll just skip down past that one.

12 (Whereupon, the bench conference was concluded)

13 (Whereupon, the Defense continued its closing argument)

14 MR. WHITE: Your Honor --

15 THE COURT: Mr. Johnson --

16 MR. WHITE: -- (Indiscernible crosstalk)

17 THE COURT: That's -- It --

18 MR. JOHNSON: (Indiscernible)

19 THE COURT: Wait. Wait. Wait. Wait. The jury will  
20 disregard that statement. There are certain elements that  
21 must be proved. That was not one of the charges. So, that  
22 was not dropped. That was not charged. Okay. You may  
23 continue.

24 MR. JOHNSON: Can I mention my third charge was dropped?

25 THE COURT: It was just dismissed. I told them earlier

1 they are not to consider count three. That is no longer an  
2 issue in the case.

3 MR. JOHNSON: Well, we'll just drop -- we'll jump past  
4 that one, too.

5 THE COURT: Okay.

6 (Whereupon, the Defense continued with closing argument)

7 MR. WHITE: Objection. Improper argument.

8 THE COURT: Mr. Johnson, Mr. Johnson.

9 MR. JOHNSON: I got nothing like that -- no more like  
10 that.

11 THE COURT: Well, disregard the discovery issue. Okay.

12 (Whereupon, the Defense continued with closing argument)

13 THE COURT: Alright, thank you, Mr. Johnson. The Court  
14 will now recognize Mr. White for the State's concluding  
15 closing argument.

16 MR. WHITE: Thank you, Your Honor.

17 (Whereupon, the State made its concluding closing argument)

18 THE COURT: Thank you, Mr. White.

19 Alright, ladies and gentlemen, we're now ready where I  
20 will charge with the law that you are to use in  
21 deliberations and rendering your verdict.

22 JURY CHARGE

23 BY THE COURT:

24 Ladies and gentlemen, you are considering the case of  
25 The State of Georgia versus Nathan Ross Johnson. The grand

1 jury has indicted the defendant with the offenses of  
2 manufacturing marijuana and possession of marijuana with  
3 intent to distribute. The indictment reads as follows.

4 The grand jury in the name and behalf of the citizens  
5 of Georgia charge and accuse Nathan Ross Johnson and Melissa  
6 Renee Roebuck, individually and as parties concerned in the  
7 commission of a crime with the offense of manufacture of  
8 marijuana, for that the said accused in Hart County,  
9 Georgia, on about the 13th day of February, 2019, did  
10 unlawfully manufacture marijuana in violation of O.C.G.A.  
11 16-13-30(j)(1), by growing marijuana plants, contrary to the  
12 laws of said State, the good order, peace and dignity  
13 thereof.

14 Count two, the grand jury does further charge and  
15 accuse Nathan Ross Johnson and Melissa Renee Roebuck,  
16 individually and as parties concerned in the commission of a  
17 crime, with the offense of possession of marijuana with  
18 intent to distribute, for that said accused in Hart County,  
19 Georgia on about the 13th day of February, 2019, did  
20 unlawfully possess with intent to distribute more than one  
21 ounce of marijuana in violation of the Georgia Controlled  
22 Substances Act, contrary to the laws of said State, the good  
23 order, peace and dignity thereof.

24 Ladies and gentlemen, the defendant has entered a plea  
25 of not guilty to this indictment. The indictment and the

1 plea form the issues that you are to decide. Neither the  
2 indictment nor the plea of not guilty should be considered  
3 as evidence.

4 The defendant is presumed to be innocent until proven  
5 guilty. The defendant enters upon the trial of the case with  
6 a presumption of innocence in his favor. This presumption  
7 remains with the defendant until it is overcome by the State  
8 with evidence that is sufficient to convince you beyond a  
9 reasonable doubt that the defendant is guilty of the offense  
10 charged.

11 No person shall be convicted of any crime unless and  
12 until each element of the crime is proven beyond a  
13 reasonable doubt.

14 The burden of proof rests upon the State to prove every  
15 material allegation of the indictment and every essential  
16 element of the crime charged beyond a reasonable doubt.  
17 There is no burden of proof upon the defendant whatsoever,  
18 and the burden never shifts to the defendant to introduce  
19 evidence or to prove innocence. When a defense is raised by  
20 the evidence the burden is on the State to negate or  
21 disprove it beyond a reasonable doubt.

22 However, the State is not required to prove the guilt  
23 of the accused beyond all doubt or to a mathematical  
24 certainty. A reasonable doubt means just what it says. A  
25 reasonable doubt is a doubt of a fair-minded, impartial

1 juror honestly seeking the truth. A reasonable doubt is a  
2 doubt based upon common sense and reason. It does not mean a  
3 vague or arbitrary doubt but is a doubt for which a reason  
4 can be given, arising from a consideration of the evidence,  
5 a lack of evidence, or a conflict in the evidence.

6 If, after giving consideration to all of the facts and  
7 circumstances of this case, if your minds are wavering,  
8 unsettled, or unsatisfied, then that is a doubt of the law  
9 and you must acquit the defendant. But, if that doubt does  
10 not exist in your minds as to the guilt of the accused, then  
11 you would be authorized to convict the defendant. If the  
12 State fails to prove the defendant's guilt beyond a  
13 reasonable doubt, it would be your duty to acquit the  
14 defendant.

15 Members of the jury, it is my duty and responsibility  
16 to determine the law that applies to this case and to  
17 instruct you on that law. You are bound by these  
18 instructions. It is your responsibility to determine the  
19 facts of the case from all of the evidence presented. Then  
20 you must apply the law I give you in the charge to the facts  
21 as you find them to be.

22 The testimony of a single witness, if believed, is  
23 sufficient to establish a fact. Generally, there is no  
24 legal requirement of corroboration of a witness provided you  
25 find the evidence to be sufficient.

1           The jury must determine the credibility of the  
2 witnesses. In deciding this, you may consider all of the  
3 facts and circumstances of the case, including the  
4 witnesses' manner of testifying, their intelligence, their  
5 means and opportunity of knowing the facts about which they  
6 testify, the nature of the facts about which they testify,  
7 the probability or improbability of their testimony, their  
8 interest or lack of interest in the outcome of the case, and  
9 their personal credibility as you observe it.

10           Ladies and gentlemen, your assessment of a trial  
11 witness's credibility may be affected by comparing or  
12 contrasting that testimony to statements or testimony of  
13 that same witness before the trial started. It is for you  
14 to decide whether there is a reasonable explanation for any  
15 inconsistency in a witness's pre-trial statements and  
16 testimony when compared to the same witness's trial  
17 testimony. As with all issues of witness credibility, you  
18 the jury must apply your common sense and reason to decide  
19 what testimony you believe or you do not believe.

20           The defendant is charged with a crime against the laws  
21 of this state. A crime is a violation of a statute of this  
22 state in which there has been a joint operation of an act or  
23 omission to act and intention.

24           Intent is an essential element of any crime and must be  
25 proved by the State beyond a reasonable doubt.

1 Intent may be shown in many ways provided you, the  
2 jury, believe that it existed from the proven facts before  
3 you. It may be inferred from the proven facts before you. It  
4 may be inferred from the proven circumstances or by acts and  
5 conduct, or it may be, in your discretion, inferred when it  
6 is the natural and necessary consequence of the act. Whether  
7 or not you draw such an inference is a matter solely within  
8 your discretion.

9 Criminal intent does not mean an intention to violate  
10 the law or to violate a penal statute but means simply the  
11 intention to commit the act that is prohibited by a statute.

12 This defendant will not be presumed to have acted with  
13 criminal intent, but you may find such intention, or the  
14 absence of it, upon a consideration of words, conduct,  
15 demeanor, motive, and other circumstances connected with the  
16 act for which the accused is being prosecuted.

17 Every person is presumed to be of sound mind and  
18 discretion, but this presumption may be rebutted. You may  
19 infer, if you wish to do so, that the acts of a person of  
20 sound mind and discretion are the product of that person's  
21 will and a person of sound mind and discretion intends the  
22 natural and probable consequences of those acts. Whether or  
23 not you make any such inference or inferences is a matter  
24 solely within the discretion of the jury.

25 The law provides that criminal actions shall be tried

1 in the county in which the crime was committed. Venue, that  
2 is the crime was committed in Hart County, is a  
3 jurisdictional fact that must be proved by the State beyond  
4 a reasonable doubt as to each crime charged in the  
5 indictment just as any element of the offenses. Venue must  
6 be proved by direct or circumstantial evidence, or both.

7 The defendant in a criminal case may take the stand and  
8 testify and be examined and cross-examined as any other  
9 witness.

10 However, The defendant does not have to present any  
11 evidence nor testify. If the defendant chooses not to  
12 testify, you may not consider that in any way in making your  
13 decision.

14 Ladies and gentlemen, if you find that the statement  
15 that was made while in custody and as a result of police  
16 questioning, you must also determine whether the defendant  
17 was advised of his constitutional rights and whether the  
18 defendant clearly understood and knowingly gave up such  
19 rights.

20 The constitutional rights that law enforcement officers  
21 must explain and that the defendant must understand and  
22 voluntarily give up before any custodial statement is taken  
23 by law enforcement are as follows:

- 24 1) The defendant had a right to remain silent;
- 25 2) If the defendant chose not to remain silent,

1 anything he said, wrote, or signed could be used as evidence  
2 against the defendant in court;

3 3) The defendant had a right to consult a lawyer before  
4 questioning and to have the lawyer present with him at all  
5 times during any questions; and

6 4) If the defendant did not have money for a lawyer, a  
7 lawyer would have been provided for him to represent him  
8 before any questioning and to be present with him during any  
9 questioning.

10 The burden of proof is upon the State to establish that  
11 the warnings of all rights mentioned were given, that they  
12 were understood and knowingly given up by the defendant.

13 If you find, as mentioned above, that the defendant's  
14 statement was voluntary and that all of the warnings as to  
15 the defendant's constitutional rights were given, that the  
16 defendant did understand the meaning of what was said and  
17 knowingly gave up such rights, then you may consider it as  
18 evidence. If so, then you must apply the general rules for  
19 testing the believability of witnesses and decide what  
20 weight, if any, you will give to all or any part of such  
21 evidence. If you fail to find defendant was properly  
22 informed of these rights and that he understood and gave up  
23 those rights, you must disregard the statement entirely and  
24 give it no consideration in reaching your verdict.

25 The burden of proof is upon the State to establish that

1 the statement was voluntary, that is, freely and willingly  
2 made. If you do not find that the statement was voluntary,  
3 you may not consider it for any purpose.

4 Your oath requires that you will decide this case based  
5 on the evidence. Evidence is the means by which any fact  
6 that is put in issue is established or disproved. Evidence  
7 includes all of the testimony of the witnesses and any  
8 exhibits admitted during the trial. Evidence does not  
9 include the indictment, the plea of not guilty, opening or  
10 closing remarks of the attorneys, or questions asked by the  
11 attorneys.

12 Evidence may be either direct or circumstantial or  
13 both. In considering the evidence, you may use reasoning and  
14 common sense to make deductions and reach conclusions. You  
15 should not be concerned about whether the evidence is direct  
16 or circumstantial. Direct evidence is the testimony of a  
17 person who asserts that he or she has actual knowledge of a  
18 fact, such as an eyewitness, such as by personally observing  
19 or otherwise witnessing that fact. Circumstantial evidence  
20 is proof of a set of facts and circumstances that tend to  
21 prove or disprove another fact by inference, that is, by  
22 consistency with such fact or elimination of other facts.  
23 There is no legal difference in the weight you may give to  
24 either direct or circumstantial evidence.

25 You would be authorized to convict only if the

1 evidence, whether direct, circumstantial, or both, excludes  
2 all reasonable theories of innocence and proves the guilt of  
3 the accused beyond a reasonable doubt.

4 Ladies and gentlemen, the offense charged in this  
5 indictment is a violation of The Georgia Controlled  
6 Substances Act, which provides that it is unlawful for any  
7 person to purchase, possess, or have under one's control or  
8 manufacture, sell, deliver, possess with intent to  
9 distribute, distribute, administer, or dispense any quantity  
10 of marijuana.

11 Manufacture means, among other things, preparation,  
12 propagation, processing and production that includes  
13 planting, cultivation, growing, or harvesting.

14 Distribute means to deliver a controlled substance  
15 other than by administering or dispensing it.

16 Intent to distribute means intent to unlawfully deliver  
17 or sell.

18 Marijuana means all parts of the marijuana plant of the  
19 genus cannabis, whether growing or not, the seeds thereof,  
20 the resin extracted from any part of such plant and every  
21 compound, manufacture, salt, derivative, mixture, or  
22 preparation of such plant, its seeds, or resin. Marijuana  
23 does not include the completely defoliated mature stalks of  
24 such plant; fiber, oil, or cake produced from such stalks;  
25 or the completely sterilized samples of seeds of the plant

1 that are incapable of germination.

2 Ladies and gentlemen, I charge you that the law  
3 recognizes two kinds of possession, actual possession and  
4 constructive possession. A person who knowingly has direct  
5 physical control over a thing at a given time is in actual  
6 possession of it. A person who, though not in actual  
7 possession, knowingly has both the power and intention at a  
8 given time to exercise authority or control over a thing is  
9 in constructive possession of it.

10 The law also recognizes that possession may be sole or  
11 joint. If one person alone has actual or constructive  
12 possession of a thing, possession is sole. If two or more  
13 persons share actual or constructive possession of a thing,  
14 possession is joint. You would be authorized to convict only  
15 if you should find, beyond a reasonable doubt, that the  
16 defendant had actual or constructive possession, either  
17 alone or jointly with others.

18 If you find that a person owns or is the lessee of a  
19 house or premises, you will be permitted, but not required,  
20 to infer that such person is in possession of the entire  
21 premises and all of the property located on or in the  
22 premises. However, this is a rebuttable inference and may be  
23 overcome by evidence in the case that others had access to  
24 the premises. Whether or not this inference is drawn from  
25 proof that a person is the owner or the lessee of a house or

1 premises and whether or not the inference has been overcome  
2 by proof that others had access to the premises are  
3 questions for the jury alone. I further charge you in that  
4 connection that if you find that the house or premises were  
5 used by others, with the defendant, such evidence would not  
6 alone authorize a conviction. However, such a fact, if it is  
7 a fact, should be considered by you, the jury, together with  
8 all of the evidence in the case in passing upon the guilt or  
9 innocence of the defendant.

10 Every party to a crime may be charged with and  
11 convicted of commission of the crime.

12 A person is a party to a crime if that person directly  
13 commits the crime; intentionally helps in the commission of  
14 the crime; intentionally advises, encourages, hires,  
15 counsels, or procures another to commit the crime; or  
16 intentionally causes some other person to commit the crime  
17 under such circumstances that the other person is not guilty  
18 of any crime either in fact or because of legal incapacity.

19 Ladies and gentlemen, knowledge on the part of the  
20 defendant that the crimes of manufacture of marijuana and  
21 possession of marijuana with intent to distribute were being  
22 committed and that the defendant knowingly and intentionally  
23 participated in or helped in the commission of such crime  
24 must be proved by the State beyond a reasonable doubt.

25 If you find from the evidence in this case that the

1 defendant had no knowledge that a crime was being committed  
2 or that the defendant did not knowingly and intentionally  
3 commit, participate, or help in the commission of, and was  
4 not a conspirator in, the alleged offense, then it would be  
5 your duty to acquit the defendant.

6 On the other hand, should you find, beyond a reasonable  
7 doubt, that the defendant had knowledge that the crimes of  
8 manufacture of marijuana and possession of marijuana with  
9 intent to distribute were being committed and that the  
10 defendant knowingly and intentionally participated or helped  
11 in the commission of it, then you would be authorized to  
12 convict the defendant.

13 Any party to a crime who did not directly commit the  
14 crime may be prosecuted for commission of the crime upon  
15 proof that the crime was committed and that the person was a  
16 party to it, even though the person alleged to have directly  
17 committed the crime has not been prosecuted or convicted,  
18 has been convicted of a different crime or degree of crime,  
19 is not amenable to justice, or has been acquitted.

20 Only physicians, dentists, veterinarians and  
21 pharmacists are authorized to prescribe and dispense  
22 substances. No other individuals are authorized to sell or  
23 dispense any controlled substance.

24 I charge you that existence of probable cause for a  
25 search warrant is a legal issue for the Court, not the jury.

1 You are not to concern yourselves with the legitimacy of the  
2 search warrant.

3 Ladies and gentlemen, testimony has been given in this  
4 case by certain witnesses who are termed experts. Expert  
5 witnesses are those who because of their training and  
6 experience possess knowledge in a particular field that is  
7 not common knowledge or known to the average citizen. The  
8 law permits expert witnesses to give their opinions based  
9 upon that training and experience. You are not required to  
10 accept the testimony of any witnesses, expert or otherwise.  
11 Testimony of an expert, like that of all witnesses, is to be  
12 given only such weight and credit as you think it is  
13 properly entitled to receive.

14 Ladies and gentlemen, I charge you that where an  
15 indictment, or a particular count of an indictment, charges  
16 a crime was committed in more than one way, it is not  
17 incumbent upon the State to prove all such separate ways or  
18 methods alleged in the indictment. The State is required  
19 only to prove beyond a reasonable doubt that the crime was  
20 committed by the defendant in any one of the ways charged in  
21 the indictment, or in a particular count of the indictment.

22 Ladies and gentlemen, if, after considering the  
23 testimony and evidence presented to you, together with the  
24 charge of the Court, you should find and believe beyond a  
25 reasonable doubt that the defendant in Hart County, Georgia,

1 did on or about the 13th day of February, 2019, commit the  
2 offenses of manufacture of marijuana, possession of  
3 marijuana with intent to distribute as alleged in the  
4 indictment, you would be authorized to find the defendant  
5 guilty. In that event the, form of your verdict would be:  
6 "We, the jury, find the defendant guilty."

7 If you do not believe that the defendant is guilty of  
8 either of these offenses, or if you have any reasonable  
9 doubt as to the defendant's guilt, then it would be your  
10 duty to acquit the defendant, in which event the form of  
11 your verdict would be: "We, the jury, find the defendant not  
12 guilty."

13 Now, ladies and gentlemen, when the exhibits are sent  
14 out with you, you will have the exhibits, you will have a  
15 copy of the indictment, and we have prepared a sample, or a  
16 verdict form that you may use, if you choose to. It may be  
17 difficult to see from a distance, but it has the style of  
18 the case (reading from form), In the Superior Court of Hart  
19 County State of Georgia; The State of Georgia versus Nathan  
20 Ross Johnson; the case number; jury verdict: We, the jury,  
21 find the Defendant Nathan Ross Johnson as to the following  
22 counts. Number 1, as to Count One, manufacture of marijuana,  
23 we, the jury find Nathan Ross Johnson; there are two  
24 options, guilty, not guilty. There are lines out beside  
25 them. Whatever your decision is, you put a check or an X

1 mark beside the decision you make. Then you go to number 2;  
2 as to Count Two, possession of marijuana with intent to  
3 distribute; we, the jury, find Nathan Ross Johnson, again,  
4 guilty, not guilty; put a check or an X mark beside  
5 whichever you choose. Then the foreperson will insert the  
6 date and sign the verdict form. It must be dated and signed.

7 Ladies and gentlemen, you are only concerned with the  
8 guilt or innocence of the defendant. You are not to concern  
9 yourselves with punishment.

10 By no ruling or comment that the Court has made during  
11 the progress of the trial has the Court intended to express  
12 any opinion upon the facts of this case, upon the  
13 credibility of the witnesses, upon the evidence, or upon the  
14 guilt or innocence of the defendant.

15 Ladies and gentlemen, whatever your verdict is, it must  
16 be unanimous, that is, agreed to by all. The verdict must be  
17 in writing, and signed by one of your member as foreperson,  
18 dated, and returned to be published in open court.

19 One of your first duties in the jury room will be to  
20 select one of your number to act as foreperson, who will  
21 preside over your deliberations and who will sign the  
22 verdict to which all twelve of you freely and voluntarily  
23 agree.

24 You should start your deliberations with an open mind.  
25 Consult with one another and consider each other's views.

1 Each of you must decide this case for yourself, but you  
2 should do so only after a discussion and consideration of  
3 the case with your fellow jurors. Do not hesitate to change  
4 an opinion if you are convinced that it is wrong. However,  
5 you should never surrender an honest opinion in order to be  
6 congenial or to reach a verdict solely because of the  
7 opinions of the other jurors.

8 Now, ladies and gentlemen, when you go out, when I send  
9 you out in just a moment, you are not to begin  
10 deliberations. The only thing you are to do is elect a  
11 foreperson. When that person is elected, I want that person  
12 to take a clean sheet of paper, put the date, and write your  
13 name on it, fold it over. You will tap on the door. The  
14 bailiff will open the door. You hand that sheet of paper to  
15 the bailiff. The bailiff will bring it to me. I will  
16 announce who the foreperson is to the parties. And at that  
17 time I will give the bailiff the exhibits that will go out,  
18 the copy of the indictment, and the verdict form that's been  
19 prepared, but you can create your own if you don't want to  
20 use that one, but the verdict form. The bailiff will come  
21 back to the jury room, open the door, hand it to the  
22 foreperson, close the door. That's when you begin your  
23 deliberations. Okay, that's the process.

24 If during your deliberations you should have a  
25 question, the procedure would be as follows. The foreperson

1 will take a clean sheet of paper, put the date and the time,  
2 and you write the question, whatever it is. You tap on the  
3 door, the bailiffs opens, you simply say: we have a  
4 question.

5 Now, this is no disrespect to the bailiffs. They will  
6 not answer any questions. They're not allowed to by  
7 procedure and rules to answer any question. So, if you have  
8 one, you write it down, they give it to me. When I get the  
9 question, I will read it on the record in open court, and  
10 then determine, one, am I allowed to answer the question. If  
11 I am under the rules and procedure, I will write the answer,  
12 give it back to the bailiff. The bailiff will bring it to  
13 you and hand it to you and close the door. You read the  
14 answer and you move on. If I'm not allowed to answer the  
15 question, then I will write something to the effect, "I'm  
16 not allowed to answer that question," or, "You must rely on  
17 your own memory or recollection." If you get that answer  
18 back, you read it and you move on. Okay. If you should have  
19 more than one question, the procedure is the same, but just  
20 do it on separate sheets of paper.

21 Once you have reached your verdict, you tap on the  
22 door, the bailiff opens the door. You don't give them the  
23 verdict. You simply say, "We have reached a verdict."  
24 Bailiff will say, okay, and come in and tell, I'll get  
25 everyone seated. When you come back in, the foreperson will

1 bring the verdict form, the copy of the indictment, and the  
2 exhibits. And now, before the seating doesn't really matter,  
3 but when you come back in, I want the foreperson to sit on  
4 the front row in the first chair right here. That way when  
5 you come back in, the foreperson will sit right there. And  
6 then I will ask, Have you reached your verdict; was it  
7 unanimous; has it been dated and signed? So, I want the  
8 foreperson right there. Okay?

9 So, procedurally that is how things will go. Okay?

10 Now, Mr. Henson, as the alternate, this is where things  
11 will be different. You will remain here in the courthouse in  
12 a separate room because you would not be involved in the  
13 deliberations. If the jury -- When the jury is brought back  
14 in, one of the bailiffs will bring you back in. Okay? So  
15 that would be the difference here.

16 Let me ask you this. While we're getting up -- And if  
17 you want to do this. If you go out, elect the foreperson,  
18 when I get that back in, would y'all want to take your break  
19 before I send it back out, so you can stretch your legs and  
20 little bit and get a little bit of fresh air. The only thing  
21 I want you to do, go out, the jury, elect the foreperson,  
22 when the bailiff brings me the name of the foreperson back  
23 in, then I'll have him come out, and y'all can take a 15 or  
24 20 minute break. It'll probably be about five after eleven  
25 or so by the time you get started back. But once you're back

1 in the jury room, again, you do not deliberate. We send out  
2 the information, then you start. While you're on your break,  
3 you do not discuss the case with anyone whatsoever,  
4 including yourselves, or anyone else, or allow anyone to  
5 discuss the case with you. You begin no deliberations until  
6 the bailiff brings you the verdict form, the indictment, and  
7 the exhibits. You don't do any independent research  
8 whatsoever through the use of smart phones, laptops, books,  
9 magazines, dictionaries, computers, ipads. You don't listen,  
10 read or watch any media coverage should there be any. You  
11 don't allow anyone to discuss anything about the case in  
12 your presence or with you. You don't speak to the attorneys,  
13 the defendant, any witnesses, any members of the audience.  
14 Okay?

15 (To bailiff) And, Mr. Cleveland, if any of the jury  
16 wants to be outside make sure we have one of the bailiffs  
17 with them outside. Okay?

18 BAILIFF CLEVELAND: Yes, Your Honor.

19 THE COURT: So, right now, the jury will go to the jury  
20 room; the alternate will go to a separate room. He will also  
21 be able to take a break when the jury does. And then, do not  
22 begin anything when you get back in. Once we send it out,  
23 then you begin your deliberations.

24 BAILIFF: Alternate in another room; can we use the law  
25 library?

1 THE COURT: The law library down there. And just make  
2 sure if he needs to take a break and stretch his legs, he  
3 has the same opportunity, okay.

4 Alright, thank you. You may go out.

5 (Whereupon, the jury was escorted to the jury room)

6 THE COURT: Alright, you may be seated.

7 Mr. White, any objection as to the charges as read?

8 MR. WHITE: No, Your Honor.

9 THE COURT: Mr. Johnson, any objection to the charges as  
10 read?

11 MR. JOHNSON: No, Your Honor.

12 THE COURT: Alright. Thank you very much. I will mark  
13 the charges as C1, a Court's exhibit. It'll be a part of the  
14 record.

15 If you and Mr. White will look over and determine which  
16 exhibits will go out. If there's no objection or no dispute  
17 as to which ones go out, that's fine; if there is, I'll take  
18 it up.

19 (Pause)

20 MR. WHITE: Mr. Johnson, there's a rule called  
21 continuing witness rule in Georgia, which means that  
22 recordings like this, out of court statements, would be  
23 continuing testimony that shouldn't go back to the jury. So,  
24 this shouldn't go back with the jury. They can listen to it  
25 in the courtroom, but they can't have it in the jury room

1 with them. So, I believe this is the only thing that should  
2 remain in the courtroom because the rest of the items are  
3 exhibits that have been introduced in the trial. Do you have  
4 any objection to any of the other exhibits going in to the  
5 jury room?

6 MR. JOHNSON: No, sir.

7 THE COURT: Okay. Do you have any objection or contend  
8 that the statement on the thumb drive should go out or are  
9 you agreeable it would remain here; if they choose to and  
10 ask to listen to it, they can hear it again in here.

11 MR. JOHNSON: If it was up to me, I would want them to  
12 hear it again if they wanted to.

13 THE COURT: Well, they can. If they ask to hear it  
14 again, certainly, I'll bring the jury back in and we'll play  
15 it again. Is that acceptable?

16 MR. JOHNSON: That's acceptable.

17 THE COURT: Okay. And so, there's the verdict form,  
18 there's the indictment, and there's all the other exhibits.  
19 Okay. Alright.

20 Mr. White, just to make sure, would you mind giving  
21 that thumb drive back to Ms. Cobb, just so we will have a --  
22 And I am going to just put a paperclip on this packet so  
23 we'll have it right there, and if y'all will just give it  
24 just enough time whenever they come in, uh, whenever they  
25 come in, then we will, uh, we'll be in recess. Okay?

1 (Pause)

2 (Whereupon, Bailiff Cleveland passed a note up to the Court)

3 THE COURT: Thank you, Mr. Cleveland.

4 The foreperson is Carrie Madison Stone, young lady on  
5 the back row, probably fourth seat possibly. Okay.

6 Mr. Johnson, do you need to -- I mean, that's just what

7 --

8 MR. JOHNSON: I'm coming, Your Honor. (Indiscernible)

9 THE COURT: Certainly. I just -- just has got her name.  
10 That's the foreperson.

11 MR. JOHNSON: Alright.

12 THE COURT: Okay. Alright, we'll be recess. Let's give  
13 them -- now let's give them until ten after eleven, or  
14 anytime --

15 (To bailiff) When they get back in, if they come in  
16 earlier, then you just let us know. Okay?

17 BAILIFF: Okay.

18 MR. JOHNSON: We good, Your Honor, or we staying -- we  
19 in recess or we staying --

20 THE COURT: No. We're in recess, also.

21 MR. JOHNSON: Till what time, Your Honor?

22 THE COURT: Let's be back -- we'll be back about five  
23 after eleven. That'll give us about 15 minutes, and so we'll  
24 be ready anytime they are. Okay?

25 MR. JOHNSON: Alright, Your Honor.

1 THE COURT: Thank you.

2 MR. JOHNSON: Wait a minute (indiscernible).

3 THE COURT: Okay. Let's -- We'll be back in the  
4 courtroom at 11:05.

5 MR. JOHNSON: 11:05?

6 THE COURT: Yes, sir.

7 MR. JOHNSON: Be back at 11:05 or before 11?

8 THE COURT: No. Be here at 11:05. Okay?

9 MR. JOHNSON: That's why I wanted to make sure.

10 THE COURT: Okay.

11 (Whereupon, a short break was taken)

12 (Off record)

13 (Jury Deliberations)

14 (On record)

15 THE COURT: In just a moment we will have -- They're  
16 getting the -- I'm sorry, you can be seated.

17 They're getting the alternate and bringing him down,  
18 and as soon as he is in place, I'll just have the bailiff  
19 bring the jury into the courtroom, okay, just as soon as he  
20 gets down.

21 (Pause)

22 (Whereupon, the jury was returned to the courtroom)

23 THE COURT: Alright, you may be seated, ladies and  
24 gentlemen.

25 Madam Foreperson, has the jury reached a verdict?

1 FOREPERSON: Yes, Your Honor.

2 THE COURT: Was it unanimous?

3 FOREPERSON: Yes, Your Honor.

4 THE COURT: And has the verdict been filled in, dated  
5 and signed by you?

6 FOREPERSON: Yes, Your Honor.

7 THE COURT: You can just hand it to the bailiff, please.

8 FOREPERSON: (Complies)

9 (Pause)

10 THE COURT: Alright, I'll have Mr. Gray, the Clerk,  
11 publish the verdict.

12 VERDICT

13 BY CLERK:

14 In the Superior Court of Hart County, State of Georgia;  
15 State of Georgia versus Nathan Ross Johnson, Defendant,  
16 19-HR-234M, Jury Verdict: We, the jury, find the Defendant  
17 Nathan Ross Johnson as to the following counts:

18 (1) As to count one, manufacturer of marijuana, we, the  
19 jury, find Nathan Ross Johnson, checkmark, guilty.

20 (2) As to count two, possession of marijuana with  
21 intent to distribute, we, the jury, find Nathan Ross  
22 Johnson, checkmark, guilty.

23 This the 30th day of June, 2022, Madison Stone,  
24 Foreperson.

25 THE COURT: Alright. Mr. White, anything from the State?

1 MR. WHITE: No, Your Honor. Thank you, Your Honor.

2 THE COURT: Mr. Johnson, I'm going to poll the jury, ask  
3 them some questions. Okay?

4 MR. JOHNSON: (Nonverbal response)

5 THE COURT: Alright, Mr. Gray.

6 (To jurors) When you hear your name called, ladies and  
7 gentlemen, if you'll just simply say, here, then I have some  
8 questions to ask you. Okay.

9 (Whereupon, the jury was polled by the Court)

10 THE COURT: Alright, now, ladies and gentlemen, your  
11 service on this case has ended. And so, now I have some  
12 different instructions or additional instruction to give  
13 you. All through the trial you've heard me tell you that  
14 you're not to speak with anyone or allow anyone to speak  
15 with you about the case. Those instructions no longer apply,  
16 but it is totally up to you. If you wish to talk with anyone  
17 about the case, you may; if you don't want to talk about it,  
18 you don't have to. Sometimes members of the general public  
19 will want to ask a juror about something; if you want to  
20 talk with them, great; if you don't, that's okay. Sometimes  
21 lawyers would want to talk with you. I will tell you, if you  
22 recall I mentioned I practiced law up here for 21 years,  
23 tried cases. After every trial I would want to talk with  
24 some or all of the jurors if they would talk with me, not to  
25 belabor or argue a point, to simply find out what made a

1 difference. I was trying to get better, trying to learn, and  
2 sometimes the best way you learn is to ask, hey, did this  
3 make a difference; did that? Maybe I thought it did, and it  
4 didn't carry any weight at all. Maybe I thought it didn't  
5 and it was a huge point. It was just a learning process for  
6 me. But, again, sometimes jurors would say, no, I don't want  
7 to, and I respect that. So, nobody's going to argue with you  
8 about it. If you choose to talk with them, great. If you  
9 don't want to, you can tell them no.

10 So, with that --

11 Mr. Gray, have they --

12 CLERK: Yes.

13 THE COURT: He has an announcement about your pay.

14 CLERK: Your debit cards, we will activate them probably  
15 within the next hour and you will receive a text message  
16 that it's activated, wait for that text message. Once you  
17 get it, you can feel free to use it.

18 THE COURT: Okay. And should there be any problems with  
19 it, just contact Mr. Gray's office. He will take care of it.

20 Again, I would like to thank you for your service.  
21 Again, as we've talked about all through this week, it's  
22 never an easy time, never a good time, but it's a job that  
23 has to be done. And so, your service is appreciated.

24 Also, you heard me in the charge tell you that you were  
25 not to consider punishment, just solely guilt or innocence.

1 The sentencing is my responsibility. I have scheduled  
2 sentencing on this case will be at 1:30 this afternoon here  
3 in the courtroom. If you wish to attend, you may do so, feel  
4 free to. But, other than that, your service is ended. The  
5 notepads, did y'all leave them in the jury room? Mr.  
6 Cleveland will take those and destroy them, shred them,  
7 okay.

8 MR. WHITE: And if they wouldn't mind just reporting to  
9 the jury room just for a moment. We have letters for you  
10 that will allow you to provide feedback via our website, if  
11 you'd like to.

12 THE COURT: Okay. So, if you'll just --

13 MR. JOHNSON: Your Honor? Your Honor?

14 THE COURT: Yes, sir?

15 MR. JOHNSON: Could I make a statement to the jury real  
16 quick what I want to say?

17 THE COURT: Yes, sir.

18 MR. JOHNSON: I'm proud of y'all, every last one of you  
19 for doing what you felt was right.

20 THE COURT: Okay.

21 MR. JOHNSON: (Indiscernible) right or wrong, if that's  
22 where your heart led you, you did your duty. Thank you.

23 THE COURT: Alright, Mr. Johnson.

24 Also, if you need a work excuse or anything for work  
25 related, Mr. Gray will be back there and handle that for

1 you. Okay?

2           Alright, with that, thank you, and everybody have a  
3 good 4th of July weekend, okay.

4 (Whereupon, the jury was dismissed from duty)

5           THE COURT: Deputy, if you will take Mr. Johnson into  
6 custody and have you back up at 1:30. Okay?

7 (Pause)

8           Alright, court will be in recess until 1:30, and we'll  
9 be back for sentencing in the case. Okay.

10 (Whereupon, court was in recess until 1:30)

11 (Off record)

12 (On record)

13 (Whereupon, court was reconvened)

14           THE COURT: Alright, you may be seated.

15           All right, ladies and gentlemen, we're here again on  
16 19-HR-234. The jury has returned its verdict, guilty on both  
17 counts. We're here for sentencing.

18           Mr. White?

19           MR. WHITE: Your Honor, the Court has heard the evidence  
20 in the case, including references to the defendant's  
21 criminal history that was presented through Special Agent  
22 Skelton, as he testified referring to the defendant's prior  
23 arrest. The Court is also in this case aware that the  
24 defendant has filed more than 328 documents purported to be  
25 exhibits. The defendant has also repeatedly referred to

1 himself as a veteran. Earlier he claimed that he was a  
2 veteran of Desert Storm.

3 MR. JOHNSON: No, I never said Desert Storm. I was in  
4 the Panama conflict, going to get Noriega. Get it right.

5 THE COURT: Okay. Go ahead.

6 MR. WHITE: He said that he did basic training at the  
7 Nimitz, which is a ship, not where people do basic training.

8 MR. JOHNSON: I never said Nimitz.

9 THE COURT: Hold up. You'll have your chance.

10 MR. JOHNSON: (Indiscernible crosstalk)

11 THE COURT: This is just argument.

12 MR. JOHNSON: (Crosstalk)

13 THE COURT: Sir.

14 MR. JOHNSON: I'll be quiet.

15 THE COURT: (To Mr. White) Go ahead.

16 MR. WHITE: Of the 328 exhibits he's introduced, not one  
17 reflects any military service. He has not submitted a  
18 performance evaluation. He's not submitted an award  
19 citation. He's not presented a DD214. Nothing supports this.  
20 As a veteran of a foreign war, and the son of a veteran of a  
21 foreign war, and the grandson of a veteran of a foreign war,  
22 I find all of that very suspicious. And, if Mr. Johnson's  
23 misrepresenting his service, well, I believe that's  
24 reprehensible.

25 This is a case in which the Court has seen how

1 disruptive someone who doesn't understand how the procedure  
2 works can be to our system. If every defendant did what Mr.  
3 Johnson did in this case, the entire system would come to a  
4 grinding halt. Ultimately, we were able to get the case into  
5 court and before a jury, who was able to consider the actual  
6 evidence in the case, what is admissible evidence in the  
7 case, and that jury returned the only appropriate verdict in  
8 the case. The law applies to us all. It applies to us all  
9 equally. It is not special to Mr. Johnson. He does not get  
10 an exemption for whatever reason he believes he should. It  
11 applies to him, as well. Protection of the law also apply to  
12 him, which means he was given the right to a jury trial. I'm  
13 not asking you to punish him for insisting upon his right to  
14 a jury trial, but I am asking you to consider that every  
15 person who comes to court and shows contrition and accepts  
16 responsibility is entitled to consideration, consideration  
17 that Mr. Johnson is certainly not entitled to. Because,  
18 beyond just demanding a trial, this has been an effort from  
19 the beginning of his case to today to frustrate justice, to  
20 interfere with the administration of justice, to throw as  
21 many wrenches in the gears of justice as possible, because  
22 he doesn't believe the law applies to him. And that whole  
23 part actually scares me, that he doesn't think the law  
24 applies to him. Because, if it doesn't apply to him, then  
25 he's going to be right back out doing this again. He has

1 shown no attrition. It is the first step towards  
2 rehabilitation, accepting responsibility. I'm not asking the  
3 Court to fix any definite sentence, but I'm asking the Court  
4 to impose a sentence that includes not only a latent period  
5 of probation, but also some period of incarceration.

6 THE COURT: And would you agree that the two counts are  
7 a one to ten felony?

8 MR. WHITE: Yes, Your Honor.

9 THE COURT: Yes, okay. All right.

10 Mr. Johnson?

11 MR. JOHNSON: Give me a second. I'm going to give you --  
12 I'm just trying to make sure that they give me a -- Okay,  
13 here we go.

14 THE COURT: Yes, sir.

15 MR. JOHNSON: First of all --

16 MR. WHITE: (Crosstalk) evidence or is this argument?

17 THE COURT: You're just --

18 MR. JOHNSON: I'm just going to say, Your Honor, my  
19 honor was just tarnished, which would be simple to do as I  
20 have already stated. Anybody in here can call the VA  
21 hospital, put it on speaker phone. I will give them all my  
22 information that the Court has already verified, and we'll  
23 see if they say I'm faking military service or not. Now, as  
24 far as that go, I have been out for three years now from  
25 when I grew marijuana. I have not grown anything and I have

1 not been in any trouble since. I don't think the law don't  
2 apply to me. I wasn't trying to thwart justice. I was trying  
3 to use whatever method possible to help people not break the  
4 law, because the law is illogical, it's not based on any  
5 facts, except politicians. And that was what I was trying to  
6 do. I'm not trying to tie up no courtroom for the fun of it.  
7 And I didn't decide to grow it all of a sudden just because  
8 I think I'm better than everybody else. I had legitimate  
9 issues going on. Those statin drugs were clouding up my  
10 mind. I had to smoke marijuana to counteract it. When you  
11 take them statins, they reduce not only the cholesterol that  
12 your liver metabolizes for the whole body, except for the  
13 brain. The brain is the only part of the body that produces  
14 its own cholesterol. You don't want no cholesterol from what  
15 you eat, because the brain is so delicate, the cholesterol  
16 level has to be so precise, it makes it own. It won't let no  
17 foreign come in there. But that statin drug can cross the  
18 brain, the blood brain barrier. That's up in your brain  
19 telling your brain, don't produce cholesterol, and all of a  
20 sudden, you find these old people are just staring off in  
21 the nowhere. They don't know where they are. And you say  
22 what are they taking? Oh, they got them on rosuvastatin  
23 (phonetic), or atorvastatin (phonetic), or pravastatins  
24 (phonetic). The only thing I had to keep it from happening  
25 was statins. When I decided I wasn't going to use none of

1 that no more, because they done took away -- Now, sometimes  
2 I get a pain killer, because the doggone cannabis that you  
3 get is not always the best. It's not always fresh. Those  
4 cannabinoids deteriorate very quickly. They're very  
5 sensitive to light, heat, as well as oxygen. So, when you  
6 see folks just setting it out and everybody look at it, it's  
7 deteriorating; it's deteriorating.

8 Now, I grew my own as I did research. I didn't willy-  
9 nilly decide, you know what, I don't care about Georgia law.  
10 I did research, Your Honor. I read all the documents that he  
11 say I filed. I read them. But, why would I file them? I was  
12 prepared. I even made slides to show. And I could explain it  
13 simply because I know what I'm reading. These languages are  
14 not Greek, and I could break it down, but they use some easy  
15 language anyway. Now, my point was this. When I found out  
16 that the Department of Health and Human Services had a  
17 patent in the name of the United States saying THC and CBD  
18 can take care of thromboembolism, which is my case. No, I  
19 didn't say some other country. I said the United States of  
20 America holds the patent, one of the patents. There's a lot  
21 of different ways to make THC, including Delta 9. It's not  
22 just one Delta 9. They got thousands of Delta 9, just a  
23 construct. Just like I told the other day, not the other  
24 day, but a while back, we had a little thing in here, and I  
25 was talking about the General Assembly was bringing that

1 Delta 8 up in here. Delta 8 ain't going away. I could prove  
2 through the patent. They got hundreds of Delta 8. It just  
3 depends on what chemical structure you want to add to the  
4 three positions, which is the side chain. You can make  
5 anything. And I say that's going to be dangerous, because  
6 it's only a matter of time before somebody mess up in their  
7 lab, and we're going to have a whole lot of dead people.

8 Now, back to where I was supposed to be at. When I read  
9 that, I said, look, that still wasn't enough for me. I said,  
10 okay, they said that, but I'm gonna research. So, I started  
11 researching the patents that the government had already  
12 written down for reference. And, no, the first one didn't  
13 show me what I was looking for. So, I had to take those  
14 patents out on time, and then I had to look for the patents  
15 they referenced, and so forth. And it took me a little  
16 while, but eventually I found it. Well, yeah, there's a  
17 Delta 8 out there. They like to use Delta 8 because the  
18 government hates Delta 9. So, they were trying to do  
19 experiments with Delta 8. And they found out that they had a  
20 Delta 8. Some of the first thing he did, he was working for  
21 the National Institute on Drug Abuse. He found out that he  
22 had a metabolite for Delta 8, like what it would look like  
23 after Delta 8 had went into your body, been metabolized by  
24 you, they would turn into the metabolite. He made a  
25 synthetic version of it, and he called it at first ajulemic

1 (phonetic) acid. And that would treat blood clots that can  
2 cause anything from heart disease to pulmonary embolism  
3 through arteriosclerosis. This is not me making this up.  
4 These are government documents, and it was made. And I even  
5 followed it up. Now, after they had proved that the Delta 8  
6 was safer than aspirin, they dropped them, because those are  
7 NSAIDs. And if you use those too long, you will get ulcers  
8 both in your stomach and in the linings of your intestines.  
9 So, they said cannabis, this Delta 8 that they had to make  
10 similar to what the plant had, would not cause those  
11 problems, and it would at the same time keep people from  
12 dying from the number one killer in America. And I'm real  
13 concerned, because arteriosclerosis is my issue. So, I said,  
14 well, look, okay, I'll check that out; let me look into it.  
15 I said, you know what, there ain't no way a plant can  
16 compete with synthetics, because synthetics are closer to  
17 one hundred percent pure, because they're synthetic. They  
18 make their design. When you go to the plant, everything in  
19 that tricon is not THC. That tricon got CBD and all that  
20 other stuff in it. So, I said, well, look, if I'm going to  
21 do this, now I have a chance of not dying, because part of  
22 what I was doing was to risk my own life to see if it would  
23 work. I wasn't giving it away to nobody then. It was between  
24 me, the Lord, and these plants. And I came off. In a way it  
25 could be kind of scary. I got no drug -- I get the drug from

1 the VA, but I wasn't taking them. The VA would test me and  
2 do labs. They knew I wasn't taking no drugs. But my bodily  
3 system were all working properly and normally, so they  
4 didn't say -- They asked me, your lipids are changing now,  
5 Mr. Johnson. They knew I smoked, but they can't be official  
6 about it, because the government frowns on natural plants.  
7 They couldn't be. But, they never cut me off, because they  
8 know, man, we're looking at this man's bodily system, he's  
9 supposed to have emphysema. Look how loud my voice is. Do I  
10 sound like I got emphysema? I smoked a pack of cigarettes --  
11 a pack of cigarettes, too. If I want, I'm smoking  
12 cigarettes. They don't see no damage from cigarettes in my  
13 body. So, I'm like, well, wait a minute, wait a minute, hold  
14 on now, hold on. I had some nodules in my lungs that had  
15 concerned the VA. They even sent it to, uh, for cancer  
16 comparison. They got this thing that they can send it off, I  
17 think to California somewhere. And they said based on the  
18 history of Mr. Johnson's pulmonary nodules, first they was  
19 embolism, but then they became nodules, or something came up  
20 like nodules. They say they don't seem to be getting any  
21 larger, so they seem to be stable, but they stayed after  
22 years. When I started growing marijuana, the VA report say  
23 they ain't there no more. Down at (indiscernible) in Athens,  
24 they confirmed that I'd been basically about two years from  
25 the time I arrested without using anything, you got two

1 nodules. Wait a minute, the VA said it was clear, now you  
2 say it's two nodules. Okay. Any pulmonary embolism? No. All  
3 right. About a month later, I get hit with DVT, pulmonary  
4 embolism. I'm rushed to St. Mary Hospital. I'm not walking.  
5 I'm ambulatory. I tell the folks, they pulmonary embolism  
6 and DVT. The man's like, the intake man, he's like, well,  
7 you supposed to be on anticoagulants? I said yes. He said,  
8 you ain't never supposed to come off them. You supposed to  
9 take them the rest of your life. I'm like, I don't know  
10 that; I don't want to take statins the rest of my life; I  
11 like being out of the fog. But he thought I didn't know,  
12 trying to self-diagnose myself. Doctors hate it when  
13 somebody seem like they know something, oh yeah. So he said,  
14 let me go on back and we're going to run a test on you, or  
15 whatever. Then he come back, hey, you really do, you got a  
16 bunch on your leg and all up in your lung. We're going to  
17 have to hospitalize you. I said, here we go, but I was  
18 hurting so bad; otherwise, I try to stay as far away from  
19 doctors as I can.

20 THE COURT: Wait a minute. Wait a minute. At this time  
21 you were off all the drugs; you were just smoking marijuana.  
22 Right?

23 MR. JOHNSON: At that time, I wasn't smoking marijuana  
24 because I had stopped smoking marijuana. Now, I started with  
25 hemp.

1 THE COURT: (Crosstalk)

2 MR. JOHNSON: Oh, you talking about when I went to St.  
3 Mary's?

4 THE COURT: No, I'm talking about, you told me before --

5 MR. JOHNSON: Oh yeah, before --

6 THE COURT: -- that you were going to take your life in  
7 your own hands and come off the drugs --

8 MR. JOHNSON: Right. Right. Right.

9 THE COURT: -- and just use the marijuana or something.

10 MR. JOHNSON: Right. Right. That's correct.

11 THE COURT: And yet, you still got blood clots and --

12 MR. JOHNSON: No, no, no, I didn't get nothing then.

13 THE COURT: Yeah, but you've got them now.

14 MR. JOHNSON: Let me slow it down for you.

15 THE COURT: Wait, wait a minute. Whoa, whoa, whoa. I've  
16 listened and I've listened for years to this argument. With  
17 all due respect, here's the bottom line. It's illegal. I  
18 mean, it's illegal. I can't put words in the GBI --

19 MR. JOHNSON: (Indiscernible crosstalk)

20 THE COURT: -- Wait a minute -- GBI or law enforcement's  
21 mouth, or the DA's mouth. But, for just some reason I'm  
22 thinking, you know, if you'd have had one plant a year, if  
23 it'll go a pound, or five, or whatever it is --

24 MR. JOHNSON: (Indiscernible crosstalk)

25 THE COURT: -- Wait a minute -- Wait a minute -- a year,

1 and it was just you, we're not sitting here for the past two  
2 days and today, and you being tried and convicted of two  
3 felonies, I don't think; but the problem is, it's illegal.  
4 There are states where it is not. Georgia is not one of  
5 those. And whether -- And all of the argument about this is  
6 best for my health, and your health, and everything else,  
7 the bottom line is, even if it was, hypothetically, even if  
8 it was, you can't be giving it, and dispensing it, and  
9 distributing it to other people. Could have killed somebody.  
10 What if somebody's --

11 MR. JOHNSON: No --

12 THE COURT: Wait a minute. You can give me all this  
13 hypotheticals about all of this stuff that could be done,  
14 and I've had not one bit of medical evidence.

15 MR. JOHNSON: (Crosstalk)

16 THE COURT: You know what, you can't just tell me it's  
17 over here. You've got to follow the rules. Without rules, we  
18 don't have anything.

19 MR. JOHNSON: All right, Your Honor.

20 THE COURT: And, you say, oh, no, marijuana's never hurt  
21 anybody. Maybe it hasn't; but just like -- You know, you  
22 asked the special agent on the stand, is it possible? Well,  
23 he might have answered, or somebody -- Anything's possible.  
24 So, you can't -- I mean, I couldn't, and I don't believe you  
25 can sit here and say one hundred percent without a shadow of

1 a doubt there's not one person in these eight and a half  
2 billion people walking on this planet that marijuana might  
3 not have an adverse reaction to and cause a problem. I can't  
4 tell you that, and I don't think you can either.

5 MR. JOHNSON: (Crosstalk)

6 THE COURT: But the bottom line is, you can't be  
7 distributing it. You can't. I mean, you wouldn't -- you  
8 know, you had a smorgasbord up there.

9 MR. JOHNSON: I was trying to put the right combination  
10 in to get strong enough --

11 THE COURT: But you --

12 MR. JOHNSON: -- to compete with synthetic drugs.

13 THE COURT: Well, but hat ain't your authority.

14 MR. JOHNSON: Right.

15 THE COURT: You can't give me a choice between brownies  
16 and Rice Krispie Treats, or Fruity Pebbles, or whatever it  
17 was.

18 MR. JOHNSON: (Indiscernible crosstalk)

19 THE COURT: You can't -- Well, you can't do that. You  
20 can't. I mean, that's the law in Georgia. California,  
21 Colorado, wherever -- maybe that's, I don't even know -- I  
22 know one of them is. In somewhere it's legal, so be it. My  
23 job is not to make the law. You talk about independent  
24 branches. That's what the legislative branch is for. The  
25 judicial branch is where the laws are brought to us. You

1 enforce them or you don't. That's just the bottom line.

2 MR. JOHNSON: Review and annul is what they usually say  
3 by the judicial. Review a law, and if it's okay, leave it.  
4 If it's not okay, and something's wrong, then give another.

5 THE COURT: Well, but anyway, as far as that goes, the  
6 medical stuff, you know, just, there's no need in telling me  
7 that. Just tell me anything else you want me to know.

8 MR. JOHNSON: For clarification, I just wanted to say  
9 that until I got arrested, I was using those flowers that I  
10 grew. After I got arrested, I respected --

11 THE COURT: Hold, hold, hold -- Okay.

12 MR. JOHNSON: I'm going to tell you.

13 THE COURT: I just want you to know, since you don't  
14 have an attorney here, I know you said until you got  
15 arrested, you were growing, using your flowers. I'm not  
16 insinuating anything, but it --

17 MR. JOHNSON: I'm all ready to go to jail, Your Honor.

18 THE COURT: I know, but I don't want you charged -- I  
19 mean, you know -- Anyway --

20 MR. JOHNSON: I'm not going to make the year anyway. So,  
21 I might as well (indiscernible) --

22 THE COURT: Well, go ahead.

23 MR. JOHNSON: -- (indiscernible crosstalk) -- I'm honest  
24 (crosstalk) --

25 THE COURT: I understand.

1 MR. JOHNSON: -- be free enough to just speak the truth.  
2 Because, you can't do that if you're so concerned about what  
3 the consequences are.

4 THE COURT: Go ahead.

5 MR. JOHNSON: So, after I got arrested, I say, well,  
6 I've already documented what the improvement was.

7 THE COURT: All right, now I'm going to stop you again.

8 MR. JOHNSON: Okay.

9 THE COURT: I'm going to stop you again. If you're going  
10 to make any statement --

11 MR. JOHNSON: (Indiscernible)

12 THE COURT: Wait. Wait. Listen to me. I've listened to  
13 you for years. I just wish you'd listen to me. If you're  
14 going to make any statement about committing any other  
15 criminal offenses, it can be used against you. You could be  
16 charged with something else. We're here in a courtroom, the  
17 district attorney's sitting there. The GBI's sitting there.  
18 The court reporter's taking it down. Maybe you're not, but  
19 I'm just telling you.

20 MR. JOHNSON: I know you're just telling me up front,  
21 but I didn't do anything illegal after that.

22 THE COURT: Okay. Okay.

23 MR. JOHNSON: Okay. After I left, after he, you know,  
24 put on probation, I didn't use any flowers. In fact, I just  
25 laid in my room and say, well, Lord, whatever day you want

1 me, sometimes some of us have to sacrifice ourselves for the  
2 good of others. And it was when the pain hit, I didn't know  
3 it at the time. It hit that left leg so bad, I was making  
4 references to some of the guards about if I'd have had an  
5 ax, I'd have chopped it up. I went over there to Dr. Dang  
6 (phonetic), that Innovative Foot Care, and he sent me over,  
7 at that time it was Piedmont Diagnostic. It's in Royston.  
8 They did an ultrasound. They said they didn't see nothing.  
9 He had also referred me over to South Carolina to a vascular  
10 surgeon, Dr. Thomas, the late doctor. I go over there. They  
11 run tests all up and down both legs from the aorta all the  
12 way down. They said, Mr. Johnson, the old arteriosclerosis  
13 in your left leg, you got PAD, and it's so severe. If we  
14 don't put a stent -- They want to put a mechanical stent in  
15 my leg right then and there. They said, you looking at  
16 losing your leg. Well, I told them that on the day that I  
17 went to Dr. Dang over at Innovative Foot Care, Ms. Roba, who  
18 was with me, she said, nay, I know you don't go nowhere, but  
19 I've been trying to tell you, they've been selling hemp  
20 flowers up there in a hot well. I was like, I'm a recluse. I  
21 don't go nowhere. I lay in my bed. I only go to bathroom and  
22 to the kitchen. Going to jail is like basically being at  
23 home in a way, except maybe I can't go eat when I want to  
24 and pee when I -- Hopefully, I can pee when I want to. I'm a  
25 solitary man. When she's telling me that, she said, the day

1 I went to the foot care, I know the date. The day was August  
2 20th, 2020. She said, you want to go to that Pap's over  
3 there? They got some stuff. I said, You kidding me? I know  
4 this state ain't allowing nothing. They don't want nothing,  
5 man. She said, they selling. She took me over there. I  
6 looked at it. She said, the doctor shot you in the foot with  
7 something to try to kill the pain, so you want to try some  
8 of these? I did. I couldn't afford to keep buying at Pap's  
9 price. Since they saying it's legal in Georgia, I hooked up  
10 with Colorado Breeder Depot. They specialize in CBD plant,  
11 so you can get a better deal. You get more volume for your  
12 buck. Poor people can't afford that kind of money. People on  
13 fixed income can't afford to buy that hemp stuff. When they  
14 did come to Georgia and they put all them taxes on it, poor  
15 people can't afford that stuff. I took it. When I went to  
16 see that doctor in South Carolina on September the 10th,  
17 2020, and she was talking about, oh, Mr. Johnson, your leg's  
18 so bad. Oh, we're going to have to put a stent. I walked in.  
19 I told her, now, I'm going to hang with the natural plant a  
20 little longer. She said, well, look, John, you can lose your  
21 whole leg. I said, that's what faith is. I'm going to take  
22 my chances with it. I sure ain't going to take no aspirin.  
23 She wanted me to take aspirin and vat-- What kind of statin  
24 that was (indiscernible) statin or something. I'm like,  
25 first of all, I'm not taking NSAID. Second thing, I'm not

1 going to take those statins because they're going to dullify  
2 (phonetic) my brain, and you might as well call me a  
3 vegetable. Then, you put a stent in my leg the way they  
4 fail. See, I actually read about stuff folks want to do with  
5 me. They fail so bad. Then when they fail and collapsed,  
6 they blocked blood flow worse than the doggone clot did.  
7 Look, I just take my chance. She said, well, you know what,  
8 John, if that's what you want to do with your leg, sort of  
9 like you tell me something when I get care -- She was like,  
10 your leg, you do what you want to do. I left here. She had  
11 scheduled me to come back in December, but she was all  
12 booked up. In January, it was January 12th, 14th, I'm not  
13 exactly sure right at this moment on the date. It's in the  
14 medical record. Anyway, I go back, they do the test all over  
15 again. First, you have me come in there one day early. They  
16 do all the tests and stuff. Then she was like, she saw me,  
17 she said, Mr. Johnson; I'm like, yes, Dr. Thomas; she just  
18 smiled. I say, how bad is it? She said, about bad, Mr.  
19 Johnson, I got news for you. I'm like, well, what kind of  
20 news? The last time you was here, your common femoral  
21 artery, CFA, your common femoral artery pressure was like in  
22 the area of 25.9. She just rounded it off to 26. Then she  
23 said your left popliteal artery pressure was zero-point-  
24 something. That's why we wanted to put that in there right  
25 away. She said, Mr. Johnson, after we done looked at your

1 results, let me just tell you, your common femoral artery  
2 pressure is up to 116, and the one that was zero is up to  
3 68. She said, Mr. Johnson, we ain't never seen nothing like  
4 that. All these doctors want to study me. They want to know  
5 what's happening. How do all your bodily systems work and  
6 you still have issue? Well, I didn't have issues when I was  
7 doing the plants that I grew. They don't have THC, and it's  
8 not a clot dissolver. CBD will not dissolve your blood  
9 clots. It will not dissolve the actual arteriosclerosis.  
10 What it does is, it can soak into that fat that's blocking  
11 your artery; blood is water-based --

12 THE COURT: Okay. We're back in the matter --

13 MR. JOHNSON: Okay. Okay. Okay. I'm talking about --

14 THE COURT: No. But, what -- Again, it's illegal.

15 MR. JOHNSON: Right. I'm not trying to justify --

16 THE COURT: Okay. Well, then, I mean, I understand,  
17 according to you, you felt you were taking it and you were  
18 using it for your medical purpose. Okay?

19 MR. JOHNSON: I admit I'm wrong.

20 THE COURT: No, I mean, that's what --

21 MR. JOHNSON: (Crosstalk)

22 THE COURT: -- that's what all of this boils down to.

23 MR. JOHNSON: (Crosstalk)

24 THE COURT: And then, as we talked about, I'm not  
25 putting words in anybody's mouth --

1 MR. JOHNSON: Right.

2 THE COURT: -- But in the scope of things that we deal  
3 with, one person, one plant, maybe they do come after you,  
4 maybe they don't; but when you've got 20-plus plants, a grow  
5 system, a moving light system, you know, you've got an air  
6 filtration bubbling to keep the roots from rotting, I  
7 believe, when the agent testified that it was nutrients, you  
8 corrected him and said, would it surprise you to know that  
9 that was actually air bubbles to keep my root --

10 MR. JOHNSON: That was -- The nutrients in the water  
11 (crosstalk) --

12 THE COURT: I understand. But what I'm saying is, you're  
13 growing it. You're -- It's illegal.

14 MR. JOHNSON: Right. If I grew one plant, it would take  
15 me about a year to get it to cover enough space for it to  
16 produce the same amount of growing a whole bunch of little  
17 ones (crosstalk) --

18 THE COURT: Well, I'm not getting into the agricultural  
19 aspect of growing marijuana. Because, I don't care. One  
20 plant's illegal. I just was giving you -- trying to give you  
21 a quick in depth -- I mean, a quick detailed example. But  
22 here, for whatever reason, you got pictures of you with it.  
23 You got a smorgasbord variety pack for sale. You can't do  
24 that. You know, you just, you can't do that.

25 MR. JOHNSON: I know.

1 THE COURT: All right.

2 MR. JOHNSON: Every person couldn't even find those  
3 seeds if they tried to.

4 THE COURT: Well --

5 MR. JOHNSON: You have to research to find the strongest  
6 fruit seed or the strongest plants on Earth.

7 THE COURT: Okay. So, what else do you want to tell me?

8 MR. JOHNSON: Well, other than my arm being restored by  
9 somebody calling the VA to verify I'm a vet --

10 THE COURT: I'm not calling --

11 MR. JOHNSON: -- I don't want nothing to happen to me  
12 that say he's not a vet; he's pretending to be a vet. Next  
13 thing I know I've got a charge, when somebody just call the  
14 VA and say, put it on speaker and say, now let me say  
15 (crosstalk) --

16 THE COURT: Listen, listen, we're not getting into that.  
17 What we're hearing here is just argument.

18 MR. JOHNSON: Oh, I'm with you.

19 THE COURT: This is not evidence. Okay?

20 MR. JOHNSON: Right.

21 THE COURT: Okay. So, what else do you want to tell me  
22 before I have to try to decide what your sentence is going  
23 to be?

24 MR. JOHNSON: Okay. I'll say this. I've been taught,  
25 y'all, even if you do the right thing, you must be willing

1 to pay the price. Something I learned, something that's been  
2 instilled in me. No matter how good my intention, you're  
3 correct, I broke the law. I stand ready to face the  
4 consequences. I stand before you like I would if I was at a  
5 captain's mast. I'm humble. I wouldn't be talking as much as  
6 I'm talking in your courtroom. I'm sorry. I have been  
7 disrespectful, now that I think about it that way. I  
8 wouldn't talk in a captain's mast or give a permission to  
9 freely speak. In that regard, I apologize to you. Other than  
10 that, I've already accepted my death. Where I die, well, I  
11 hope it'd be in my bed, I figured if I lived in my bed or  
12 stayed in my bed, then the odds of me dying in my bed would  
13 be great. I've already accepted it and made my peace. Now, I  
14 owe the state, and I don't want you to cheat the state.  
15 Heaven knows it's come at a price. I wanted to accept  
16 whatever you want to give, Your Honor. The man I am stands  
17 for something or we don't stand for nothing.

18 THE COURT: All right. Thank you.

19 MR. WHITE: Final argument is the State's, Your Honor.

20 THE COURT: Right.

21 MR. WHITE: I'll be very brief. Aspirin is derived from  
22 willow bark. It's natural. I don't know why you wouldn't  
23 want to take it. This isn't a case where Mr. Johnson is  
24 being charged with less than an ounce of marijuana that he's  
25 consuming personally for whatever he's trying to treat. We

1 wouldn't be here for that. What he was doing, a hundred  
2 thousand dollar grow operation in his house, and edibles,  
3 and all of these items that we know he had been selling for  
4 over a year. That's the issue. And he still doesn't think  
5 it's wrong. He says that I'm being punished for doing the  
6 right thing. This is an issue. This man is a narcissist who  
7 thinks he is super special. He's going to be experimented on  
8 by every lab in the world because that's how special he is.  
9 That's the issue. This sort of arrogance is what brings  
10 people into the criminal justice system. This idea that the  
11 rules do not apply to them. And I'm asking -- I wish the  
12 Court could sentence him to diminished rations like they  
13 could at (indiscernible), but he can't. So, we're left with  
14 whether you determine to put him on probation under  
15 restricted supervision, or you send him to the Department of  
16 Corrections. The choice is yours; but we're still asking for  
17 at least a partial custodial sentence. Thank you.

18 THE COURT: Let me ask, and to determine this, is he  
19 eligible for any type of first offender that I would have to  
20 advise him about?

21 MR. WHITE: He is, Your Honor, yes.

22 THE COURT: Okay. Is he eligible for either one,  
23 conditional discharge or first offender?

24 MR. WHITE: Yes, Your Honor.

25 THE COURT: Okay. All right. Mr. Johnson, I've got to

1 inform you of the following. Okay? It appears from your  
2 criminal history report that you are eligible to request the  
3 Court to sentence you under either Title 42, First Offender,  
4 or 16-13-2, Conditional Discharge. And I'm going to give you  
5 the information about both of those. Okay?

6 Now, those are, when I say, first offender type, or not  
7 type, first offender options, wherein, if you successfully  
8 complete your sentence as to the State of Georgia, you will  
9 not have a conviction. If you successfully complete your  
10 sentence, once it's over, then as to the State of Georgia,  
11 you could honestly say, if someone asks have you ever been  
12 convicted of these, you could say no, saying you would not  
13 be a convicted felon, which would not cause you to lose  
14 certain rights you would have otherwise. So, that's the  
15 upside of it. But they do come with down sides. And again,  
16 these are things you can request, the Court can consider it,  
17 I could grant it, I could deny it.

18 Under First Offender, we're going to talk about it  
19 first. If you are sentenced to anything less than the  
20 maximum, and you understand the maximum punishment on each  
21 count is 10 years, so if I sentenced you consecutively to  
22 the maximum, be it probation, or be it incarceration, the  
23 maximum is 20 years. So, for this example only, I'm going to  
24 just use an example if you got 15 years. If you got 15 years  
25 and something happened that the State felt like you had

1 violated your sentence, then the State can file what's  
2 called a probation revocation petition. If they file that,  
3 you're brought into court, not -- you don't get a jury  
4 trial. It's in front of a judge. And the burden of proof is  
5 not beyond a reasonable doubt like in a criminal trial. It  
6 drops to what's called a preponderance of the evidence,  
7 which is defined as just more likely than not. So, fifty  
8 percent plus one, and the State has met their burden. If  
9 that occurred, then the Court is authorized to revoke your  
10 First Offender, adjudicate you guilty, and at that time, you  
11 would be a convicted felon. But the Court is also authorized  
12 to sentence you to the maximum of 20 years, giving you  
13 credit for any time you successfully completed. So, in my  
14 example of 15 years, let's say you make it 12 years and you  
15 get revoked, you could be sentenced to 20 years minus the  
16 12, would leave a balance of 8. If I refused -- if you  
17 requested it and I didn't grant it, and so you don't have  
18 First Offender, same example; 15 years, something happens at  
19 12, you get revoked, the most that can be revoked is the  
20 balance of your sentence, which would be 12, up to 15, would  
21 be 3 years. So, the bottom line in First Offender is if  
22 you're not sentenced to the maximum, then you're risking the  
23 difference between your sentence cap and the maximum should  
24 you fail to complete your sentence. Do you understand that?

25 MR. JOHNSON: Yes, Your Honor.

1           THE COURT: Okay. Let's go to conditional discharge,  
2           which is another form that the state has created. Again, if  
3           you successfully complete it, as to the State of Georgia,  
4           you don't have a conviction, you wouldn't be a convicted  
5           felon. That's the same upside. This one has, I call it, a  
6           worse downside. That is this; that's the same example, 15-  
7           year sentence, you make it to 12, you get revoked. It's the  
8           same procedure. No jury trial; preponderance of the evidence  
9           in front of a judge; but if you get revoked at 12 years, the  
10          Court is authorized to revoke your conditional discharge,  
11          adjudicate your guilt, and you're a convicted felon. Under  
12          conditional discharge, the Court can sentence you to the  
13          maximum of 20 years and is not required to give you any  
14          credit for the time you successfully completed. You could  
15          have done 12 years on a 15-year sentence with three left. If  
16          you're under conditional discharge, you could have been  
17          sentenced to 20 years with no credit for that 12. In that  
18          example, I tell people, if you use conditional discharge,  
19          you are always risking being sentenced to the maximum up  
20          until the time you come off of your sentence. Do you  
21          understand that?

22                 MR. JOHNSON: Yes, Your Honor.

23                 THE COURT: But again, even if you requested one of  
24                 those two, if I deny your request and you're just sentenced  
25                 on your conviction, then you can never be sentenced or

1           revoked to more than whatever your initial sentence is.

2           Okay? All right.

3           So, after hearing of those, when I go to consider what  
4           your sentence is, do you request -- Are you requesting that  
5           I sentence you under either first offender or conditional  
6           discharge?

7           MR. JOHNSON: May I ask a question first?

8           THE COURT: Yes.

9           MR. JOHNSON: All right. As much as I know -- Let me  
10          stand up, please.

11          THE COURT: Okay. That's okay.

12          MR. JOHNSON: As long as I can still be respectful, I'll  
13          be respectful.

14          THE COURT: Okay.

15          MR. JOHNSON: Now, as much as I hate them synthetics, I  
16          do sometimes use those synthetic Delta 8, knowing what can  
17          happen with (indiscernible) will this sentence -- I'm not  
18          talking (indiscernible), what I'm saying is until Georgia  
19          makes them illegal, is that a problem? Because I still smoke  
20          hemp, too. I've got a lot of hemp that I keep --

21          THE COURT: I don't have any control. Once I sentence  
22          somebody, it's the Department of Corrections, then the  
23          Department of Community Supervision, you know, if you fail a  
24          drug test, is that a problem? I can tell you, yeah, it'd be  
25          a problem. What argument do you have as to this was really

1 something else versus something else versus this was for my  
2 health, I can't advise you on that. But I can tell you, if  
3 you're noncompliant in any way with your sentence,  
4 potentially, could it be a problem? Sure, it could be.  
5 That's, I mean, that's all I can tell you.

6 MR. JOHNSON: I can tell you right now, I got Delta 8 in  
7 my system along with (indiscernible)--

8 THE COURT: Well --

9 MR. JOHNSON: -- so you might as well just send me to  
10 jail, if that's what it comes down to.

11 THE COURT: This isn't about going to jail. I haven't  
12 decided whether you're going to jail, or whether you're not  
13 going to jail, or anything. I'm asking you, after hearing  
14 the explanation of first offender and conditional discharge,  
15 are you --

16 MR. JOHNSON: Probably first offender. I would take it  
17 if I could.

18 THE COURT: You're requesting I sentence you under first  
19 offender?

20 MR. JOHNSON: Yes.

21 THE COURT: Okay.

22 MR. JOHNSON: I still got some of my hemp.

23 MR. WHITE: And with -- I never do this. When someone's  
24 eligible, even after jury trial, I almost never oppose first  
25 offender when someone's eligible. In this case, we are. The

1 reason for that being the recalcitrance of this defendant  
2 throughout this entire process. If he doesn't believe in the  
3 legislative authority of the State of Georgia, he should not  
4 be entitled to the legislative grace of the State of  
5 Georgia.

6 THE COURT: Okay. All right, I'm going to be in recess.  
7 I'm going to consider your sentence, and I'll come back out  
8 with the sentence. Okay? Thank you.

9 (Whereupon, the Court exited to chambers to deliberate)

10 (Off record)

11 (On record)

12 (Whereupon, the Court returned to the bench)

13 THE COURT: Thank you. You may be seated.

14 Mr. Johnson, from the beginning of this case up through  
15 the time of your trial and including the trial, you carried  
16 a presumption of innocence with you under our system of  
17 justice. Once the jury returned its verdict and found you  
18 guilty, that presumption ended. My recollection is from the  
19 first time you came into court, I believe at your  
20 arraignment, I suggested you have legal representation. I  
21 told you about the public defender, suggested you apply. My  
22 recollection is you said no, because you knew more about the  
23 case than they did. We went through the Faretta Colloquy,  
24 which advises a person of the detriment of representing  
25 themselves, about part of the colloquy is it's almost always

1 a bad idea to represent yourself. However, under the law, if  
2 someone is deemed capable of representing themselves, then  
3 they have an absolute right to do so, and to not let them is  
4 reversible error. So, no matter what I thought personally  
5 about your decision, you were capable and qualified, and you  
6 were allowed to represent yourself.

7 You wanted a jury trial, and you were given one. And  
8 your trial, as you were informed many times, was conducted  
9 within the rules of evidence, the rules of criminal  
10 procedure for both sides, that they applied both ways, that  
11 everybody had to conform and abide and within the rules. The  
12 evidence showed you confessed to the crimes when you were  
13 arrested. The medical issues that you talked about and  
14 wanted to introduce were not relevant, nor were they  
15 admissible. That is something an attorney would have known.  
16 The defense that, I'm just paraphrasing, I was helping old  
17 people, or trying to help people, that defense is not  
18 applicable, nor relevant to these charges. And that is  
19 another thing an attorney would have known and told you.  
20 You're an intelligent man. It's obvious. But what's also  
21 true is no one can know everything about every subject. And  
22 when you try to do something that's not within your realm,  
23 it generally doesn't work out well. But you didn't want an  
24 attorney; you wanted to try it yourself, and you were  
25 allowed to. And at the end of the day, the jury came back

1 with a verdict that found that you were growing marijuana  
2 and that you had it with the intent to distribute it. Those  
3 are crimes in Georgia. No matter what anybody thinks, that's  
4 the law of Georgia. I cannot ignore the quantity, and I  
5 guess I would just say the variety, from having mason jars  
6 full, to having edibles, to having 21 plants with an  
7 elaborate grow system is just no conceivable way that  
8 anybody would find that that was just something for personal  
9 use or just for, I guess I will say the Robin Hood effect of  
10 just giving away to anybody and everybody.

11 And so, with that I have a responsibility to this  
12 community and to the justice system, and I can't ignore what  
13 was brought out and proven at trial. So, therefore your  
14 sentence will be:

15 SENTENCE

16 On count one, the sentence will be 10 years. The first  
17 five to serve in confinement; balance on probation. Be a  
18 twenty-five hundred dollar fine, surcharges to apply.

19 Count two, the sentence will be 10 years. Allow you to  
20 serve on probation. That will run consecutive to count one  
21 for a 20 do 5 sentence.

22 He's entitled to credit for any time he was  
23 incarcerated before making bond as determined by the  
24 custodian.

25 Standard conditions of probation shall apply, along

1 with a special condition, there will be a Fourth Amendment  
2 waiver.

3 Also, considering the amount of drugs involved, and the  
4 elaborate system that was involved, I will not grant your  
5 request for first offender status.

6 This is a felony sentence, if you feel I made an error  
7 in your sentencing, you would have a four-year statute to  
8 file a habeas petition. If you wish to appeal your plea,  
9 that is a 30-day appeal.

10 Now, if you wish, the appeal can be one of two ways.  
11 You can file a motion for new trial. That would be filed,  
12 and that is a motion that would be heard in the Superior  
13 Court; or, you can just go ahead and file a notice of appeal  
14 that you're going to take it up to the appellate courts, not  
15 have the motion for new trial. The system would be, if you  
16 filed a motion for new trial, if it was denied at the trial  
17 level, then you would have the option of appealing it on up.  
18 Some people --

19 MR. WHITE: Could you just advise him that the motion  
20 for new trial must be filed within 30 days, as well?

21 THE COURT: Yes.

22 MR. WHITE: Otherwise, the appellate jurisdiction is  
23 lost.

24 THE COURT: Right. So, either one of them are a 30-day  
25 statute that you have to decide and file one or the other,

1 if you're going to, within the 30-day period, whether it's  
2 just directly notice of appeal, or whether it's a motion for  
3 new trial.

4 Now, you are entitled to appellate counsel at the first  
5 level appeal. You can contact the public defender's office,  
6 the Northern Judicial Circuit Public Defender's Office. If  
7 you qualify, which being incarcerated, I don't have any  
8 control of who qualifies and who doesn't; but qualifying,  
9 they will represent you at no charge. You would be entitled  
10 to have a copy of the transcript if you qualify as indigent  
11 at no charge. Okay? So, you need to contact --

12 (To Clerk) Do you have -- Mr. Gray, could you write  
13 their phone number down?

14 I'm going to get Mr. Gray to write that phone number  
15 down.

16 (To Deputy) And I would just ask, Deputy, when he's  
17 transported back down, if he wishes to call them, to allow  
18 him --

19 MR. WHITE: They have applications at the jail.

20 THE COURT: Okay. Well, if you have an application, if  
21 they have those, make sure, if you will, that he gets one.

22 DEPUTY: Yes, sir.

23 THE COURT: That way, Mr. Johnson, you'll have counsel  
24 available to represent you. Okay.

25 Now, also, if you feel that I made an error in your

1 sentencing, you would have a four-year statute to file a  
2 habeas petition regarding any such error. All of this  
3 information is contained in the Official Code of Georgia  
4 Annotated. A copy is in the law library. If you wish to  
5 review that, you can certainly make arrangements to have  
6 those code sections. But, if you contact the public  
7 defender's office and qualify, they can certainly advise you  
8 further on those matters. Okay?

9 Now, what I will do is, I'll go ahead and just set it  
10 down for a status hearing within the statutory time frame  
11 for motions for new trial or notice of appeal, just so that  
12 we keep it on the books, keep it on to see where you stand  
13 as far as your appeal. Okay? All right. Do you have any  
14 other questions, Mr. Johnson?

15 MR. JOHNSON: No, Your Honor. I'll be dead in --

16 THE COURT: All right. Mr. White, anything from the  
17 Sta-- Sir?

18 MR. JOHNSON: I'll be dead in four to five years.

19 MR. WHITE: Your Honor, I don't have anything else.

20 THE COURT: All right. Thank you. Court will be in  
21 recess.

22 (Whereupon, the court was adjourned)


23 \* \* \*

REPORTER'S CERTIFICATE

I, Pamela H. Cobb, do hereby certify that I reported the proceedings as stated in the caption and that the foregoing pages are true and correct to the best of my skill and knowledge of the proceedings. Any exhibits attached hereto are the original or copies of the exhibits admitted during the foregoing proceeding.

I also certify further that I am neither kin nor counsel to any party at interest, nor do I have any financial interest in this matter whatsoever.

This 30th day of January, 2026.

  
Pamela H. Cobb  
Certified Court Reporter No. B-1726