

**STATE OF TENNESSEE v. CURTIS LEE MAJORS**  
**(Appellee) (Appellant)**

**Primary Issues**

Whether the majority of the Court of Criminal Appeals correctly ruled that the evidence presented at the trial was sufficient for any rational trier of fact to conclude beyond a reasonable doubt that Mr. Majors was guilty of tampering with evidence in violation of Tennessee Code Annotated section 39-16-503(a)(1).

Whether the Court of Criminal Appeals correctly ruled that the trial court did not err in failing to instruct the jury on what “record, document or thing” was tampered with by Mr. Majors.

Whether the trial court erred in failing to dismiss Count 2 of the indictment because it did not identify what “record, document or thing” was tampered with by Mr. Majors.

**Facts**

On October 12, 2005, seven officers, wearing raid vests clearly marked “police,” executed a search warrant for an apartment at 621 Charles E. Davis Boulevard in Nashville. Upon entering the apartment, the officers yelled “police” and “search warrant.” The defendant, Curtis Lee Majors, was seated at a table in the kitchen which was up several steps, but visible, from the front door. Upon seeing and hearing the officers, Mr. Majors ran to the bathroom, which was approximately fifteen to twenty feet from the kitchen. The officers heard a flushing toilet. When they got to the bathroom, the door was open and Mr. Majors was fully dressed. Water was splashed on the toilet seat, and the tank was filling up from having just been flushed. Nothing was recovered from inside or around the toilet, or from Mr. Majors’ person. When asked what he had flushed, Mr. Majors repeatedly responded, “I snort.” He gave no indication that he had used the toilet for its intended purpose. The officers found digital scales in a drawer in the kitchen and 0.04 grams of powder cocaine on a plate on the kitchen table. A rolled up dollar bill was next to the plate. Mr. Majors admitted that the cocaine on the plate belonged to him. Lieutenant William Mackall, who was accepted as an expert in narcotics investigations, testified that suspects sometimes attempt to flush drugs down the toilet in an attempt to destroy evidence and that he was never able to recover powder cocaine from a toilet because the cocaine would dissolve.

**Trial Court Action**

The Davidson County Grand Jury indicted the defendant for possession of less than .5 grams of cocaine in a school zone with the intent to sell or deliver in Count 1 and tampering with evidence in Count 2. The trial court denied Mr. Majors’ motion to dismiss Count 2 of the indictment. After a jury trial, Mr. Majors was convicted of misdemeanor possession of cocaine as a lesser-included offense in Count 1 and tampering with evidence as charged in Count 2. The trial court sentenced Mr. Majors to eleven months and twenty-nine days on the misdemeanor drug conviction and 15 years, as a Range III, persistent offender, on the tampering with evidence conviction. Mr. Majors has not appealed the misdemeanor drug conviction.

**Court of Criminal Appeals’ Decision**

The Court of Criminal Appeals affirmed the trial court. A majority of the Court of Criminal Appeals held that the evidence was sufficient to support the conviction of tampering with evidence. Judge

Witt filed a dissenting opinion concluding that the evidence was insufficient. The Court of Criminal Appeals further held that the trial court did not err in failing to identify in the jury instructions what “record, document or thing” was tampered with by Mr. Majors.

### **Permission to Appeal**

The defendant, Curtis Lee Majors, applied for permission to appeal from the decision of the Court of Criminal Appeals, and the Supreme Court granted the application. Therefore, Mr. Majors is the appellant and the State is the appellee.

### **Text of Tennessee Code Annotated § 39-16-503(a)(1)**

(a) It is unlawful for any person, knowing that an investigation or official proceeding is pending or in progress, to:

(1) Alter, destroy, or conceal any record, document or thing with intent to impair its verity, legibility, or availability as evidence in the investigation or official proceeding . . . .”

### **Appellant’s (Curtis Lee Majors) Argument**

Mr. Majors argues that the State must prove what was destroyed and failed to do so in this case. He also contends that the evidence was insufficient to show that he knew an investigation was pending because the officers did not announce their presence prior to entering the apartment. Mr. Majors further argues that the jury instruction for tampering with evidence must identify the “record, document or thing” destroyed and failed to do so in this case. Finally, Mr. Majors argues that Count 2 of the indictment was unconstitutionally vague because it failed to identify the “record, document or thing.”

### **Appellee’s (State of Tennessee) Argument**

The State argues that the evidence was sufficient to support the conviction for tampering with evidence. The State asserts that the evidence showed that the defendant knew that an investigation was pending or in progress because the officers were wearing raid vests clearly marked “police” and they yelled “police” and “search warrant” upon entering the apartment. The State contends that circumstantial evidence showed that Mr. Majors flushed some item of evidentiary value down the toilet to prevent the item’s use in a criminal investigation and that the State only needed to demonstrate that the item was a “record, document or thing” under the terms of Tennessee Code Annotated section 39-16-503(a)(1). The State further argues that the trial court properly instructed the jury by accurately paraphrasing the statutory language defining the offense of tampering with evidence. Finally, the State argues that Mr. Majors has waived consideration of his claim of error in the trial court’s denial of his motion to dismiss Count 2 of the indictment because he did not raise the issue in his brief in the Court of Criminal Appeals or in his application for permission to appeal in the Supreme Court.