

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Pickens County

Honorable Robert E. Hood, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JIMMY LARRY GILSTRAP,

APPELLANT

APPELLATE CASE NO 2017-001467

RECORD ON APPEAL

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INDEX

INDEX	i
TRIAL TRANSCRIPT DATED JUNE 21-22, 2017.....	1
PRE-TRIAL MOTIONS	44
OPENING STATEMENT BY SOLICITOR BUCKNER.....	66
OPENING STATEMENT BY DOROTHY MANIGAULT	70
TESTIMONY	
KEVIN DURHAM	72
PERRY MURPHY (PROFFER)	92
SHERRY BOWIE (PROFFER).....	100
KRISTA MCCORMICK	112
JOHN ROSS	121
PERRY MURPHY.....	134
SHERRY BOWIE.....	162
TOMMY BLANKENSHIP	183
DEFENSE MOTION FOR DIRECTED VERDICT	217
JIMMY GILSTRAP.....	221
DAVID GILSTRAP.....	240
STEPHANIE GILSTRAP.....	253
CLOSING ARGUMENT BY SOLICITOR BUCKNER.....	261
CLOSING ARGUMENT BY DOROTHY MANIGAULT	277
CLOSING ARGUMENT BY SOLICITOR BUCKNER.....	289

VERDICT	310
SENTENCING	312
INDICTMENT AND SENTENCING SHEET	314
CERTIFICATE OF COUNSEL	317

State of South Carolina,)
)
 Plaintiff,)
 v.) Case No. 14-GS-39-1578
)
 Jimmy Larry Gilstrap,)
)
 Defendant.)

TRANSCRIPT OF JURY TRIAL

The within JURY TRIAL in the above-captioned matter was held June 21-22, 2017, before The Honorable Robert Hood in Courtroom 4 of the Pickens County Courthouse in Pickens, South Carolina; attended by counsel as follows:

APPEARANCES:

Graham Buckner, Assistant Solicitor
13th CIRCUIT SOLICITOR'S OFFICE
... Appearing for State of South Carolina

Dorothy Manigault, Public Defender
PICKENS COUNTY PUBLIC DEFENDERS
... Appearing for Defendant

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State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Before The Honorable Robert Hood

2

INDEX

Index of Testimony	2
Index of State's Exhibits	3
Index of Defendant's Exhibits	5
Index of Court's Exhibits	5
Qualification of Jury	6
Pretrial Motions	44
Jury Sworn	52
Welcome by The Court	52
Opening Statements:	
Solicitor Buckner	66
Dorothy Manigault	70
Examination of Defendant	212
Defense Motion for Directed Verdict	217
Charge Conference	250
Closing Arguments:	
Solicitor Buckner	261
Dorothy Manigault	277
Solicitor Buckner	289
Charge by The Court	292
Verdict	310
Sentence	312
Certificate of Court Reporter	313

State of South Carolina v. Jimmy Gilstrap

3

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Before The Honorable Robert Hood

INDEX OF TESTIMONY

Witness	Direct	Cross	Recross
Kevin Durham	72	88	
Perry Murphy - Proffer	92	96	
Sherry Bowie - Proffer	100	103	
Krista McCormick	112	119	
John Ross	121	131	132
Perry Murphy	134	151	161
Sherry Bowie	162	170	
Tommy Blankenship	183	211	
Jimmy Gilstrap	221	238	
David Gilstrap	240	246	
Stephanie Gilstrap	253	256	

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Before The Honorable Robert Hood

4

INDEX OF STATE'S EXHIBITS

No.	Description	Reference
1	Photograph of battery	78
2	Photograph of coffee filters	78
3	Photograph of filter with powdery substance	78
4	Photograph of rubber tubing/Sudafed box	78
5	Photograph of trash: Drano/WalMart receipt	78
6	Photograph of Sudafed blister pack	78
7	Photograph of Walmart receipt	78
8	Photograph of coffee grinder/Zip-Loc	78
9	Photograph of trashcan	78
10	Photograph of pill grinder, pipe cutter	78
11	Photograph of wire cutters, Drano, rubber tubing	78
12	Photograph of "one pot", fertilizer	78
13	Photograph of plastic soda bottle	78
14	Photograph of bottles	78
15	Photograph of bottles with tubing	78
16	Photograph	78
17	Photograph	78
18	Photograph	78
19	Photograph of clear plate w/methamphetamine	78
20	Photograph	78
21	Photograph	78
22	NPLEx records of Gilstrap	118
23	NPLEx records of Murphy, Bowie, Loretta	119

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Before The Honorable Robert Hood

5

INDEX OF DEFENDANT'S EXHIBITS

No.	Description	Reference

- None Entered -

INDEX OF COURT'S EXHIBITS

No.	Description	Reference

1	Sentencing Sheets - Loretta Gilstrap	181

State of South Carolina v. Jimmy Gilstrap

6

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 JUNE 21, 2017

9:30 a.m.

2
3 (DEFENDANT PRESENT)

4 (JURY PANEL IN @ 9:30 a.m.)

5 THE COURT: Good morning, ladies and
6 gentlemen. There was a case that I finished
7 up last night about 6:00 or 6:30 and we're
8 starting another one today.

9 For planning purposes, I do not expect
10 this case to go beyond tomorrow. Okay?

11 So for those of you that are here, we
12 will select fourteen of you. There are
13 probably fifty or so of you here, so you have
14 pretty good -- if you're playing the odds,
15 you've got pretty good odds of not being
16 selected. Only fourteen of you will be
17 selected. Then those of you who are
18 selected, we will be done with this case
19 tomorrow.

20 That's not to say that it is not an
21 important case. It's only to say that it is
22 not an extremely lengthy trial, and I tell
23 you that for your planning purposes. That's
24 what you need to know.

25 So we are going to get started here, let

State of South Carolina v. Jimmy Gilstrap

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

7

1 me get all my stuff out and we'll get going.

2 When I met with you on Monday, I asked
3 you general qualification questions to
4 determine your qualification to serve as a
5 juror in Circuit Court. Today I am going to
6 ask you different questions. Today I am
7 going to ask you questions related to this
8 case.

9 As I told you on Monday, and I am going
10 to tell you again today, it is absolutely
11 essential that you provide us with truthful
12 and accurate information as I ask you these
13 questions today. The example that I like to
14 give is I was once trying a case in Columbia
15 and in my jury pool there was a lawyer. He
16 was on the front row. He was not involved in
17 the case and he -- just like you all did on
18 Monday, he stood up and said his name and
19 employment. He said his name was --
20 whatever, I don't even remember his name.
21 He said 'I am a lawyer.' Of course in
22 Columbia there are thousands of lawyers, so
23 even I don't know them all. I ask the same
24 questions every time that I do this, and one
25 of the questions that I ask is, 'Are you

State of South Carolina v. Jimmy Gilstrap

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 related by blood or marriage, close personal
2 friends with, or have any connections with,
3 business, personal, social or otherwise, the
4 lawyers in the case?' He didn't stand up,
5 which I really didn't think was that weird
6 in Columbia because there are just so many
7 lawyers.

8 At the end of this process, the lawyers
9 involved in the case came up front and they
10 said, 'you know the lawyer on the front row?'
11 And I said, 'yeah.' And they said, 'well, we
12 went to law school with him.'

13 There are probably fewer people in the
14 law school class than there is the average
15 high school class, so he should have stood up
16 and said, 'I went to law school with all
17 these people.'

18 Now, they had never eaten together, they
19 hadn't been out for drinks or anything like
20 that, but he knew them well enough that he
21 should have stood up and given us that
22 information. Does that make sense?

23 So when I ask you these questions today,
24 I want you to err on the side of giving me
25 too much information as opposed to too little

State of South Carolina v. Jimmy Gilstrap

9

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 information. The best example I have for you
2 is -- it's like that person in church that
3 you see every Sunday. You know who they are,
4 you may know what they do for a living but
5 you don't have their phone number, you've
6 never been to their house, you don't eat
7 lunch with them or dinner with them
8 regularly, you don't have any real close
9 personal connection but you know that's
10 'Jimmy' and he works at Blue Cross-Blue
11 Shield. So I'd expect you to stand up and
12 say, 'Yeah, I go to church with that person.
13 We know each other casually.'

14 We're just trying to gather information
15 to decide who to put on the jury and who not
16 to put on the jury, so always err on
17 providing us too much information.

18 Thank you for accepting this responsi-
19 bility for serving as a juror in Circuit
20 Court. Thank you for coming back today. I
21 sincerely appreciate that.

22 We are ready to select a jury in this
23 case and -- Mr. Buckner, are you ready to
24 call your case?

25 SOLICITOR BUCKNER: Yes, Your Honor.

State of South Carolina v. Jimmy Gilstrap

10

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 THE COURT: Call your case.

2 SOLICITOR BUCKNER: The State is ready
3 to proceed on State versus Jimmy Gilstrap,
4 Your Honor. He is charged with manufacturing
5 methamphetamine.

6 THE COURT: Thank you very much, ladies
7 and gentlemen. All right, ladies and
8 gentlemen, the State -- or the Solicitor's
9 Office -- has called its case.

10 This is Indictment 14-GS-39-1578. It
11 is the State of South Carolina versus Jimmy
12 Larry Gilstrap. I hold in my hand an indict-
13 ment for manufacturing methamphetamine. This
14 indictment alleges that Jimmy Larry Gilstrap
15 did, in Pickens County on about the 4th day of
16 November, 2013, knowingly manufactured
17 methamphetamine or did knowingly provide
18 financial assistance or otherwise attempt,
19 aid, abet or conspire to manufacture
20 methamphetamine; or was knowingly in actual
21 or constructive possession of the common
22 ingredients and/or supplies used in the
23 manufacturing of methamphetamine; in
24 violation of South Carolina Code of Laws,
25 as amended.

State of South Carolina v. Jimmy Gilstrap

11

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 Now, ladies and gentlemen, this
2 indictment that I hold in my hand is not
3 proof of anything. It is not evidence of
4 anything. It is simply the document that
5 allows this court or gives this court the
6 authority to hear this case.

7 To this charge the defendant has pled not
8 guilty and has requested a trial by jury.

9 We will begin the process of questioning
10 the jurors about their knowledge about the
11 case.

12 So the first thing we need to do -- do
13 you want to go ahead and swear the panel?

14 (WHEREUPON JURY PANEL SWORN)

15 THE COURT: All right, if you answered
16 "I do" or "I will" or "yes" to that question,
17 you may be seated; otherwise please remain
18 standing.

19 (ALL JURORS SIT DOWN)

20 THE COURT: The first question is that
21 I'm going to have the solicitor or the State
22 introduce themselves. If you would please do
23 that, Mr. Buckner.

24 SOLICITOR BUCKNER: Thank you, Your
25 Honor. My name is Graham Buckner. I'm an

State of South Carolina v. Jimmy Gilstrap

12

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 assistant solicitor here in Pickens County.
2 Seated with me is Kevin Durham, he's the lead
3 investigator on this case.

4 THE COURT: Thank you very much, Mr.
5 Buckner and Mr. Durham.

6 Is anybody related by blood or marriage,
7 a close personal friend, have any connection
8 with -- business, personal, social or
9 otherwise -- with Mr. Bucker? Have you ever
10 been represented by him or on the other side
11 of a case from him?

12 The same questions as to Kevin Durham
13 with the Pickens County Sheriff's Office.

14 If so, please stand. In the back left-
15 hand corner, your name?

16 JUROR NUMBER 23: Ina Casey.

17 THE COURT: This is Juror Number 23.
18 Who do you know, Ms. Casey?

19 JUROR NUMBER 23: Kevin Durham.

20 THE COURT: Would this affect your
21 ability to be fair and impartial?

22 JUROR NUMBER 23: No, sir.

23 THE COURT: Are you willing to base
24 your decision on the evidence and the law?

25 JUROR NUMBER 23: Yes, sir.

State of South Carolina v. Jimmy Gilstrap

13

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 THE COURT: And will you do so?

2 JUROR NUMBER 23: Yes, sir.

3 THE COURT: Thank you, Ms. Casey.

4 Yes, ma'am, tell me your name, please.

5 JUROR NUMBER 24: Lacey Chappell.

6 THE COURT: Ms. Chappell, Juror Number

7 24. Who do you know, Ms. Chappell?

8 JUROR NUMBER 24: Kevin Durham.

9 THE COURT: And how do you know Mr.
10 Durham?

11 JUROR NUMBER 24: We went to school
12 together.

13 THE COURT: Would this affect your
14 ability to be fair and impartial?

15 JUROR NUMBER 24: No, sir.

16 THE COURT: Are you willing to base
17 your decision off the evidence and the law,
18 and will you do so?

19 JUROR NUMBER 24: Yes.

20 THE COURT: Thank you, ma'am. All
21 right. Ms. Manigault, if you will please
22 stand up and introduce yourself and your
23 client?

24 DOROTHY MANIGAULT: I am Dorothy
25 Manigault, an attorney with Pickens County

State of South Carolina v. Jimmy Gilstrap

14

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 Public Defender. This is my client, Jimmy
2 Gilstrap.

3 THE COURT: Mr. Gilstrap, would you
4 please stand up, sir, so that everybody can
5 see you?

6 DEFENDANT: (Complies).

7 THE COURT: Thank you very much, both
8 of you. Is anybody related by blood
9 marriage, close personal friends with, have
10 any connection with -- close, personal social
11 or otherwise -- either Ms. Manigault or Mr.
12 Gilstrap? (No response).

13 As to Ms. Manigault, have you ever been
14 represented by her or on the other side of a
15 case from her? Tell me your name, please,
16 sir?

17 JUROR NUMBER 33: Robert Devore.

18 THE COURT: Mr. Devore, give me just
19 one second. (Upon review of juror list), you
20 are Juror Number 33. Who do you know, Mr.
21 Devore?

22 JUROR NUMBER 33: I went to school with
23 Jimmy.

24 THE COURT: Okay. Would this affect
25 your ability to be fair and impartial?

State of South Carolina v. Jimmy Gilstrap

15

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 JUROR NUMBER 33: No.

2 THE COURT: Are you willing to base
3 your decision on the evidence and the law?

4 JUROR NUMBER 33: Yes.

5 THE COURT: And will you do so?

6 JUROR NUMBER 33: Yes.

7 THE COURT: Thank you very much.

8 Anybody else? (No response).

9 The allegations of this case are that
10 Mr. Gilstrap, in Pickens County, on or about
11 the 4th of November, 2013, knowingly
12 manufactured methamphetamine or did the
13 things that I stated to you earlier when I
14 read the indictment.

15 Does anybody know anything about this
16 case? If so, please stand. (No response).

17 Has anybody heard anything about this
18 case? If so, please stand? (No response).

19 Has anybody formed or expressed an
20 opinion about this case in any way? If so,
21 please stand. (No response).

22 Has anybody read anything about this case
23 in the newspaper or some kind of media or
24 online, or anything like that? Is so, please
25 stand? (No response).

State of South Carolina v. Jimmy Gilstrap

16

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 All right, the next thing that I am going
2 to do is read you a list of potential
3 witnesses. Now, because all of these names
4 are called does not mean that they will be
5 called, it simply means that they could be
6 called. So as I read these names, if you
7 hear one that you know -- and I'll read Mr.
8 Durham's name out again and you have already
9 responded to Mr. Durham, the two ladies that
10 responded earlier, so you don't need to stand
11 up again. But if you hear another name that
12 you know or you think that you may know that
13 person, please stand and we will collect that
14 information from you.

15 Kevin Durham with the Pickens County
16 Sheriff's Office.

17 Tommy Blankenship with Pickens County
18 Sheriff's Office

19 John Ross with Pickens County Sheriff's
20 Office

21 Captain Chad Brooks with Pickens County
22 Sheriff's Office

23 Krista McCormick with Appriss, Inc.

24 Perry Murphy

25 Sherry Bowie

State of South Carolina v. Jimmy Gilstrap

17

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 Jimmy L. Gilstrap, Defendant

2 Loretta Gilstrap

3 David T. Gilstrap

4 Stephanie L. Gilstrap

5 Brenda Whitfield

6 So the questions as to all those
7 witnesses is, are you related by blood or
8 marriage, close personal friends with, have
9 any connection to -- business, social,
10 personal or otherwise -- any of those
11 witnesses? Tell me your name, ma'am?
12 You're number one, right?

13 JUROR NUMBER 1: Yes.

14 THE COURT: I always remember number
15 one.

16 JUROR NUMBER 1: Dorota Abramovitch.

17 THE COURT: This is Juror Number 1, and
18 who do you know, Ms. Abramovitch?

19 JUROR NUMBER 1: David Gilstrap.

20 THE COURT: You know David Gilstrap?

21 JUROR NUMBER 1: I know he comes in my
22 place.

23 CLERK: Your Honor, I don't know if it
24 is this witness. There are several David
25 Gilstraps in Pickens.

State of South Carolina v. Jimmy Gilstrap

18

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 THE COURT: So this David Gilstrap is
2 David T. Gilstrap, as in Tango.

3 JUROR NUMBER 1: I do know him.

4 THE COURT: Would this affect your
5 ability to be fair and impartial, Ms.
6 Abramovitch?

7 JUROR NUMBER 1: No.

8 THE COURT: Are you willing to base
9 your decision off the evidence and the law?

10 JUROR NUMBER 1: Yes.

11 THE COURT: And will you do so?

12 JUROR NUMBER 1: Yes.

13 THE COURT: Thank you, ma'am. Anybody
14 else on the potential witness list? (No
15 response).

16 Is any member of the jury panel aware of
17 any bias, or prejudice that you may have
18 against the State or the Defendant in this
19 case? If so, please stand. (No response).

20 Is there any member of the jury panel who
21 is a member of or a contributor to any group
22 who has as its primary concern the promotion
23 of law enforcement or victims rights. These
24 groups would include but are not limited to
25 MADD, SADD, CAV or defendants' rights such as

State of South Carolina v. Jimmy Gilstrap

19

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 The Innocence Project.

2 JUROR NUMBER 1: MADD.

3 THE COURT: Juror Number 1, Ms. Abramo-
4 vitch is a contributor to MADD. Would this
5 affect your ability to be fair and impartial?

6 JUROR NUMBER 1: No.

7 THE COURT: Are you willing to base
8 your decision on the evidence and the law?

9 JUROR NUMBER 1: Yes, sir.

10 THE COURT: And will you do so?

11 JUROR NUMBER 1: Yes, sir..

12 THE COURT: Anybody else? (No
13 response). Does any member of the jury panel
14 know of any reason whatsoever why he or she
15 should not serve as a juror in this case?

16 I promise you that what both sides want
17 is twelve people who come in here with no one
18 to reward, no one to punish. They want you
19 to sit fairly and impartially like a judge,
20 to listen to the evidence, decide what the
21 facts are, apply the facts to the law and
22 ultimately reach a verdict.

23 Is there anybody in the room who does not
24 believe that they can do that fairly and
25 impartially> (No response).

State of South Carolina v. Jimmy Gilstrap

20

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 Any further *voir dire* from the State?

2 SOLICITOR BUCKNER: None from the
3 State, Your Honor.

4 THE COURT: Any further *voir dire* from
5 Ms. Manigault?

6 DOROTHY MANIGAULT: Nothing further.

7 THE COURT: All right, ladies and
8 gentlemen, this is how this is going to work.
9 At this point in time all of your names, all
10 fifty-one of you -- I think that there are
11 fifty-one of you. All of your names have
12 been put into a computer system and it has
13 randomly generated a list that is not in
14 numerical order and is not in alphabetical
15 order. Okay?

16 In this case, what will happen is that
17 the clerk will call your name. When the
18 clerk calls your name, just stand up right
19 where you are. Then I want you to tell me
20 your employment. I know it was just Monday
21 and you'd think that I would remember, but a
22 lot has happened since Monday until now.
23 Okay? If it was me, they'd call 'Juror
24 Number 1, Robert Hood.' I would stand up and
25 say, 'I'm a Circuit Court judge.'

State of South Carolina v. Jimmy Gilstrap

21

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 Then they will ask the State do they want
2 to seat you or excuse you. Then they will
3 ask the defense if they want to seat you or
4 excuse you.

5 Each side gets to get rid of five people
6 essentially for free. They are not -- we
7 call it preemptory strikes, okay, not "for
8 free." Okay.

9 So if either side says to excuse this
10 person from the service of this case, just
11 sit right back down where you are. Don't let
12 your feelings be hurt. You'll be done for
13 the entire week if someone says that. Okay?

14 If both sides say to seat the juror, to
15 seat or swear the juror, then you will come
16 forward and the bailiff will show you where
17 to sit.

18 So please tell me your employment as your
19 name is called. I do not remember where
20 everybody works and I do like to know your
21 employment as we go through the selection
22 process. Okay?

23 Is the State ready to proceed?

24 SOLICITOR BUCKNER: The State is
25 ready, Your Honor.

State of South Carolina v. Jimmy Gilstrap

22

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 THE COURT: Is the defense ready to
2 proceed?

3 DOROTHY MANIGAULT: Yes, Your Honor.

4 THE COURT: We are ready to proceed.
5 The strikes are five and five. We will pick
6 two alternates and the strikes will be one
7 and two (sic) on each alternate. We're ready
8 to go.

9 CLERK: Juror number 139, Stephen J.
10 Sugarman.

11 (WHITE MALE BEFORE COUNSEL)

12 JUROR NUMBER 139: I am unemployed and
13 not married.

14 THE COURT: Thank you.

15 CLERK: What says the State?

16 SOLICITOR BUCKNER: Please present Mr.
17 Sugarman.

18 CLERK: What says the defense?

19 DOROTHY MANIGAULT: Please seat Mr.
20 Sugarman.

21 CLERK: If you'll have a seat in the
22 jury box, you've been selected to serve on
23 this case.

24 (JUROR NUMBER 135 SEATED)

25 CLERK: Juror Number 15, Troy Bridges.

State of South Carolina v. Jimmy Gilstrap

23

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 (WHITE MALE BEFORE COUNSEL)

2 JUROR NUMBER 15: I work at a golf
3 course in Anderson.

4 CLERK: What says the State?

5 SOLICITOR BUCKNER: Please present the
6 Mr. Bridges.

7 CLERK: What says the Defense?

8 DOROTHY MANIGAULT: Please seat the
9 juror.

10 CLERK: Please come forward and have a
11 seat in the jury box.

12 (JUROR NUMBER 15 SEATED)

13 CLERK: Juror Number 132, Pamela D.
14 Shelton.

15 (WHITE FEMALE BEFORE COUNSEL)

16 JUROR NUMBER 132: My name is Pamela
17 Shelton and I work at KFC, Kentucky Fried
18 Chicken, Assistant Manager.

19 CLERK: What says the State?

20 SOLICITOR BUCKNER: Please present Ms.
21 Shelton.

22 CLERK: And the defense?

23 DOROTHY MANIGAULT: Please seat the
24 juror.

25 (JUROR NUMBER 132 SEATED)

State of South Carolina v. Jimmy Gilstrap

24

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 CLERK: Juror Number 88, Margaret
2 Masterson.

3 (WHITE FEMALE BEFORE COUNSEL)

4 JUROR NUMBER 88: I work for Clemson
5 Media and I am not married.

6 CLERK: What says the defense?

7 SOLICITOR BUCKNER: Please excuse Ms.
8 Masterson.

9 CLERK: You may return to your seat,
10 please, ma'am.

11 (JUROR NUMBER 88 EXCUSED)

12 CLERK: Juror Number 2, Jacquelyn E.
13 Adams.

14 (BLACK FEMALE BEFORE COUNSEL)

15 JUROR NUMBER 2: I am employed at
16 Magnolia in Easley.

17 CLERK: What says the State?

18 SOLICITOR BUCKNER: Please present Ms.
19 Adams.

20 CLERK: And the defense?

21 DOROTHY MANIGAULT: Please seat Ms.
22 Adams.

23 CLERK: Come forward, please, ma'am,
24 and have a seat in the jury box.

25 (JUROR NUMBER 2 SEATED)

State of South Carolina v. Jimmy Gilstrap

25

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 CLERK: Juror Number 118, Joshua M.
2 Rhodes.

3 (WHITE MALE BEFORE COUNSEL)

4 JUROR NUMBER 118: Josh Rhodes, I work
5 maintenance.

6 CLERK: What says the State?

7 SOLICITOR BUCKNER: Please present Mr.
8 Rhodes.

9 CLERK: Defense?

10 DOROTHY MANIGAULT: Please excuse Mr.
11 Rhodes.

12 CLERK: You may return to your seat.

13 (JUROR NUMBER 118 EXCUSED)

14 CLERK: Juror Number 155, Michael
15 Whitten.

16 (WHITE MALE BEFORE COUNSEL)

17 JUROR NUMBER 155: Sales Associate.

18 CLERK: What says the State?

19 SOLICITOR BUCKNER: Please present Mr.
20 Whitten?

21 CLERK: Defense?

22 DOROTHY MANIGAULT: Please seat Mr.
23 Whitten.

24 CLERK: Come forward, please, sir, and
25 have a seat in the jury box.

State of South Carolina v. Jimmy Gilstrap

26

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 (JUROR NUMBER 155 SEATED)

2 CLERK: Juror Number 21, Byron

3 Carranza-Becerra.

4 (HISPANIC MALE BEFORE COUSNEL)

5 JUROR NUMBER 21: I work at Wendy's.

6 CLERK: What says the State?

7 SOLICITOR BUCKNER: Please excuse the
8 juror.

9 CLERK: Please return to your seat,
10 sir.

11 (JUROR NUMBER 21 EXCUSED)

12 CLERK: Juror Number 51, Marcia Given.

13 (WHITE FEMALE BEFORE COUNSEL)

14 JUROR NUMBER 51: I'm an innkeeper.

15 CLERK: What says the State?

16 SOLICITOR BUCKNER: Please present Ms.
17 Given.

18 CLERK: Defense?

19 DOROTHY MANIGAULT: Please excuse the
20 juror.

21 (JUROR NUMBER 51 EXCUSED)

22 CLERK: Juror Number 33, Robert Devore.

23 (WHITE MALE BEFORE COUNSEL)

24 JUROR NUMBER 33: Advanced Rigging,
25 heavy machinery movers.

State of South Carolina v. Jimmy Gilstrap

27

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 CLERK: What says the State?

2 SOLICITOR BUCKNER: Please excuse Mr.

3 Devore.

4 CLERK: You may return to your seat.

5 (JUROR NUBMER 33 EXCUSED)

6 CLERK: Juror Number 84, Patsy Lowery.

7 (WHITE FEMALE BEFORE COUNSEL)

8 JUROR NUMBER 84: I am a fitness
9 instructor and personal trainer at Keowee Key
10 Fitness Center.

11 CLERK: What says the State?

12 SOLICITOR BUCKNER: Please present the
13 juror.

14 CLERK: And Defense?

15 DOROTHY MANIGAULT: Please excuse the
16 juror.

17 CLERK: You may return to your
18 seat.

19 (JUROR NUMBER 84 EXCUSED)

20 CLERK: Juror Number 5, Susan Anderson.

21 (WHITE FEMALE BEFORE COUNSEL)

22 JUROR NUMBER 5: I work for the Easley
23 High School cafeteria.

24 CLERK: What says the State?

25 SOLICITOR BUCKNER: Please present Ms.

State of South Carolina v. Jimmy Gilstrap

28

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 Anderson.

2 CLERK: The defense?

3 DOROTHY MANIGAULT: Please excuse the
4 juror.

5 CLERK: You may return to your seat,
6 please, ma'am.

7 (JUROR NUMBER 5 EXCUSED)

8 CLERK: Juror Number 14, Justin
9 Bramblett.

10 (WHITE MALE BEFORE COUNSEL)

11 JUROR NUMBER 14: Teacher at Pickens
12 Middle School.

13 CLERK: What says the State?

14 SOLICITOR BUCKNER: Please present Mr.
15 Bramblett.

16 CLERK: Defense?

17 DOROTHY MANIGAULT: Please swear Mr.
18 Bramblett.

19 CLERK: If you would come forward, sir,
20 and have a seat in the jury box.

21 (JUROR NUMBER 14 SEATED)

22 CLERK: Juror Number 94, Laura
23 Mcmillan.

24 (WHITE FEMALE BEFORE COUNSEL)

25 JUROR NUMBER 94: I work at Anderson One

State of South Carolina v. Jimmy Gilstrap

29

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 Schools.

2 CLERK: What says the State?

3 SOLICITOR BUCKNER: Please present Ms.
4 Mcmillan.

5 CLERK: Defense?

6 DOROTHY MANIGAULT: Please seat the
7 juror.

8 CLERK: Come forward, please, ma'am and
9 have a seat in the jury box.

10 (JUROR NUMBER 94 SEATED)

11 CLERK: Juror Number 68, Piolo Jackson.

12 (BLACK FEMALE BEFORE COUNSEL)

13 JUROR NUMBER 68: I am disabled.

14 CLERK: What says the State?

15 SOLICITOR BUCKNER: Please excuse Ms.
16 Jackson.

17 CLERK: You may return to your seat,
18 please, ma'am.

19 (JUROR NUMBER 68 EXCUSED)

20 THE COURT: We are four and four
21 (strikes).

22 CLERK: That is correct. Juror Number
23 137, Mickie Spencer.

24 (WHITE FEMALE BEFORE COUSNEL)

25 JUROR NUMBER 137: I work at Furman

State of South Carolina v. Jimmy Gilstrap

30

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 University.

2 CLERK: What says the State?

3 SOLICITOR BUCKNER: Please present Ms.
4 Spencer.

5 CLERK: Defense?

6 DOROTHY MANIGAULT: Please seat Ms.
7 Spencer.

8 (JUROR NUMBER 137 SEATED)

9 CLERK: Juror Number 23, Ina Casey.

10 (WHITE FEMALE BEFORE COUNSEL)

11 JUROR NUMBER 23: I work at Six Mile
12 Sweet Shop & Soda Shop.

13 CLERK: What says the State?

14 SOLICITOR BUCKNER: Please present Ms.
15 Casey.

16 CLERK: Defense?

17 DOROTHY MANIGAULT: Please excuse the
18 juror.

19 (JUROR NUMBER 23 EXCUSED)

20 CLERK: Juror Number 75, Grayson
21 Knight.

22 (WHITE MALE BEFORE COUNSEL)

23 JUROR NUMBER 75: I'm a contractor.

24 CLERK: What says the State?

25 SOLICITOR BUCKNER: Please present the

State of South Carolina v. Jimmy Gilstrap

31

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 juror.

2 THE COURT: Does the defense strike for
3 cause?

4 DOROTHY MANIGAULT: No, Your Honor.

5 (JUROR NUMBER 75 SEATED)

6 CLERK: Juror Number 99, William Moore.

7 (WHITE MALE BEFORE JUROR)

8 JUROR NUMBER 75: Landscaper.

9 CLERK: What says the State?

10 SOLICITOR BUCKNER: Please excuse the
11 juror.

12 CLERK: You may have seat.

13 (JUROR NUMBER 99 EXCUSED)

14 CLERK: Juror Number 1, Dorota
15 Abramovitch.

16 (WHITE FEMALE BEFORE JUROR)

17 JUROR NUMBER 1: I am a professor at
18 Anderson University.

19 CLERK: What says the State?

20 SOLICITOR BUCKNER: Please present the
21 juror.

22 CLERK: What says the Defense?

23 DOROTHY MANIGAULT: Please seat the
24 juror.

25 (JUROR NUMBER 1 SEATED)

State of South Carolina v. Jimmy Gilstrap

32

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 CLERK: Juror Number 153, Louvenia
2 Wheeler.

3 (BLACK FEMALE BEFORE COUNSEL)

4 JUROR NUMBER 153: (Inaudible).

5 CLERK: What says the State?

6 SOLICITOR BUCKNER: Please present Ms.
7 Wheeler.

8 CLERK: Defense?

9 DOROTHY MANIGAULT: Please seat the
10 juror.

11 CLERK: Please come forward and have a
12 seat in the jury box.

13 (JUROR NUMBER 153 SEATED)

14 CLERK: Juror Number 49, Joseph Garcia.

15 (WHITE MALE BEFORE COUNSEL)

16 JUROR NUMBER 49: I work for Ray Bracken
17 Nursery.

18 CLERK: What says the State?

19 SOLICITOR BUCKNER: Please present Mr.
20 Garcia.

21 CLERK: Defense?

22 DOROTHY MANIGAULT: Please seat the juror.

23 (JUROR NUMBER 49 SEATED)

24 CLERK: That should be twelve.

25 THE COURT: Two alternates. The

State of South Carolina v. Jimmy Gilstrap

33

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 strikes will be one and two on each.

2 CLERK: Juror Number 157, Dennis
3 Wilson.

4 (WHITE MALE BEFORE COUNSEL)

5 JUROR NUMBER 157: I work at Reliable
6 Sprinklers.

7 CLERK: What says the State?

8 SOLICITOR BUCKNER: Please strike the
9 juror.

10 CLERK: You may have a seat, sir.

11 (JUROR NUMBER 157 EXCUSED)

12 CLERK: Juror Number 81, Joan Loftin.

13 (WHITE FEMALE BEFORE COUNSEL)

14 JUROR NUMBER 81: I work for Daniel
15 Bruce, State Farm Insurance.

16 CLERK: What says the State?

17 SOLICITOR BUCKNER: Please present Ms.
18 Loftin.

19 CLERK: Defense?

20 DOROTHY MANIGAULT: Please excuse the
21 juror.

22 (JUROR NUMBER 81 EXCUSED)

23 CLERK: Juror Number 27, Dale
24 Cleveland.

25 (WHITE MALE BEFORE COUNSEL)

State of South Carolina v. Jimmy Gilstrap

34

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 JUROR NUMBER 27: I work as an engineer
2 for General Electric.

3 CLERK: What says the State?

4 SOLICITOR BUCKNER: Please present Mr.
5 Cleveland.

6 CLERK: Defense?

7 DOROTHY MANIGAULT: Please seat Mr.
8 Cleveland.

9 (JUROR NUMBER 27 SEATED)

10 THE COURT: Strikes start over. Second
11 alternate.

12 CLERK: Juror Number 133, Bobby
13 Sheriff.

14 (WHITE MALE BEFORE COUNSEL)

15 JUROR NUMBER 133: I work for Best
16 Medical.

17 CLERK: What says the State?

18 SOLICITOR BUCKNER: Please present Mr.
19 Sheriff.

20 CLERK: Defense?

21 DOROTHY MANIGAULT: Please excuse Mr.
22 Sheriff.

23 CLERK: You may return to your seat.

24 (JUROR NUMBER 133 EXCUSED)

25 CLERK: Juror Number 29, Anna Connelly.

State of South Carolina v. Jimmy Gilstrap

35

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 (WHITE FEMALE BEFORE COUNSEL)

2 JUROR NUMBER 29: I work as a waitress
3 at the Village Bakery and Café.

4 CLERK: What says the State?

5 SOLICITOR BUCKNER: Please present Ms.
6 Connelly.

7 CLERK: Defense?

8 DOROTHY MANIGAULT: Please seat Ms.
9 Connelly.

10 CLERK: Please have a seat in the jury
11 box, you've been selected to serve in this
12 case.

13 (JUROR NUMBER 29 SEATED)

14 CLERK: Your Honor, the jury is seated.

15 (JURY SEATED @ 10:05 a.m.)

16 THE COURT: Any exception to the jury
17 selection process from the State?

18 SOLICITOR BUCKNER: None from the
19 State, Your Honor.

20 THE COURT: From the defense?

21 DOROTHY MANIGAULT: None from the
22 defense, Your Honor.

23 THE COURT: All right, ladies and
24 gentlemen, if you're in the audience,
25 congratulations. You did not make it on this

State of South Carolina v. Jimmy Gilstrap

36

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 case, and you are done for the -- I want to
2 say one thing before I excuse you: Thank you
3 very much for coming up here to serve. I
4 understand that it is a severe inconvenience
5 on your life and your livelihood, it's an
6 inconvenience on your employers, usually, and
7 it is an inconvenience on you too. We
8 cannot do what we do up here without good
9 citizens like you being willing to come up
10 here and serve. I know that there are a
11 million other places that you would rather be
12 but coming up here and participating in jury
13 trials is an important part of our form of
14 government and our form of democracy.

15 On behalf of all your judges, I want to
16 -- so you live in the 13th Circuit, which is
17 Greenville and Pickens counties. Your
18 resident judge here is Judge Gravely, who is
19 just wonderful. You have some of the best
20 judges in the entire state over in
21 Greenville.

22 So you really do have a great courthouse.
23 The courthouse staff is wonderful, the
24 clerk's staff is wonderful. Your clerk's
25 office is wonderful. I travel this whole

State of South Carolina v. Jimmy Gilstrap

37

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 state and try cases. Everybody is very
2 professional, polite, put together, know what
3 they are doing. You should be proud of your
4 courthouse and of your Clerk of Court's
5 office.

6 I want to say thank you very much. You
7 do not have to call back in. You are
8 completely done for the week.

9 If you get called for jury duty the rest
10 of this year or during the next two years,
11 you will have an exemption. You just need to
12 tell them that you served this week.

13 CLERK: If you signed up for a state-
14 ment for work on Monday, it will be mailed to
15 you. If you did not sign up but need one,
16 stop by my office on the first floor and we
17 will take care of that for you.

18 (JURY PANEL EXCUSED)

19 THE COURT: Y'all approach real quick.

20 (OFF RECORD BENCH CONFERENCE)

21 THE COURT: This is how this is going to
22 work. I am going to give you about five
23 minutes worth of information now, then we are
24 going to take a break. The bailiff will show
25 you where your jury room is, how to get

State of South Carolina v. Jimmy Gilstrap

38

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 around and things like that. Then I will
2 bring you back in after we take that break
3 and we will jump right in to the trial. So
4 we will jump right in to the case, jump right
5 into things.

6 We have one witness that is going to be
7 called this morning, that is flying in. So
8 we may take an unusual/weird lunch break.
9 If that happens, it's just because we are
10 waiting on the witness to get here and we may
11 go to lunch earlier than usual.

12 We will probably finish around 5:00
13 today. Okay? I don't like to go much longer
14 than that, everybody has lives at night. We
15 will probably go to about 5:00 today and then
16 we will probably finish the case tomorrow.
17 That's for your general planning. I do not
18 expect you to be here late tonight, we will
19 stop about 5:00 o'clock today. We will take
20 a lunch break, a morning break and an
21 afternoon break. All those good things.

22 I need to make sure that you know who
23 everybody is.

24 This is Mr. Schmaucher right here, he
25 will be in charge of you back in the jury

State of South Carolina v. Jimmy Gilstrap

39

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 room. He will help you go in and come out.

2 This is Mr. Grant in the back.

3 This is Mr. Carr right here.

4 They will be in charge of you this week.

5 They will show you how to go in and come out
6 of the jury room.

7 Everybody associated with the case has
8 been told not to have any communication with
9 you. So if you see the lawyers or see one of
10 the officers or see a potential witness in
11 the case with you, they are not going to
12 speak to you. They are not going to say
13 hello, they are not going to say good
14 morning, they are not going to say good
15 afternoon. They are not going to speak to
16 you because they've been told to completely
17 and totally ignore you. That's why you wear
18 that badge around your neck. It's not --
19 it's a sign to everybody else in the building
20 that you are a jury and they are to leave you
21 alone. Does that make sense? All right.

22 Now, right in front of me is your Clerk
23 of Court, Mr. Welborn. He will be with us
24 this week.

25 Then normally I have a law clerk, so I

State of South Carolina v. Jimmy Gilstrap

40

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 have a lawyer who has graduated from law
2 school, who has taken the bar exam, passed
3 the bar exam, who spends their first year of
4 practice with me. She -- and I usually say
5 she, because most of my clerks are female.
6 But she is always does all of my paperwork.
7 Friday was her last day. So I am law
8 clerkless this week. So if you see me
9 fumbling around up here, that's because I've
10 realized how hard their job is this week, in
11 having to do everything myself.

12 Right here, seated right in front of you
13 is Ms. Garrison. Ms. Garrison is our court
14 reporter. I like to say that she is the most
15 important person in the room. She is the
16 only one in the room who is always working.
17 She is literally taking down every single
18 word that we say in here. So if you hear me
19 tell someone to slow down or tell somebody to
20 speak up, to stop talking, "time out", "y'all
21 be quiet". She can only take down one voice
22 at a time, and her record is the record of
23 what occurs in here. So if you hear me say
24 those kinds of things, I am not trying to be
25 mean or rude to anybody but she can only take

State of South Carolina v. Jimmy Gilstrap

41

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 down one voice at a time. So in the normal
2 course of the way trials proceed, people will
3 start talking over each other, witnesses and
4 lawyers, so I have to be kind of the arbiter
5 of that and say 'time out, you say what you
6 need to say, then you can say what you need
7 to say' so that we can get an accurate
8 record. So you will see her doing all the
9 things that she does, which are way more
10 sophisticated than I understand. So if you
11 hear me say to somebody to slow down or speed
12 up, all of that is so Ms. Garrison can take
13 it down and take it down correctly. Okay.

14 Mr. Whitten -- where is Mr. Whitten? Mr.
15 Whitten, you're going to be the foreman of
16 this jury. You don't get paid any extra and
17 your vote doesn't count any more. Okay.
18 Somebody has got to be in charge of
19 communicating with the court, so that's going
20 to be you. Not right now, but when we come
21 back in, I want you to sit where this
22 gentleman in the blue shirt is seated.
23 You'll have a permanent seat. Okay.

24 My two Alternates, you also have
25 permanent seats there on the end of the row.

State of South Carolina v. Jimmy Gilstrap

42

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 Everyone else can sit wherever you want
2 to as you come and go in to the courtroom.

3 Okay, I'm about to release you for this
4 break, so that the bailiff can show you where
5 your jury room is.

6 When you come back in, I'm going to give
7 you more instructions. But the most
8 important thing that I am going to tell you
9 is that you are not allowed to discuss this
10 case, or anything about it, with anyone,
11 including each other. Okay? So you can talk
12 about the World Series. You can talk about
13 the fact that it was seventy degrees this
14 morning and cool, which I never experience
15 in Columbia in June. You can talk about how
16 good Clemson is going to be this year.

17 You can talk about whatever you want to
18 talk about, but you can't talk about this
19 case at all. Okay.

20 The reason is because you haven't heard
21 all the evidence in the case. You haven't
22 seen all the witnesses. I haven't explained
23 the law to you. So you shouldn't be forming
24 or expressing any opinions about this case.
25 You should keep an open mind, so you cannot

State of South Carolina v. Jimmy Gilstrap

43

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Qualification and Selection of Jury

1 talk about this case.

2 Now, when I release y'all for lunch, I
3 understand that y'all will probably have cell
4 phones and probably call somebody, text
5 somebody, check Instagram, whatever, check
6 FaceTime, check some kind of social media.
7 You may want to tell somebody that you're on
8 the jury. You can tell them that you're on a
9 jury, but you can't tell them anything about
10 the case.

11 The reason for that is, what if the
12 person said, 'Oh, I know all about that case.
13 Let me tell you about it.' That would be
14 outside influence and that would be improper.
15 You have to make your decision on what
16 happens in court. Okay. Based on the
17 evidence presented and the law that I give
18 you and not any type of extra information
19 that you may have about the case.

20 At this point, none of you know anything
21 about the case, and that's how I want you to
22 be when you come back in here. You will
23 learn about the case from the evidence
24 presented by the parties and the witnesses.
25 Okay. So you're not allowed to talk or

State of South Carolina v. Jimmy Gilstrap

44

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Pretrial Motions

1 speculate about the case. Oaky.

2 You are to keep an open mind about the
3 case. You're not to have any contact with
4 any of the parties or any of the witnesses,
5 anything like that. We will be back with you
6 in just a few moments.

7 I will tell you every time that we take
8 a break, 'do not discuss the case in any way,
9 shape or form.'

10 Thank you very much.

11 (JURY OUT @ 10:16 A.M.)

12 THE COURT: Okay, what is this issue
13 that we need to take up?

14 DOROTHY MANIGAULT: Your Honor, the --
15 do you want to tell him?

16 SOLICITOR BUCKNER: Judge, I plan on
17 introducing what is called NPLeX records
18 which show pseudoephedrine purchases

19 THE COURT: All right.

20 SOLICITOR BUCKNER: Pseudoephedrine
21 purchases that the Defendant made in the case
22 but also of two codefendants who have already
23 pled to this charge, as well as the
24 Defendant's wife.

25 THE COURT: Okay.

State of South Carolina v. Jimmy Gilstrap

45

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Pretrial Motions

1 SOLICITOR BUCKNER: It shows a regular
2 pattern, that is monitored by the Sheriff's
3 Office. Obviously my out-of-state witness is
4 the ---

5 THE COURT: Is that the records
6 custodian?

7 SOLICITOR BUCKNER: Exactly, Judge.

8 THE COURT: All right. You're going
9 to lay some foundation for why all of that
10 is relevant because all of that is not
11 automatically admissible, because she's here.

12 SOLICITOR BUCKNER: My understanding,
13 Judge, -- so my codefendants will testify
14 that they were operating under the direction
15 of the defendant in this case. That he was
16 the one who actually knew how to make meth,
17 that they did not. That he convinced them to
18 use their trailer, then they would go out and
19 make purchases in exchange for the meth that
20 he was making. That's how they were paid.

21 THE COURT: How would the wife be
22 affected?

23 SOLICITOR BUCKNER: The wife would be
24 connected because they would also say that
25 they were operating under her control at

State of South Carolina v. Jimmy Gilstrap

46

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Pretrial Motions

1 times, that she also gave direction as far as
2 to when to get the Sudafed. It was more of a
3 joint venture.

4 Now, she is not on trial today. I
5 acknowledge that.

6 THE COURT: Yeah.

7 SOLICITOR BUCKNER: But she's his wife
8 and ---

9 THE COURT: Both codefendants will
10 testify?

11 SOLICITOR BUCKNER: Yes, sir.

12 THE COURT: They will testify before
13 the records custodian?

14 SOLICITOR BUCKNER: They will testify
15 after.

16 THE COURT: Okay. Can they testify
17 before?

18 SOLICITOR BUCKNER: They can. Yes,
19 they can.

20 THE COURT: What is your position on
21 that, Ms. Manigault?

22 DOROTHY MANIGAULT: Your Honor, first
23 of all, as far as Loretta Gilstrap is
24 concerned, she was not charged in this
25 incident.

State of South Carolina v. Jimmy Gilstrap

47

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Pretrial Motions

1 THE COURT: Okay.

2 DOROTHY MANIGAULT: So that is my
3 objection. She should not be ---

4 THE COURT: I need more information
5 about that. Other than the manufacturing
6 methamphetamine statute, which is found at
7 44-53-375, one of the potential ways that
8 the State can prove manufacturing of meth-
9 amphetamine is via conspiracy. So if there
10 is evidence in the record that she was
11 participating in a conspiracy, she doesn't
12 have to be charged, she doesn't have to be
13 indicted for that information to come in.

14 DOROTHY MANIGAULT: There is -- to
15 respond, Your Honor, there is no information
16 or evidence in discovery regarding Loretta
17 Gilstrap participating in the charge with my
18 client.

19 THE COURT: What about that, Mr.
20 Buckner?

21 SOLICITOR BUCKNER: Well, there are
22 NPLeX records in the discovery showing her
23 making the purchases, Your Honor. So I would
24 assume that's -- it was in the discovery.

25 THE COURT: Okay. What else, Ms.

State of South Carolina v. Jimmy Gilstrap

48

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Pretrial Motions

1 Manigault?

2 DOROTHY MANIGAULT: Your Honor, as far
3 as Sherrie Wie, W-i-e, (sic) and Perry
4 Murphy, ---

5 THE COURT: I assume that those are the
6 codefendants?

7 DOROTHY MANIGAULT: They are
8 codefendants.

9 THE COURT: Okay.

10 DOROTHY MANIGAULT: They pled on May
11 22nd, 2014, to the manufacturing and another
12 charge each. Their cases are completed and
13 I am objecting to any information coming in
14 regarding any records for those two.

15 THE COURT: Okay. All right. Mr.
16 Buckner?

17 SOLICITOR BUCKNER: Judge, I have to
18 be able to prove my case. That's just the
19 hand that I'm dealt here. They pled
20 immediately, but that shouldn't prevent me
21 from asking them questions as to what the
22 operations were at that time. That's what
23 they will testify to. This just lends them
24 credibility as to their testimony.

25 THE COURT: Ms. Manigault?

State of South Carolina v. Jimmy Gilstrap

49

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Pretrial Motions

1 DOROTHY MANIGAULT: Your Honor, they
2 are here to testify. Their testimony should
3 be sufficient. These records would be more
4 in place for a case to be tried against them.
5 I do not believe that they should be
6 introduced in my client's case.

7 THE COURT: Okay. Well, I can't
8 officially rule on this because I can't make
9 this ruling just based on what y'all are
10 telling me is going to happen. I've got to
11 hear this information from Mr. Murphy and/or
12 Ms. Bowie, so that I can convince myself that
13 there is a -- certainly he is indicted for
14 being involved in a conspiracy.

15 Once that information comes in, assuming
16 that it does come in through the witnesses,
17 then I would be able to make a specific
18 ruling upon the admissibility of the records
19 based upon the founda-- -- because the
20 foundation had been laid.

21 Then 'here is more going on than a one-
22 pot shake and bake in the backseat of a car
23 and he was the only person in the car.' In a
24 case like that, you know, that's a different
25 scenario than what you've described, Mr.

1 Buckner.

2 I am not saying that they're not going to
3 be telling me what you say they are going to
4 testify to, or that you're not telling me
5 this as an officer of the court, I'm not
6 saying anything like that, but I believe to
7 be able to make the specific ruling that I --
8 at the time, I've got to hear the foundation
9 before I can specifically rule on that.

10 Now, there's a couple of ways that we can
11 do that. One way that we can do that is that
12 we can proffer the testimony, then I can make
13 a specific ruling.

14 Does the woman, Ms. McCormick, have a
15 plane flight back out this afternoon?

16 SOLICITOR BUCKNER: She does, but I
17 think she scheduled it fairly late, Your
18 Honor.

19 THE COURT: So do you think that you
20 can call Mr. Murphy and Ms. Bowie before her?

21 SOLICITOR BUCKNER: They are supposed
22 to arrive her in thirty minutes, so that
23 won't be a problem at all.

24 THE COURT: Who would be the first
25 witness?

State of South Carolina v. Jimmy Gilstrap

51

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Pretrial Motions

1 SOLICITOR BUCKNER: Of the two of
2 them?

3 THE COURT: No, just in general.

4 SOLICITOR BUCKNER: Kevin Durham is
5 going to be my first witness.

6 THE COURT: So he would probably take
7 twenty or thirty minutes anyway?

8 SOLICITOR BUCKNER: At most.

9 THE COURT: So by the time we do
10 opening and all that good stuff.

11 SOLICITOR BUCKNER: Yes, sir.

12 THE COURT: Okay. So I'm not denying
13 or granting your Motion, Ms. Manigault, I
14 want to hear more of the evidence before I
15 make an official ruling on it at that time.
16 Okay?

17 DOROTHY MANIGAULT: Yes, sir.

18 THE COURT: Fair enough?

19 DOROTHY MANIGAULT: Yes, sir.

20 THE COURT: Do y'all want to take five
21 or ten minutes before we get started?

22 SOLICITOR BUCKNER: Thank you.

23 DOROTHY MANIGAULT: Yes, sir.

24 THE COURT: It's 10:22. Let's start
25 back at 10:35.

State of South Carolina v. Jimmy Gilstrap

52

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Welcome by The Court

1 (BRIEF RECESS)

2 (DEFENDANT PRESENT)

3 THE COURT: Y'all sit down. Everybody
4 ready to go?

5 SOLICITOR BUCKNER: Yes, sir.

6 THE COURT: Bring them in, Mister
7 Bailiff.

8 (JURY IN @ 10:36 A.M.)

9 THE COURT: Welcome back, ladies and
10 gentlemen. The first thing that we are going
11 to do this morning is you are going to be
12 sworn in. You were previously sworn in on
13 Monday and again this morning to tell the
14 truth. This oath that you're going to take
15 this morning is different. This is your oath
16 or your promise to follow my instructions, to
17 be fair and impartial to both sides. To
18 follow the way that court proceedings are
19 supposed to go, which has been used literally
20 for hundreds of years. It truly encompasses
21 your responsibility as jurors to be fair and
22 impartial to both sides and to follow my
23 instructions.

24 So when you take this oath, you not only
25 take it to the court but you take it to the

State of South Carolina v. Jimmy Gilstrap

53

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Welcome by The Court

1 parties and you take it each other and to
2 yourself, adhering to and following the
3 instructions that I give you as we proceed
4 through this trial.

5 Mr. Welborn, if you will please swear the
6 jury.

7 CLERK: Yes, sir.

8 (WHEREUPON JURY SWORN)

9 THE COURT: Before we begin the actual
10 trial of this case, I thought that it might
11 be helpful to explain to you how a trial will
12 proceed.

13 First, the State or the Solicitor's
14 office will be allowed to make an opening
15 statement. Now, an opening statement is not
16 evidence.

17 I want you to listen as I use the word
18 "evidence" throughout the explanation of this
19 opening charge to you. This term, evidence,
20 is a term that I am going to define for you.
21 I am going to tell you what is evidence, and
22 I am going to tell you what is not evidence.

23 The opening statements are simply
24 outlines to help you understand what that
25 party expects the evidence will show. The

State of South Carolina v. Jimmy Gilstrap

54

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Welcome by The Court

1 defendant, if he chooses, may present an
2 opening statement but he does not have to,
3 for reasons that I will explain to you in
4 just a moment.

5 Following the opening statements, you
6 will hear testimony and evidence in the case.
7 This will consist of testimony from the
8 State's witnesses as well as any physical
9 exhibits which will be introduced into
10 evidence.

11 Following the completion of the
12 testimony, the attorneys will again have an
13 opportunity to make what is called closing
14 statements or closing arguments to you. This
15 is an opportunity for the attorneys to
16 summarize the case from their perspective
17 points of view.

18 Again, the opening statements and the
19 closing arguments of the attorneys are not
20 evidence.

21 Following the -- following the closing
22 statements by the attorneys, I will tell you
23 what the law is in South Carolina as it
24 pertains to the issues that have arisen here
25 in the case.

State of South Carolina v. Jimmy Gilstrap

55

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Welcome by The Court

1 When I have completed my instructions to
2 you, you will then be permitted to begin your
3 deliberations in order to reach a verdict.

4 You are now the jury in this case and I
5 need to explain to you your duties as jurors
6 and to give you some instructions. At the
7 end of the trial, I will give you more
8 detailed instructions.

9 Your duty is basically this, it will be
10 your responsibility to decide from the
11 evidence what the facts are. You will hear
12 the evidence, decide what the facts are and
13 then apply those facts to the law that I will
14 give you. That's how you will reach a
15 verdict.

16 In doing so, you must follow the law that
17 I give you whether you agree with it or not.

18 The evidence will consist of the
19 testimony of witnesses, documents and
20 anything else received into evidence as
21 exhibits, any facts on which the lawyers
22 agree or anything that I tell you that you
23 must accept.

24 Do not take anything that I say or do as
25 indicating what I think of the evidence or

State of South Carolina v. Jimmy Gilstrap

56

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Welcome by The Court

1 what I think your verdict should be.
2 Basically it's that you are in charge of the
3 facts, I am in charge of the law. You can't
4 tell me what the law is, I can't tell you
5 what the facts are. So you are like your own
6 judges, wearing a black robe, sitting there
7 fairly and impartially and your responsi-
8 bility is the facts. My responsibility is
9 the law.

10 Now, this is a criminal case brought by
11 the State of South Carolina. They have
12 charged the Defendant, the grand jury has
13 charged the defendant with manufacturing
14 methamphetamine.

15 I told you this morning or I read the
16 indictment to you this morning. This
17 indictment is not proof of anything. This
18 indictment is not evidence of anything. It
19 is simply the document that gives this court
20 the authority to hear this case.

21 To this charge, the Defendant has pled
22 Not Guilty and he is presumed to be innocent
23 unless and until proven guilty beyond a
24 reasonable doubt. Proof beyond a reasonable
25 doubt is proof that leaves you firmly

State of South Carolina v. Jimmy Gilstrap

57

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Welcome by The Court

1 convinced of the defendant's guilt.

2 A defendant has the right not to testify
3 and never has to prove innocence or present
4 any evidence at all. The burden of proof is
5 always upon the State of South Carolina.

6 Now, some things that you are going to
7 hear during this trial are not evidence and
8 you cannot consider them as evidence:

9 Number one, the statements and the
10 arguments of the attorneys are not evidence.

11 Number two, the questions and the
12 objections of the attorneys are not evidence.

13 Number three, anything that I tell you to
14 disregard. This often happens in trial, that
15 a witness will say something and I will have
16 to say, 'ladies and gentlemen, disregard what
17 you just heard.' You literally have to blank
18 it from your mind and pretend that it does
19 not exist.

20 Now, there are two types of evidence that
21 you may hear in this case. Evidence may be
22 direct or circumstantial.

23 Direct evidence may be what somebody saw,
24 heard, did, touched, sensed by smell. 'I saw
25 the judge this morning, he had on a black

State of South Carolina v. Jimmy Gilstrap

58

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Welcome by The Court

1 robe.'

2 Circumstantial evidence is indirect
3 evidence. That is that it is proof of one or
4 more facts from which you can find another
5 fact.

6 You are to consider both direct and
7 circumstantial evidence. The law permits you
8 to give equal weight to both but it is for
9 you to decide how much weight to give any
10 evidence. Okay?

11 The best example of circumstantial
12 evidence is this, when I went to sleep in my
13 hotel last night, my truck was completely
14 dry. When I woke up this morning, it was
15 wet. Okay? So I didn't hear it rain, I
16 didn't see it rain, but it either rained or a
17 sprinkler hit it or somebody threw water on
18 it to the point where it stayed on the truck
19 until when I got up this morning. Okay? So
20 I am putting a chain of events together to
21 come to a conclusion. I will explain that
22 more to you when I come to the end of the
23 case.

24 Now, in this courtroom and throughout
25 this trial, there are rules which control

State of South Carolina v. Jimmy Gilstrap

59

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Welcome by The Court

1 this proceeding. There are rules of criminal
2 procedure and there are rules of evidence.
3 This book right here is my evidence book.
4 Okay?

5 So what happens is this, when a lawyer
6 asks a question or offers an exhibit into
7 evidence and the lawyer on the other side
8 thinks that it is not permitted by the Rules,
9 that lawyer may object. So they will stand
10 up and they will say 'objection, hearsay,
11 objection to relevance' or something of that
12 nature.

13 If I overrule the objection, then the
14 question may be answered or the exhibit may
15 be received. If I sustain the objection, the
16 question cannot be answered nor the exhibit
17 received. Whenever I sustain an objection to
18 a question or deny a Motion to admit an
19 exhibit into evidence, you must ignore the
20 question or the existence of the exhibit.
21 And you must not guess what the answer would
22 have been or what the exhibit would have
23 shown.

24 Now, it will be necessary during this
25 trial for me to ask you to go back to your

State of South Carolina v. Jimmy Gilstrap

60

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Welcome by The Court

1 jury room so that I can discuss legal issues
2 with the lawyers. This has happened in every
3 single trial I've ever been in in my entire
4 life. This is perfectly normal. When this
5 occurs, do not speculate about what we are
6 discussing or the reason why you were asked
7 to leave the room. This is a procedure that
8 the law requires when certain legal issues
9 come up.

10 Now, at other times the lawyers will say
11 'may we approach the bench' or I will say,
12 'approach the bench.' What we are trying to
13 decide are legal issues without having to
14 send you back and forth, back and forth, back
15 and forth. So if it is an issue that I can
16 handle right here at the bench, I will. I
17 will ask the lawyers to approach, I'll decide
18 the issue and we will move right on without
19 having to have you go out, come in. Okay? I
20 will do this as often as possible so that you
21 will not be required to leave the courtroom
22 more than is absolute necessary.

23 Now, again, by asking the attorneys to
24 step to the bench or by asking you to leave
25 the courtroom, please do not think anybody is

State of South Carolina v. Jimmy Gilstrap

61

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Welcome by The Court

1 trying to hide anything from you or keep
2 anything from you. This is simply a
3 procedure used by all lawyers in all courts
4 to determine and to decide legal questions.

5 Now, in deciding the facts of this case,
6 you're going to have to decide which
7 witnesses to believe and which witnesses not
8 to believe. You can believe everything that
9 a witness says, you can believe none of what
10 a witness says, you can believe part of what
11 a witness says. Okay?

12 Some things you can consider are these:

13 One, what was the witness' ability
14 to see, hear, or know what he or she
15 testified to?

16 Two, how good was the witness'
17 memory?

18 Three, what was the witness'
19 demeanor or manner while they were
20 testifying?

21 Four, does the witness have an
22 interest in the outcome of the case or any
23 bias, motive or prejudice?

24 Five, was the witness contradicted
25 by what they said before or wrote before the

State of South Carolina v. Jimmy Gilstrap

62

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Welcome by The Court

1 trial or by other evidence that you believe?

2 How reasonable was the witness' testimony
3 considered in the light of the other evidence
4 that you believe?

5 The bottom line is this, you judge
6 people's credibility every single day. You
7 judged people's credibility this morning, and
8 you don't even know that you've done it. The
9 best example for me is when the kids come
10 down in the morning and I say, 'Have you
11 brushed your teeth?' Right? And what do I
12 do? I check, because I am judging their
13 credibility. I know, for some reason, they
14 don't want to brush their teeth. So we need
15 to make sure that they do.

16 So you judge people's credibility all day
17 long every day, and you use your common sense
18 to do so. When you checked in through the
19 metal detector this morning, they didn't ask
20 you to leave your common sense there. So you
21 bring that with you. That's why you were
22 selected for the jury, so don't forget your
23 common sense.

24 Now, until I advise you that you are
25 allowed to begin your deliberations, you must

State of South Carolina v. Jimmy Gilstrap

63

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Welcome by The Court

1 not discuss this case with anyone, including
2 each other, friends, family members, or
3 anyone involved in the case. This includes
4 discussions face to face, by telephone, by
5 e-mail, by blog, by FaceTime, by text
6 message, by Twitter, by whatever kinds of
7 communication that I don't even know exists.
8 You can't do that. Okay?

9 You may not use a computer, a cell phone
10 or any other electronic device to get or to
11 send information about the case or during the
12 case. During your breaks for meals or
13 overnight, you will be allowed to use these
14 devices but you can't go and look up anything
15 about the case. You can't say, 'Well, I
16 would really like to know this, so I am going
17 to go home tonight and research this issue.'

18 The best example that I can give you is,
19 let's say that there was a wreck or -- you
20 were in a civil case and a wreck occurred
21 right down here where the McDonald's is,
22 where (Highway) 8 comes in. I would tell you
23 that unless you had to go by there on the way
24 home, don't go by there. You don't know that
25 what that intersection looks like today is

State of South Carolina v. Jimmy Gilstrap

64

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Welcome by The Court

1 what it looked like on the day of the wreck.
2 Okay? Plants grow, utility companies come
3 in and dig holes, move lines, all those
4 different kinds of things. Okay?

5 We want you to base your decision on what
6 you hear in the courtroom.

7 Even if somebody says a word today and
8 you don't know what it means, you can't go
9 home and pull out the dictionary to look it
10 up. That's the extent to which I mean that.
11 You have to base your decision on what
12 happens in the courtroom.

13 Do not watch any news accounts about the
14 case. I don't know of any. Do not do any
15 research on anything raised or anything that
16 you think would be helpful. You must make
17 your decision based on the evidence and the
18 law.

19 Now, once the case is submitted to you,
20 you must discuss it only with each other.
21 The attorneys and the parties in this case
22 have been advised that they are not to talk
23 to you at all. So if they see you in the
24 hall and they don't say hello, they are not
25 being unfriendly, they are just following my

State of South Carolina v. Jimmy Gilstrap

65

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Welcome by The Court

1 instructions.

2 Now, it is absolutely important that you
3 keep an open mind until you have heard all
4 the evidence, the attorneys have made their
5 closing arguments, and I have told you what
6 the law is in the case. That's when you can
7 begin deliberating. Until then you are to
8 keep an open mind about the case.

9 It is your responsibility to determine
10 the guilt or innocence of the defendant, and
11 your verdict must be based solely on the
12 evidence as presented to you in this trial
13 and on the law as I give it to you at the
14 closing.

15 Now, Mister Foreman, it is your duty to
16 preside in the jury room. You will be the
17 one in charge of communicating with me if you
18 need to communicate with me.

19 There will not be any note-taking. I
20 don't allow you to take notes.

21 Number one, this case is not very
22 lengthy. Although it is very important, it
23 is not going to be very lengthy.

24 Number two, what happens when you start
25 taking notes is that you stop listening. The

State of South Carolina v. Jimmy Gilstrap

66

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Opening Statement by Solicitor

1 testimony continues on.

2 And your notes would not be the official
3 record of what happened. Ms. Garrison has
4 the only official record of what happens in
5 this courtroom. So there will be no note-
6 taking by anyone except the court reporter.

7 Any exception to the opening charge, by
8 the State?

9 SOLICITOR BUCKNER: None from the
10 State?

11 THE COURT: From the defense?

12 DOROTHY MANIGAULT: None.

13 THE COURT: We will now move on to
14 opening statement. Mr. Buckner, the floor
15 is yours.

16 SOLICITOR BUCKNER: Thank you, Your
17 Honor, may it please the Court?

18 THE COURT: Yes, sir.

19 SOLICITOR BUCKNER: Ms. Manigault.

20 DOROTHY MANIGAULT: (Affirmative nod).

21 SOLICITOR BUCKNER: Ladies and
22 gentlemen of the jury, my name is Graham
23 Buckner. As you heard earlier, I am an
24 assistant solicitor here in Pickens County.

25 It will be my duty in this trial to prove

State of South Carolina v. Jimmy Gilstrap

67

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Opening Statement by Solicitor

1 that the defendant in this case, Jimmy
2 Gilstrap, committed the offense of
3 manufacturing methamphetamine beyond a
4 reasonable doubt.

5 I will get into what that means
6 specifically here in a second but before that
7 I would like to thank each and every one of
8 you serving on this jury this week. I know
9 that it is inconvenient, that it takes time
10 away from your family, from your jobs, from
11 kids, husbands, wives. But I think that I
12 speak for everyone here in the courtroom when
13 I say that we sincerely appreciate you being
14 here.

15 Now, in all criminal cases, the State --
16 which is me in this instance -- is required
17 to prove that the defendant committed a crime
18 beyond a reasonable doubt. Beyond a
19 reasonable doubt is proof that leaves you,
20 the jury, firmly convinced that he committed
21 the crime for which he is on trial for.

22 Now, this burden, which will be talked
23 about -- the judge mentioned it in his
24 opening charge and he will mention it again
25 before you deliberate -- is not an impossible

State of South Carolina v. Jimmy Gilstrap

68

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Opening Statement by Solicitor

1 one to overcome. Think about it like this:
2 every single criminal defendant who has ever
3 been convicted of a charge was convicted at
4 trial because a jury, just like you, sat,
5 listened to the evidence and decided that he
6 or she was guilty beyond a reasonable doubt.

7 The State gladly accepts this burden.
8 The evidence will clearly show in this case
9 that Jimmy Gilstrap made meth, and that he is
10 guilty beyond a reasonable doubt.

11 Now, the judge will instruct you on the
12 law in this case so I am not going to go into
13 it in any detail right now. But simply keep
14 in mind that it's manufacturing methampheta-
15 mine, producing meth, having the ingredients
16 -- I guess we will call them and you'll hear
17 that term often during the term of this trial
18 -- to make methamphetamine.

19 Now, just a brief summation of what
20 you're going to hear in this trial. Jimmy
21 Gilstrap was actually making methamphetamine
22 at someone else's residence and he thinks, or
23 he is trying to say, that he was not doing it
24 because it was not his residence.

25 You'll hear testimony from two other

State of South Carolina v. Jimmy Gilstrap

69

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Opening Statement by Solicitor

1 individuals that Jimmy Gilstrap was clearly
2 the brains behind this operation. They did
3 not know how to make meth, he did. They
4 operated under his guidance.

5 Now, every criminal case is different, so
6 I don't want you to -- I know that there are
7 always some assumptions about what to expect
8 in a criminal trial. You've probably seen
9 different things on the news regarding
10 criminal cases, but every one is different
11 and every investigation is different.
12 Sometimes you catch individuals "red handed."
13 Sometimes you do not. Sometimes you have a
14 lot of witnesses who have to testify because
15 there is a bunch of evidence. Sometimes
16 there are just a few items and you only need
17 a few. It doesn't make any one case more or
18 less important.

19 This is a very important case.

20 I simply ask that you not make any
21 assumptions by the length of the trial
22 whether it be short or long, whatever,
23 because every witness is important, it's
24 important what they have to say and very
25 important for you to consider.

State of South Carolina v. Jimmy Gilstrap

70

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Opening Statement by Ms. Manigault for Defense

1 Now, ladies and gentlemen, you are the
2 triers of fact in this case. You've brought
3 with you the one thing that you need to
4 determine Jimmy Gilstrap's guilt or
5 innocence, and that's your common sense.

6 I ask that you listen to the evidence
7 carefully in this trial and that you bring
8 back a verdict of Guilty after hearing the
9 evidence. Thank you for your service this
10 week.

11 THE COURT: Thank you very much, Mr.
12 Buckner. Ms. Manigault, would your client
13 like to make an opening statement?

14 DOROTHY MANIGAULT: Thank you, Your
15 Honor, -- Mr. Buckner.

16 Ladies and gentlemen, again my name is
17 Dorothy Manigault. I represent Jimmy
18 Gilstrap in this case.

19 His Honor has given you instruction and
20 he will give you the law at the end or close
21 of the case.

22 His instruction to you, and what I would
23 like to ask you also, is to listen very
24 carefully, weigh the testimony of persons
25 testifying, decide what the credibility of a

State of South Carolina v. Jimmy Gilstrap

71

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Opening Statement by Ms. Manigault for Defense

1 person is, whether they have something to
2 gain from their account to the court today,
3 whether they have a grudge or an argument or
4 a thought against the defendant for any other
5 reason than for what is here today.

6 So I am asking you to listen and decide
7 the credibility and the believability of the
8 witnesses that the State presents to you.

9 Mr. Gilstrap has entered a pled of not
10 guilty and that plea says that he is not
11 guilty of anything that the State has accused
12 him of on the record or in the indictment.
13 He is simply not guilty.

14 It means that he didn't participate with
15 these people in -- he may have known the
16 people but he didn't participate in their
17 endeavor. Certainly it sounds good to say
18 that he may be their ringleader, that it was
19 all his idea. He was at, according to the
20 State, these people's house. It was not Mr.
21 Gilstrap's house. He is saying that he
22 didn't manufacture meth at his house or at
23 anybody else's house. So we're asking you
24 to listen very carefully. We believe at the
25 close of the case that you'll bring back a

State of South Carolina v. Jimmy Gilstrap

72

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Kevin Durham - Direct Examination

1 verdict of not guilty. Thank you.

2 THE COURT: Thank you very much, Ms.
3 Manigault. You may call your first witness,
4 Mr. Buckner.

5 SOLICITOR BUCKNER: Thank you, Judge.
6 The State calls Kevin Durham.

7 (WITNESS TAKES STAND)

8 KEVIN DURHAM, having been sworn to tell
9 the truth, and nothing but the truth,
10 testified as follows:

11 DIRECT EXAMINATION

12 BY MR. BUCKNER:

13 Q. Kevin, would you please tell the
14 court what you do for a living?

15 A. Yes, sir. I'm employed at the
16 Pickens County Sheriff's Office as an agent
17 for the special operations division.

18 Q. And how long have you been doing
19 that?

20 A. I've been at the Sheriff's Office
21 for thirteen and a half years. I've been a
22 narcotics agent for a little over five.

23 Q. And explain for the jury
24 specifically what you do as a narcotics
25 agent?

State of South Carolina v. Jimmy Gilstrap

73

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Kevin Durham - Direct Examination

1 A. We work investigations of narcotics.
2 We do undercover operations, we do investiga-
3 tions through information that we receive
4 through various tools that we have at our
5 disposal.

6 Q. Here in Pickens County,
7 predominately what kind of investigations do
8 you work?

9 A. Most drug investigations that we
10 work deal with methamphetamine.

11 Q. What is your role within the
12 narcotics unit as an investigator?
13 Specifically what do you do?

14 A. The role that we have -- we are case
15 agents. We have informants, we work
16 investigations dealing with methamphetamine
17 -- like I said, it is an epidemic that we
18 have in Pickens County. But, like I said, we
19 just work mostly narcotics investigations.

20 Q. Do you have any specific certifica-
21 tions regarding meth investigations?

22 A. Yes, sir, I do.

23 Q. What are those?

24 A. I have been -- in 2008, I went
25 through a course of clandestine labs and am

1 basically a site safety officer. Like I
2 said, that was in 2008. It was a forty-hour
3 class.

4 I also have a six and a half hour class
5 from June of 2010 from meth labs to Mexican
6 cartels.

7 Also in 2015 there was another twenty-
8 four class where I was deemed a site safety
9 officer.

10 Q. Explain to the jury what a
11 clandestine meth lab is?

12 A. Clandestine sounds like a big word
13 but basically all it means is that it is done
14 in secret. It doesn't have to be real
15 elaborate but it is done in secret.

16 Q. Okay. Let's get to this specific
17 investigation. What led to you investigating
18 this case specifically?

19 A. Prior to the date that we made
20 contact with some of the codefendants, ---

21 Q. Explain to the jury, who are the
22 codefendants in this case?

23 A. The codefendants are Timothy Murphy
24 and Ms. Sherry Bowie.

25 Q. When did you make contact with those

State of South Carolina v. Jimmy Gilstrap

75

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Kevin Durham - Direct Examination

1 people?

2 A. That was October the 4th, 2013.

3 Q. And why did you make contact with
4 them on that date?

5 A. Myself and other agents for Pickens
6 County Sheriff's Office along with SLED,
7 which is the South Carolina Law Enforcement
8 Division, went to this residence on Norris
9 Highway, [REDACTED] Norris Highway in Central, South
10 Carolina, which is located within Pickens
11 County basically to do what we call a knock-
12 and-talk.

13 We had information basically through
14 NPLeX, a database that I'm sure most of you
15 know of that when you go to buy cold medicine
16 that you have to show your ID, that
17 information is logged into a system that we
18 have access to. Through that investigation,
19 we had Mr. Murphy, who resided at this
20 address that I just spoke of on Norris
21 Highway, uh, -- to do a knock-and-talk, just
22 to talk with him and see if he would be
23 cooperative with us and let us know basically
24 what was going on, why they had been buying
25 so much Sudafed.

State of South Carolina v. Jimmy Gilstrap

76

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Kevin Durham - Direct Examination

1 Q. Did you have any information
2 regarding anybody else at that point in time?

3 A. Yes, sir, we did. We had informa-
4 tion that Mr. Murphy, Ms. Bowie, as well as
5 Mr. Gilstrap, the Defendant here today, had
6 been purchasing Sudafed.

7 Q. What happened when you made contact
8 with Mr. Murphy?

9 A. When we first got there, Mr. Murphy
10 and his sister were leaving the residence.
11 They were in a vehicle, fixing to pull out.
12 We got them out of their car to talk to them,
13 introduced ourselves, who we were, what we
14 were there for.

15 Before we started talking to him, we read
16 him his rights and made sure that he under-
17 stood what his rights were. He said that he
18 wished to talk with us and cooperate.

19 Q. Was consent to search given?

20 A. Yes, sir.

21 Q. Of the premises?

22 A. We talked with Mr. Murphy. Like I
23 said, we told him what we were there for.
24 He did give us verbal consent to search his
25 residence. At that time, after we talked to

State of South Carolina v. Jimmy Gilstrap

77

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Kevin Durham - Direct Examination

1 him, he walked us down to his residence there
2 and allowed us in.

3 Q. Okay. I want to show you what has
4 been marked State's Exhibit 1 through 21. It
5 may take a second, but please take a second
6 and look through all those photos and then I
7 will ask you some follow up questions.

8 A. (Upon review), okay.

9 Q. Do you recognize those photos?

10 A. Yes, sir, I do.

11 Q. Who took those photos?

12 A. I did.

13 Q. Where were those photos taken?

14 A. They were taken inside the residence
15 and outside the residence at [REDACTED] Norris
16 Highway.

17 Q. And are each of these photos,
18 State's Exhibit 1 through 21 a fair
19 representation of the way that the inside of
20 the residence looked, as well as the outside?

21 A. Yes, sir, they are.

22 SOLICITOR BUCKNER: Your Honor, at
23 this time I would like to move State's
24 Exhibit 1 through 21 into evidence.

25 DOROTHY MANIGAULT: No objection.

State of South Carolina v. Jimmy Gilstrap

78

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Kevin Durham - Direct Examination

1 THE COURT: State's Exhibits 1 through
2 21 are in without objection.

3 (SO ENTERED AS STATE'S EXHIBITS 1-21)

4 SOLICITOR BUCKNER: Permission to
5 publish.

6 THE COURT: Yes, sir.

7 DIRECT EXAMINATION CONTINUED

8 BY SOLICITOR BUCKNER:

9 Q. Kevin, I am just going to ask you a
10 couple of questions, to sort of explain --
11 while this (projector) is getting warmed up,
12 let's talk about some of the items that are
13 in these photos and why this is relevant to
14 your investigation. Then I'll put them up
15 on the projector.

16 A. This photo here is showing lithium
17 batteries ---

18 COURT REPORTER: Exhibit number?

19 WITNESS: Number one (State's Exhibit
20 1)

21 DIRECT EXAMINATION CONTINUED

22 BY SOLICITOR BUCKNER:

23 Q. Yes, please tell us the number
24 before you talk about it.

25 A. Okay. State's Exhibit 1 is showing

State of South Carolina v. Jimmy Gilstrap

79

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Kevin Durham - Direct Examination

1 a partial casing of an Energizer lithium
2 battery and the actual lithium in the
3 battery, the strip that is attached to it, is
4 laying beside it.

5 Q. Is that something that is typically
6 used in making methamphetamine?

7 A. Yes, sir, it is.

8 Q. Continue.

9 A. State's Exhibit 2 is showing coffee
10 filters. In this picture you can't see
11 what's in them. It's just coffee filters
12 that we've taken from inside the residence
13 and laid outside on the ground.

14 Q. All right. Continue.

15 A. State's Exhibit 3 is showing a
16 coffee filter with a white powder substance
17 inside that.

18 Q. These are also typically used in
19 making methamphetamine?

20 A. Yes, sir. The coffee filters are
21 used as strainers in different processes.
22 Sometimes you use coffee filters when you do
23 what is called a "pill wash", where you
24 actually grind up the pills -- you know, it's
25 just like chewing your food; if you don't

State of South Carolina v. Jimmy Gilstrap

80

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Kevin Durham - Direct Examination

1 chew it real well, it doesn't digest. When
2 you put these pills in a grinder, it breaks
3 it up from the pill binder and when you put
4 the solvent to it, it actually extracts the
5 Sudafed from the pill binder. They use
6 coffee filters to separate what they don't
7 need from what they do need.

8 Q. Okay.

9 A. State's Exhibit 4 was taken from
10 inside the house. It's in the trashcan
11 actually. It is a picture of rubber tubing.
12 It's a picture of a Sudafed box and the
13 coffee filters that I just talked about, in
14 the trashcan.

15 State's Exhibit 5 is also a picture from
16 the trashcan. It has Drano, which is your
17 common drain cleaner; a WalMart receipt.

18 State's Exhibit 6 is another box of
19 Sudafed along with the blister pack that is
20 empty. It's also inside a WalMart bag.

21 State's Exhibit 7 is a close-up picture
22 of the WalMart receipt and a partial box of
23 Sudafed pills.

24 State's Exhibit 8 was taken from inside
25 the residence, underneath the kitchen

State of South Carolina v. Jimmy Gilstrap

81

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Kevin Durham - Direct Examination

1 counter, as in a cabinet. It's a picture of
2 -- most people use it for coffee grinding but
3 in this case it was used as a grinder for the
4 pills. It's also showing a picture of a
5 ZipLoc bag with fertilizer in the bag -- not
6 in its original bag, a ZipLoc bag. It also
7 shows a picture of what -- a Mountain Dew
8 two-liter bottle with a sludge in it.

9 It also has the rubber tubing coming out
10 of the top of that Mountain Dew bottle, which
11 is commonly used as a hydrochloride gas
12 generator, which is used in the production of
13 methamphetamine.

14 State's Exhibit 9 is showing a picture of
15 the trash can as well, with coffee filters.
16 It also has Great Value regular table salt.

17 Q. Is that used in manufacturing meth?

18 A. Yes, sir, it is.

19 Q. If some of these are repetitive, you
20 can kinda gloss over them.

21 A. Okay. State's Exhibit 10 is some
22 items taken outside: pill grinder, salt, two
23 boxes of Sudafed, blister packs, lithium
24 batteries.

25 It also has a pipe cutter. The

State of South Carolina v. Jimmy Gilstrap

82

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Kevin Durham - Direct Examination

1 importance of that is that they take a pipe
2 cutter. You can tighten it down and it will
3 actually cut pipe, make a real good clean
4 cut. What they will do is that they will use
5 it to cut a lithium battery open, to pull the
6 insides out to where they can get the lithium
7 off the strip inside that battery. All of
8 that is in State's Exhibit 10.

9 State's Exhibit 11, you've got: wire-
10 cutters, Drano, plastic tubing, two bottles
11 of Drano, a pipe cutter.

12 State's Exhibit 12 is a picture of what
13 is commonly known as a "one pot." It looks
14 to be some sort of sports drink bottle, the
15 label taken off of it. Looks like it has
16 some of the fertilizer inside along with --
17 basically all you can tell on this one is
18 that it has some fertilizer in here and a
19 partial bag of fertilizer sitting beside it.
20 That's the vessel that they will use to
21 actually ---

22 Q. We are having some technical
23 difficulties, so we may not be able to show
24 you the rest of them. We'll see if we can
25 get that resolved.

State of South Carolina v. Jimmy Gilstrap

83

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Kevin Durham - Direct Examination

1 A. Okay.

2 Q. State's Exhibit 1, the battery that
3 you were describing, ---

4 A. Yes, sir.

5 Q. State's Exhibit 13, I don't know if
6 you'd just mentioned that one or not.

7 A. I don't think that I'd gotten to
8 that one yet.

9 Q. What is that? Why was that photo
10 taken?

11 A. That was also sitting underneath the
12 counter. It has the -- I can't tell from the
13 glare, but it looks like it has the pill
14 crusher/grinder beside it, and the soda
15 bottle has a sludge in the bottom of it.

16 Q. And there's State's Exhibit 14.

17 A. That was taken from underneath the
18 counter, as well, and took outside. It's
19 another bottle. The one on the left was
20 probably used to for an ACL generator and the
21 one on the right is the actual one-pot
22 cooker.

23 Q. State's Exhibit 15?

24 A. There again is the Mountain Dew
25 bottle that we spoke of earlier, that has the

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Kevin Durham - Direct Examination

84

1 rubber tube coming out of the top, the ACL
2 generator.

3 Q. I show you State's Exhibit 19. What
4 is shown in that photo?

5 A. That photo there is from the
6 bedroom. There is a glass plate there and
7 that white powder substance on the plate is
8 the actual finished product of what they're
9 achieving to get from these one-pot cooks.
10 That is actually methamphetamine.

11 Q. That's all the photos we will go
12 through right now, Kevin.

13 When you arrived, you take all these
14 photos investigating the house, were -- y'all
15 was there when you got to the residence?

16 A. Mr. Murphy was outside the residence
17 and Ms. Bowie was actually inside the
18 residence where Mr. Murphy took us down and
19 gave us consent to look inside the residence.

20 Q. Did they admit to having the
21 ingredients of a meth lab inside?

22 A. Mr. Murphy did while we were
23 speaking to him outside, (affirmative nod).
24 He did in fact agree that he knew that the
25 items that I took the photographs of were

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Kevin Durham - Direct Examination

85

1 inside his residence.

2 Q. . . And explain for the jury why we only
3 have photos of this today, why we don't have
4 the actual evidence here in court today?

5 A. Number one, it's actually against
6 the law for law enforcement to take
7 possession of things that are deemed
8 hazardous material. What we have to do is
9 call a clean up crew; they usually come from
10 Columbia, once we find what we believe is the
11 ingredients of a methamphetamine laboratory.
12 We have to call them.

13 They actually come and do -- just like
14 us, they have to suit up into protective
15 equipment, respirators -- depending on the
16 severity, respirators or a SCBA.

17 When you produce these methamphetamines,
18 the gases and stuff that it gives off
19 permeate different items. So we have to call
20 this cleanup crew -- we take as many pictures
21 as we can, best pictures that we can get and
22 we turn this what is evidence at that point,
23 waste, we turn that over to the recovery
24 team. They actually hold possession. I
25 think that they keep it for a certain amount

State of South Carolina v. Jimmy Gilstrap

86

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Kevin Durham - Direct Examination

1 of time, but it is deemed at that time to be
2 hazardous material. Very potent gases could
3 possibly be permeated into all the evidence,
4 even within the residence -- not just the
5 stuff that we take, but the whole residence
6 could be permeated with this waste.

7 Q. Who all was there, law enforcement
8 wise, other than yourself?

9 A. Myself, Deputy Ross, several SLED
10 agent; my Captain Chad Brooks, Lieutenant at
11 the time. That's it.

12 Q. And, uh, were there any other
13 narcotics teams that were sent out that day
14 for investigation?

15 A. Yes, sir, there was. At this time,
16 we actually hit two residences at the same
17 time -- I say "hit". We went to the
18 residence that we just spoke of here, at [REDACTED]
19 Norris Highway. We also had another team go
20 to the defendant's residence, which was on
21 Mildred Street, which is not very far from
22 where we were located. Just because they
23 were involved together, we wanted to approach
24 them at the same time. So it's just a
25 technique that law enforcement uses so that

State of South Carolina v. Jimmy Gilstrap

87

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Kevin Durham - Direct Examination

1 phone calls can't be made, stories can't be
2 construed in between us going from one
3 residence to the other. Usually if we've got
4 split residences, we like to talk with them
5 at the same time.

6 Q. Was there anyone located at the
7 Mildred Street residence?

8 A. At the Mildred Street address?

9 Q. Yes.

10 A. There was no one at the Mildred
11 Street address at that time.

12 Q. Was there any -- were you'all able
13 to get any fingerprints from the residence
14 when you went inside that day?

15 A. We did attempt to take fingerprints
16 from these bottles, the boxes and stuff. The
17 forensic technician that came out was unable
18 to get any identifiable prints. They were
19 all what he called smudges and partials, not
20 good enough to be able to identify anyone's.

21 Q. And was the clean up crew, did they
22 handle cleaning up the residence that day?

23 A. They did. As soon as we realized
24 what we had, we -- we have to make a phone
25 call at that time to SLED. SLED makes a

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June.21-22, 2017
Testimony of Kevin Durham - Cross Examination

88

1 phone call to the recovery group that is
2 working for them at the time. Usually, like
3 I say, they come from Columbia. So by the
4 time that we called and by the time that SLED
5 makes the call, it is usually two and a half
6 to three hours by the time that the cleanup
7 crew arrives at our location, being halfway
8 down the State.

9 Q. Did law enforcement take statements
10 from the two individuals that were at the
11 residence that day?

12 A. Yes, sir, we did.

13 Q. Who took those statements?

14 A. Captain Chad Brooks along with SLED
15 agents took the statements from Ms. Bowie,
16 Mr. Murphy and Mr. Murphy's sister.

17 Q And those statements were taken
18 there at the scene?

19 A. Yes, sir.

20 SOLICITOR BUCKNER: Judge, bear with
21 me just a moment.

22 THE COURT: Yes, sir.

23 SOLICITOR BUCKNER: Thank you, Judge.

24 I have no further questions at this time.

25 THE COURT: Cross-examine?

State of South Carolina v. Jimmy Gilstrap

89

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Kevin Durham - Cross Examination

1 DOROTHY MANIGAULT: Yes, sir.

2 CROSS EXAMINATION

3 BY DOROTHY MANIGAULT:

4 Q. Are you referred to as an
5 investigator or as a detective?

6 A. On paper, Detective.

7 Q. Okay.

8 A. Yes, ma'am.

9 Q. The photos that you took, State's
10 Exhibits 1 through 21, those photos were
11 taken at what residence?

12 A. That would be at [REDACTED] Norris Highway.

13 Q. Who lived at that residence?

14 A. Mr. Murphy and Ms. Bowie.

15 Q. And did Ms. Bowie have a small child
16 living there also?

17 A. She in fact did, (affirmative nod).

18 Q. And the residence you testified to,
19 the Mildred Street address that you went to
20 was to do a knock-and-interview there also?

21 A. Yes.

22 Q. Who lived at that residence?

23 A. To my understanding, Mr. and Mrs.
24 Gilstrap did.

25 Q. My client, Jimmy Gilstrap?

State of South Carolina v. Jimmy Gilstrap

90

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Kevin Durham - Cross Examination

1 A. That's correct.

2 Q. And you've offered to the Court
3 today that no one was there, so you couldn't
4 talk to him?

5 A. Correct.

6 Q. The -- I noticed in some of the
7 pictures, South Carolina 1 through 21, that
8 you -- did you take pictures of the same
9 items a couple of times? One inside and one
10 outside of the trashcan?

11 A. Yes, ma'am.

12 Q. When you went there -- oh, you
13 testified, Detective, that you went there
14 October 4th, 2013. Your report says November
15 4th, 2013. Which was the date?

16 A. The report date is correct, November
17 4th. If I said October, I'm sorry.

18 Q. Okay. So it was November 4th, 2013?

19 A. November, (affirmative nod), 11-4-
20 2013.

21 Q. Did you have anything to do with the
22 arrest of Jimmy Gilstrap?

23 A. No, ma'am.

24 Q. So you don't know when he was
25 arrested?

State of South Carolina v. Jimmy Gilstrap

91

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Kevin Durham - Cross Examination

1 A. No, ma'am.

2 Q. Okay.

3 DOROTHY MANIGAULT: That's all.

4 SOLICITOR BUCKNER: Judge, I have no
5 further questions.

6 THE COURT: Thank you. You may step
7 down.

8 (WITNESS STEPS DOWN)

9 THE COURT: You may call your next
10 witness.

11 SOLICITOR BUCKNER: Judge, may I
12 approach?

13 THE COURT: Yes, sir.

14 (OFF RECORD BENCH CONFERENCE)

15 THE COURT: We are going to take our
16 morning break, ladies and gentlemen. You are
17 not allowed to discuss the case. You are to
18 keep an open mind. We will back with you in
19 about fifteen minutes. Thank you very much.
20 Everyone else remain seated.

21 (JURY OUT @ 11:23 A.M.)

22 THE COURT: Court will be in recess.

23 (BRIEF RECESS)

24 (DEFENDANT PRESENT)

25 THE COURT: Thank you, Solicitor. You

State of South Carolina v. Jimmy Gilstrap

92

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Proffer Testimony of Perry Murphy

1 may call Mr. Murphy.

2 SOLICITOR BUCKNER: Yes, Your Honor.

3 The State calls Perry Murphy..

4 (WITNESS TAKES STAND)

5 THE COURT: This testimony is coming in
6 outside the presence of the jury for the
7 limited purposes of establishing the
8 potential admissibility of the records
9 obtained by that person.

10 SOLICITOR BUCKNER: Yes, sir, Your
11 Honor.

12 THE COURT: That's fine. I just wanted
13 to make sure that the record is clear what
14 we're doing.

15 PERRY MURPHY, having been sworn to tell
16 the truth, and nothing but the truth,
17 testified as follows:

18 PROFFER EXAMINATION

19 (OUTSIDE PRESENCE OF JURY)

20 BY SOLICITOR BUCKNER:

21 Q. Mr. Murphy, would you please explain
22 for the judge how you know the defendant in
23 this case?

24 A. We started out -- I'd known him for
25 several years. They approached us about

State of South Carolina v. Jimmy Gilstrap

93

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Proffer Testimony of Perry Murphy

1 being buyers of Sudafed. It started out with
2 a pack of cigarettes and then at the end we'd
3 buy Sudafed a few times in exchange for a
4 quarter gram of meth. Eventually it ended up
5 that I'd buy Sudafed and they'd come over and
6 make the drugs.

7 Q. Okay. When you say "they", who are
8 you referring to?

9 A. Him and her.

10 Q. Who is him and her?

11 A. Jimmy and Loretta.

12 Q. Okay. Did -- when they were giving
13 you -- you were arrested on November 4th,
14 2013. When did this start happening prior to
15 that date? You can just approximate.

16 A. Probably nine or ten months before.

17 Q. How often were you getting
18 directions from them as to when to buy
19 Sudafed?

20 A. Do what?

21 Q. How often were they telling you to
22 go buy Sudafed?

23 A. When it first started, like every
24 ten to fifteen days. Then after that, I
25 started going like every ten or twelve days.

State of South Carolina v. Jimmy Gilstrap

94

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Proffer Testimony of Perry Murphy

1 Q. So did your relationship start with
2 you just buying meth from them in general or
3 was it ---

4 A. On me, it did.

5 Q. So that's how you got to know them?

6 A. (Affirmative nod).

7 THE COURT: Answer out loud, please.

8 WITNESS: Yes, sir.

9 SOLICITOR BUCKNER: Sorry, Judge.

10 THE COURT: That's okay.

11 PROFFER EXAMINATION CONTINUED

12 BY SOLICITOR BUCKNER:

13 Q. And did you get specific details on
14 how much Sudafed to buy and how often from
15 them?

16 A. Initially every few days, ten days,
17 but -- every time that I could buy it, I'd go
18 get a box.

19 Q. And you used your ID to purchase
20 that Sudafed?

21 A. Yeah.

22 Q. And you knew the rules as far as how
23 often to buy it?

24 A. Well, yeah -- not at first.

25 Q. Did you understand that from them or

State of South Carolina v. Jimmy Gilstrap

95

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Proffer Testimony of Perry Murphy

1 did you just find out?

2 A. I am not sure. I think that they
3 said that I couldn't get it but every ten
4 days.

5 Q. I just want to be clear. Your
6 testimony is today that you were given meth
7 from Jimmy Gilstrap for your purchasing
8 Sudafed?

9 A. Yeah.

10 Q. Okay. Would he leave the Sudafed
11 (sic) for you, laid out on a tray or anything
12 like that, as payment?

13 A. He -- I'd get my cut every time he
14 made it. I'd shake the bottle sometimes and
15 he'd finish it in the kitchen.

16 Q. Did you see Jimmy shake the bottle,
17 specifically?

18 A. Yeah; we both did.

19 Q. Did he show you how to do it?

20 A. Shake the bottles?

21 Q. Yes.

22 A. Ain't nothing to that, sit there and
23 shake the bottle.

24 Q. Do you know how to make meth
25 yourself?

State of South Carolina v. Jimmy Gilstrap.

96

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Proffer Testimony of Perry Murphy

1 A. No, I ain't even knowed what goes in
2 it.

3 Q But you saw Jimmy Gilstrap making it
4 in your residence?

5 A. Yeah. I'd be sitting in the living
6 room and he'd be in the kitchen doing it.

7 SOLICITOR BUCKNER: Judge, I think
8 that's all that I have for purposes of these
9 questions.

10 THE COURT: Cross-examination?

11 PROFFER EXAMINATION

12 BY DOROTHY MANIGAULT:

13 Q. Mr. Murphy, you indicated to the
14 Court that you've known Jimmy Gilstrap for
15 several years?

16 A. Yes, ma'am.

17 Q. How did you know him?

18 A. We lived fairly close together. I
19 lived maybe two miles from where he grewed
20 up, and I grewed up right down the road.

21 Q. Did y'all have any activity back and
22 forth at the Anderson Jockey Lot?

23 A. Oh, (affirmative nod), I have took
24 him to the Anderson Jockey Lot.

25 Q. And what are you telling the court

State of South Carolina v. Jimmy Gilstrap

97

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Proffer Testimony of Perry Murphy

1 today? How often did Mr. Gilstrap come to
2 your house?

3 A. It wasn't on a regular basis.
4 Sometimes they'd show up at 9:00, sometimes
5 when we get up, sometimes we'd already be up.

6 Q. Do you recall talking to Detective
7 Durham on November the 4th, 2013, when you
8 were arrested?

9 A. Yes, ma'am, he is the first one that
10 approached.

11 Q. Do you recall telling him that 'some
12 guy named Jimmy' ---

13 A. Yeah, we called him Jimbo.

14 Q. Did you not know his last name at
15 the time?

16 A. Oh, yeah.

17 Q. Did you give that to the
18 investigators?

19 A. Yeah, I give 'em his full name.

20 Q. Excuse me?

21 A. I think I give him his full name.
22 We always called him Jimbo.

23 Q. And who is Sherry Bowie to you?

24 A. Was my girlfriend.

25 Q. She was your girlfriend?

State of South Carolina v. Jimmy Gilstrap

98

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Proffer Testimony of Perry Murphy

1 A. Yeah.

2 Q. Was she living there ---

3 A. Yes, ma'am.

4 Q. --- at the Norris Street address?

5 A. (Affirmative nod).

6 Q. Who else lived with you there?

7 A. Her son.

8 Q. So it was just the three of you?

9 A. Yes, ma'am.

10 Q. So where did your sister live?

11 A. She was in her trailer up past ---

12 Q. On the same property you were on?

13 A. I was living on her property.

14 Q. Oh, you lived on her property?

15 A. Yeah, we had a trailer setting at
16 the beginning of her property.

17 Q. All right. The investigator
18 testified -- the detective testified that he
19 took a statement from her on November 4th
20 also.

21 A. I was detailed down here, there was
22 somebody talking up there to her.

23 Q. Were you aware that she told the
24 investigator that she bought pseudoephedrine
25 for you?

State of South Carolina v. Jimmy Gilstrap

99

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Proffer Testimony of Perry Murphy

1 A. Yes, ma'am.

2 Q. Are you also aware that Sherry also
3 told the investigator that she also bought
4 pseudoephedrine for you?

5 A. No, with me. I'd take her down
6 there and she'd go in and get it. I'd go in
7 and -- we'd go in at the same time.

8 Q. How long was this meth operation
9 supposedly taking place at your house?

10 A. I'd say eight or nine months. We
11 didn't have no power, we just had an
12 extension cord running from the power pole
13 down to it. I put the trailer there when it
14 first started getting warm weather.

15 Q. Was your house a trailer?

16 A. Yes, ma'am.

17 Q. Okay. So you're saying that you
18 didn't have electricity at your trailer or
19 at your sister's trailer?

20 A. I had power but it was just an
21 extension cord, it wasn't full power. We
22 just had lights and a few plug-ins working.

23 Q. Okay. So you are saying that you
24 allowed somebody to operate a meth lab in
25 your house for nine to ten months?

State of South Carolina v. Jimmy Gilstrap

100

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Proffer Testimony of Sherry Bowie

1 A. That's right. Correct.

2 DOROTHY MANIGAULT: Nothing.

3 THE COURT: Redirect?

4 SOLICITOR BUCKNER: Nothing further.

5 THE COURT: You may step down. Thank
6 you.

7 (WITNESS STEPS DOWN)

8 THE COURT: Do you want to call Ms.
9 Bowie?

10 SOLICITOR BUCKNER: Yes, Your Honor.
11 The State would call Sherry Bowie.

12 (WITNESS TAKES STAND)

13 SHERRY BOWIE, having been sworn to tell
14 the truth, and nothing but the truth,
15 testified as follows:

16 PROFER EXAMINATION

17 BY SOLICITOR BUCKNER:

18 Q. Sherry, I know you're nervous. The
19 jury is not even in here yet. This is for
20 the Judge's benefit. Just answer my
21 questions as clearly as you can. How do you
22 know Jimmy Gilstrap?

23 A. I went to school with him.

24 Q. So how long has that been?

25 A. You know, pretty much about all my

State of South Carolina v. Jimmy Gilstrap

101

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Proffer Testimony of Sherry Bowie

1 life, all through school.

2 Q. And how do you know Perry Murphy?

3 A. And Perry, I've known him for a long
4 time too. We lived together.

5 Q. So y'all were in a relationship at
6 this time?

7 A. (Affirmative nod).

8 Q. And how do you know Loretta
9 Gilstrap?

10 A. I didn't know her until later on
11 when I met her.

12 Q. I am just going to cut to the chase.
13 What was going on with Jimmy Gilstrap? Did
14 he ever tell you to go purchase Sudafed?

15 A. Yes.

16 Q. He did?

17 A. (Affirmative nod).

18 Q. Did he tell you how much Sudafed to
19 buy and when?

20 A. Yes. They knowed exactly when to go
21 to be able to purchase.

22 Q. Do you know how to make meth?

23 A. No.

24 Q. Did you ever make meth in your
25 house?

State of South Carolina v. Jimmy Gilstrap

102

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Proffer Testimony of Sherry Bowie

1 A. No.

2 Q. Or attempt to make meth in your
3 house?

4 A. No.

5 Q. Did you receive a finished product
6 of methamphetamine from Jimmy Gilstrap?

7 A. Yes.

8 Q. Did Loretta Gilstrap ever tell you
9 when to go purchase Sudafed?

10 A. Yes.

11 Q. Did she ever provide you with
12 methamphetamine herself?

13 A. No, not that I know of.

14 Q. Did you ever see Loretta and Jimmy
15 using methamphetamine in your residence?

16 A. Yes.

17 Q. How long do you think that this had
18 been going on prior to when y'all were
19 arrested?

20 A. (No verbal response).

21 Q. You being asked to go purchase
22 Sudafed in exchange for meth?

23 A. For a while.

24 Q. Almost that entire year or ---

25 A. Yeah, close to that.

State of South Carolina v. Jimmy Gilstrap

103

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Proffer Testimony of Sherry Bowie

1 Q. Did you ever see Jimmy actually
2 making meth in the house, your residence?

3 A. Yeah, I seen him shake the bottle.

4 Q. Did you ever see any smoke or
5 anything like that?

6 A. Yes, there was smoke. He'd open up
7 the kitchen window.

8 SOLICITOR BUCKNER: Judge, I don't
9 think I have any further questions.

10 THE COURT: Cross-examination?

11 PROFFER EXAMINATION

12 BY DOROTHY MANIGAULT:

13 Q. Ms. Bowie, how long did you live
14 with Mr. Murphy?

15 A. For a few years.

16 Q. So on November 4th, ---

17 A. I can't remember.

18 Q. --- of 2013, you had lived with him
19 about two to three years?

20 A. Yes.

21 Q. How long had y'all been living at
22 the residence at [REDACTED] Norris Highway?

23 A. Two or three years. He lived prior
24 to that with me in Norris, on Central.

25 Q. The residence on Norris, [REDACTED], y'all

State of South Carolina v. Jimmy Gilstrap

104

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Proffer Testimony of Sherry Bowie

1 lived there together?

2 A. Yes.

3 Q. For about two to three years?

4 A. Yes.

5 Q. Did anybody else live there with
6 you?

7 A. My son.

8 Q. How old was he?

9 A. At the time he was about sixteen.

10 Q. How often did you see Jimmy
11 Gilstrap?

12 A. A good bit.

13 Q. What does that mean?

14 A. He was over there about every other
15 day at least. I mean -- well, mainly when it
16 was time to go purchase Sudafed.

17 Q. And when you said that Jimmy
18 Gilstrap told you to buy -- when to buy
19 Sudafed. Is that right?

20 A. Yes.

21 Q. Did Mr. Murphy ever tell you to buy
22 Sudafed?

23 A. No.

24 Q. Did you and Mr. Murphy accompany
25 each other to the store, to WalMart or

State of South Carolina v. Jimmy Gilstrap

105

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Proffer Testimony of Sherry Bowie

1 wherever you bought it?

2 A. Yes, he would take me.

3 Q. Would he be buying Sudafed at the
4 same time you'd be buying Sudafed?

5 A. No.

6 Q. So your indication to the court is
7 that you were participating in a manufacture
8 lab for about five months?

9 A. Yes, buying the Sudafed pills.

10 DOROTHY MANIGAULT: Thank you.

11 SOLICITOR BUCKNER: Nothing further,
12 Your Honor.

13 THE COURT: Thank you, you may step
14 down.

15 (WITNESS STEPS DOWN)

16 THE COURT: Is your witness lengthy?

17 SOLICITOR BUCKNER: I need to premark
18 some exhibits for her. It won't be that
19 long, Judge, but we may need a lunch break
20 just to make things go smoother.

21 THE COURT: What time is her flight
22 out?

23 SOLICITOR BUCKNER: Not until 5:00.

24 THE COURT: All right. Just bring the
25 jury in and I'll release them for lunch.

State of South Carolina v. Jimmy Gilstrap

106

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Proffer Testimony of Sherry Bowie

1 (JURY IN @ 11:52 A.M.)

2 THE COURT: All right, ladies and
3 gentlemen. This is going to be real quick.
4 I've got an issue that I need to take up
5 outside of your presence. I'm going to go
6 ahead and release you for lunch. Let's be
7 back at 1:15 and we will jump right into the
8 testimony at that time and go forward.

9 Do not discuss the case. Keep an open
10 mind. See you back at 1:15. Thank you very
11 much.

12 (JURY OUT @ 11:53 A.M.)

13 THE COURT: Anything before we break?

14 SOLICITOR BUCKNER: Nothing from the
15 State.

16 THE COURT: Okay, I am going to go
17 ahead and rule -- anything from you, Ms.
18 Manigault?

19 DOROTHY MANIGAULT: No, I'd just ask
20 that we have a ruling.

21 THE COURT: I'm going to rule at this
22 point in time that based upon obviously Ms.
23 McCormick's testimony as records custodian
24 for Apprise, Inc. that the testimony
25 concerning Mr. Murphy's purchases of Sudafed

State of South Carolina v. Jimmy Gilstrap

107

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Proffer Testimony of Sherry Bowie

1 and Ms. Bowie's purchases of Sudafed,
2 pseudoephedrine, Mr. Gilstrap's purchases of
3 pseudoephedrine and Mrs. Gilstrap's purchases
4 of pseudoephedrine are all admissible,
5 pursuant to Ms. McCormick being the record
6 custodian for the company.

7 The State at this point has proffered
8 evidence of a criminal conspiracy, which was
9 for the purpose of manufacturing
10 methamphetamine. Taking that evidence and
11 considering it in the proper state that I
12 must, I find that is sufficient evidence to
13 lay the foundation for the admission of those
14 records. Anything else?

15 DOROTHY MANIGAULT: Not to go behind
16 your ruling but I just want to reiterate that
17 Loretta Gilstrap was never charged ---

18 THE COURT: I know.

19 DOROTHY MANIGAULT: All right.

20 THE COURT: As I said before, based
21 upon -- is there anybody else's records?

22 SOLICITOR BUCKNER: No, Your Honor.

23 THE COURT: As I said before, the
24 defendant is charged with manufacturing
25 methamphetamine. One of the elements of the

State of South Carolina v. Jimmy Gilstrap

108

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Proffer Testimony of Sherry Bowie

1 offense is that he can be involved in a
2 conspiracy to manufacture methamphetamine or
3 knowingly be in active or constructive,
4 possession of the common ingredients and/or
5 supplies used in the manufacture of
6 methamphetamine. At this point, the State
7 has laid the foundation for that element of
8 the charge and that would make Ms.
9 McCormick's testimony as the -- assuming that
10 she is the custodian of records, relevant and
11 it would make -- it would not be so
12 prejudicial as to outweigh the probative
13 effect because it goes directly to the
14 elements of the offense and would be direct
15 evidence of the possession of the ingredients
16 and/or the supplies and of a potential
17 conspiracy to manufacture methamphetamine.
18 Therefore, I deem that testimony is
19 admissible.

20 The last thing that I need to take up is
21 the issue of your client's bond. Does the
22 State want to take a position on the
23 defendant's bond at this point in time?

24 SOLICITOR BUCKNER: Your Honor, I
25 leave it to your discretion.

State of South Carolina v. Jimmy Gilstrap

109

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Proffer Testimony of Sherry Bowie

1 THE COURT: Ms. Manigault?

2 DOROTHY MANIGAULT: We would ask the
3 court to allow him to remain on bond. He has
4 appeared every time he's been carded to
5 court. He's come to my office in Greenville
6 for his appointments, he's kept in touch with
7 my ---

8 THE COURT: What kind of bond is he on?

9 DOROTHY MANIGAULT: It's between ten
10 and fifteen thousand. I can call the
11 bondsman if the court ---

12 THE COURT: Did you post it through a
13 bondsman?

14 DEFENDANT: Through the bondsman.

15 THE COURT: Let's do this. Tell the
16 bondsman to be here at 1:15. I am going to
17 let you go to lunch but, listen: I don't
18 know you, you don't know me. I've never seen
19 you in my whole life. I'm telling you face
20 to face that if you don't come back at 1:15
21 that this case is going forward whether
22 you're sitting in that chair or not. Does
23 that make sense?

24 DEFENDANT: Yes, sir.

25 THE COURT: Now, I am giving you the

State of South Carolina v. Jimmy Gilstrap

110

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Proffer Testimony of Sherry Bowie

1 benefit of the doubt. I normally take people
2 into custody once a trial starts. The law
3 gives me full right and authority to take you
4 into custody right now and hold you over-
5 night. Okay? Your case is from November of
6 2013. That means you have been on bond for
7 three and a half years and you're still
8 sitting here.

9 DEFENDANT: Yes, sir.

10 THE COURT: So in my opinion, if you
11 weren't going to show up for court, you would
12 have done it a long time ago.

13 DEFENDANT: Right.

14 THE COURT: So I want your bondsman to
15 be back up here at 1:15 with you, because I
16 want him to know what I am doing, to make
17 sure that he agrees to stay on the bond until
18 the conclusion of the case. Okay?

19 DEFENDANT: Yes, sir.

20 THE COURT: Is that fair?

21 DEFENDANT: Yes, sir.

22 THE COURT: I promise you one hundred
23 percent, man to man, if you're not sitting
24 back here at 1:15, or if you're not sitting
25 here tomorrow morning, the trial is going to

State of South Carolina v. Jimmy Gilstrap

111

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Proffer Testimony of Sherry Bowie

1 keep on going whether you're sitting here or
2 not. Deal?

3 DEFENDANT: Deal.

4 SOLICITOR BUCKNER: And, Judge, I'd
5 just ask that both sides not have any
6 communication during the break.

7 THE COURT: Yes, no one -- none of the
8 parties, witnesses or family members need to
9 communicate with the witnesses for the State
10 or defense, vice-versa. The attorneys are
11 allowed to communicate with those people if
12 the people want to communicate with the
13 attorneys. Otherwise, everybody needs to
14 stay away from each other, go about their
15 day. We are going to let the jury decide
16 this issue based on the facts of the case.
17 That's the cleanest way to do it.

18 Be back at 1:15. Thank you all very
19 much.

20 (LUNCH RECESS)

21 (DEFENDANT PRESENT)

22 (GREG CUMBI, BONDSMAN AGREED TO STAY ON
23 BOND AT IN CHAMBERS CONFERENCE)

24 THE COURT: All right, I have talked to
25 your bondsman, Mr. Gilstrap, and he has

State of South Carolina v. Jimmy Gilstrap

112

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Krista McCormick - Direct Examination

1 agreed to stay on your bond until the
2 conclusion of this trial.

3 Anything before we bring the jury in,
4 from the State?

5 SOLICITOR BUCKNER: Nothing, Your
6 Honor.

7 THE COURT: You're ready to go?

8 SOLICITOR BUCKNER: Yes, sir.

9 THE COURT: Anything from the Defense,
10 Ms. Manigault?

11 DOROTHY MANIGAULT: No, Your Honor.
12 Thank you.

13 THE COURT: Bring in our jury.

14 (JURY IN @ 1:18 P.M.)

15 THE COURT: All right, ladies and
16 gentlemen, we are ready to continue with the
17 trial. Mr. Solicitor, you may call your next
18 witness.

19 SOLICITOR BUCKNER: Thank you, Your
20 Honor, the State calls Krista McCormick.

21 (WITNESS TAKES STAND)

22 KRISTA MCCORMICK, having been sworn to
23 tell the truth, and nothing but the truth,
24 testified as follows:

25 DIRECT EXAMINATION

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Krista McCormick - Direct Examination

113

1 BY SOLICITOR BUCKNER:

2 Q. Krista, I appreciate you being here
3 with us today. Tell the jury where you work?

4 A. I work at Apprise, Inc. We are the
5 providers of the NPLEx Program, head-
6 quartered in Louisville, Kentucky.

7 Q. How long have you worked there?

8 A. I have worked there for nine and a
9 half years.

10 Q. What is your title there?

11 A. My title is manager of NPLEx states
12 subpoena compliance.

13 Q. Describe for the jury what that
14 entails as far as your responsibilities.

15 A. Basically that means that I oversee
16 the NPLEx states, South Carolina being one of
17 the thirty-five NPLEx states. Just to ensure
18 that the program managers have what they need
19 to run a successful program in the state.
20 Also I handle our subpoena compliance.

21 Why I am here today is because I was
22 subpoenaed for records, so that I can run
23 those records, process those as part of my
24 duties.

25 Q. Can you tell the jury what NPLEx is?

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Krista McCormick - Direct Examination

114

1 A. Sure. NPLeX stands for the National
2 Precursor Log Exchange, which is a
3 pseudoephedrine tracking database that was
4 created as a result of the Federal Combat
5 Methamphetamine Epidemic Act that was passed
6 in 2006, that for the first time put limits
7 on how much we as consumers can purchase of
8 over-the-counter pseudoephedrine and
9 ephedrine products.

10 So we created -- at the time, Federal law
11 just required pharmacies to record purchaser
12 information, to keep it on a paper log. So
13 our company had the idea to create a national
14 electronic database so that all of it was
15 real time, we could actual enforce someone at
16 the point of sale, to make it a real-time
17 proactive approach.

18 Q. You have kinda touched on it already
19 but what kinds of information is kept in
20 these records?

21 A. Yeah, so per Federal law we capture
22 purchasers' names, date of birth, address, ID
23 number, as well as the product information
24 and the gram amount -- and the signature if
25 it is a successful purchase.

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Krista McCormick - Direct Examination

115

1 Q. How are the records actually
2 created?

3 A. Essentially how it works is if you
4 go to the pharmacy counter and show your ID,
5 that information is swiped or manually
6 entered into our system. We report back in a
7 split second at the point of sale a
8 recommendation of 'sell', 'don't sell' based
9 on that person's previous purchase history,
10 as to whether they have enough grams
11 available to purchase. So that system or
12 that information is housed in our database
13 and available then to law enforcement under
14 Federal law.

15 Q. How are those records maintained?

16 A. They are maintained in Louisville,
17 Kentucky, at our headquarters on our physical
18 servers.

19 Q. Are the NPLEx records altered or
20 changed in any way once they are compiled in
21 your database?

22 A. They are not. We are recording
23 exactly what the pharmacy sends to us. As
24 far as law enforcement, they just query the
25 data. They have no means to change or update

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Krista McCormick - Direct Examination

116

1 or edit data.

2 Q. Are these records kept in the
3 regular course of business for your company?

4 A. Yes.

5 Q. Are you aware of why you've been
6 called to testify today?

7 A. I am, (affirmative nod).

8 Q. Did you prepare NPLeX records for
9 this case today?

10 A. I did.

11 Q. How did you prepare those records?

12 A. Logged into our database and did a
13 persons search, which returned the
14 transactions for each individual and mailed
15 the records accordingly.

16 Q. Were they changed, damaged, altered
17 in any way once you did that?

18 A. No.

19 Q. And they have not been up until
20 today's date; is that correct?

21 A. Correct.

22 Q. I am going to show you what has been
23 marked as State's Exhibit 22 and State's
24 Exhibit 23, (tendering). Let's start with
25 State's Exhibit 22 first.

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Krista McCormick - Direct Examination

117

1 A. Okay.

2 Q. Do you recognize those documents?

3 A. Yes, these are NPLeX records that
4 came from our system.

5 Q. What is contained within that
6 document?

7 A. This is Jimmy Gilstrap's pseudo-
8 ephedrine and ephedrine transactions that we
9 have on file.

10 Q. What is the date range on that?

11 A. The date range is January 1, 2013
12 through December 31st, 2013.

13 Q. Has that -- have those records been
14 changed or altered in any way?

15 A. No.

16 Q. Was this record produced and
17 maintained in the regular course of business
18 for your company?

19 A. Yes.

20 SOLICITOR BUCKNER: Your Honor, at this
21 point in time the State would move this
22 exhibit into evidence as State's Exhibit 22.

23 DOROTHY MANIGAULT: Your Honor,
24 subject to our previous objection.

25 THE COURT: State's Exhibit 22 is

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Krista McCormick - Direct Examination

1 admitted over Defense objection.

2 (SO ENTERED AS STATE'S EXHIBIT 22)

3 SOLICITOR BUCKNER: Thank you, Your
4 Honor.

5 DIRECT EXAMINATION CONTINUED

6 BY SOLICITOR BUCKNER:

7 Q. Would you look at State's Exhibit 23
8 now?

9 A. (Upon review), yes, sir.

10 Q. This one is a little more lengthy.

11 A. Yes, sir.

12 Q. These are the NPLeX records for
13 Perry Murphy, Sherry Bowie and Loretta
14 Gilstrap.

15 Q. What is contained within those
16 documents?

17 A. This is each individual's
18 pseudoephedrine or ephedrine transactions
19 that we have on file.

20 Q. What is the time line for those
21 purchases?

22 A. The time line is January 1, 2013,
23 through November 30th, 2013.

24 Q. Have those, these documents that
25 you're referring to now, been changed in any

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Krista McCormick - Cross Examination

119

1 way or altered at any time before court
2 today?

3 A. No.

4 Q. Were those documents recorded and
5 created within the normal course of business
6 for your company?

7 A. Yes.

8 SOLICITOR BUCKNER: Your Honor, at
9 this time the State would move State's
10 Exhibit 23 into evidence.

11 DOROTHY MANIGAULT: Subject to our
12 prior objection on relevancy and prejudicial
13 outweighing probative value.

14 THE COURT: Subject to Defense
15 objection, State's Exhibit 23 is admitted.

16 (SO ENTERED AS STATE'S EXHIBIT 23)

17 SOLICITOR BUCKNER: Your Honor, that's
18 all the questions that I have at this time.

19 THE COURT: Cross-examination?

20 DOROTHY MANIGAULT: Yes, sir.

21 CROSS EXAMINATION

22 BY DOROTHY MANIGAULT:

23 Q. Ms. McCormick, the records that you
24 have presented to the court today shows
25 purchases that were allowable for those

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Krista McCormick - Cross Examination

120

1 persons on those dates; is that correct?

2 A. There are purchases. I haven't
3 memorized them. There could be blocks, too.
4 We do block at the point of sale.

5 Q. When you look through that -- and
6 you said the dates were January 1, 2013, for
7 State's Exhibit 23, through November 30th,
8 2013.

9 A. (Affirmative nod).

10 Q. So when there is a block on the
11 record information, how does that show up?

12 A. It says -- it just says Block as
13 opposed to Purchase, still recording the same
14 information.

15 Q. All right. Thank you.

16 THE COURT: Anything further?

17 DOROTHY MANIGAULT: That's it.

18 THE COURT: Redirect?

19 SOLICITOR BUCKNER: No redirect, Your
20 Honor.

21 THE COURT: Have a nice day. Thank
22 you, ma'am.

23 (WITNESS STEPS DOWN)

24 THE COURT: You may call your next
25 witness.

State of South Carolina v. Jimmy Gilstrap

121

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of John Ross - Direct Examination

1 SOLICITOR BUCKNER: The State calls
2 John Ross, Your Honor.

3 (WITNESS TAKES STAND)

4 JOHN ROSS, having been sworn to tell the
5 truth, and nothing but the truth, testified
6 as follows:

7 DIRECT EXAMINATION

8 BY SOLICITOR BUCKNER:

9 Q. Mr. Ross, who do you work for?

10 A. The City of Greenville, water
11 treatment, and I am a reserve officer with
12 the Pickens County Sheriff's Office.

13 Q. How long have you been a reserve
14 officer?

15 A. I started patrol September 8th, 2001
16 and have been doing investigations since
17 2004.

18 Q. What kind of investigations have you
19 done for the Sheriff's Office.

20 A. Mainly drug investigations,
21 methamphetamine tracking information and
22 such.

23 Q. What training have you received to
24 be a reserve officer to do investigations?

25 A. I have received training on

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of John Ross - Direct Examination

122

1 methamphetamine detection, drug
2 investigations.

3 Q. Are you familiar with this case
4 today that you've been called on?

5 A. I am. Yes, sir.

6 Q. We heard a little bit about NPLeX
7 records from Ms. McCormick. Explain how you
8 use NPLeX records in your job at the
9 Sheriff's Office?

10 A. Okay. So we've already heard that
11 they utilized your driver's license informa-
12 tion, that it goes into a database. When you
13 make a purchase, all your information goes
14 into a database and that we can query and
15 look into. Basically I would go zip code --
16 to every zip code for the county -- the zip
17 code doesn't have a lot of information you
18 can look at. But I'd look at who is making
19 the most purchases, who has had a Block, who
20 has -- who is doing the most. From that, I
21 would look to see if I can see a pattern of
22 people buying quantities of methamphetamine
23 -- not methamphetamine, but pseudoephedrine
24 together, as a group.

25 Q. Okay. Did you monitor the

State of South Carolina v. Jimmy Gilstrap

123

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of John Ross - Direct Examination

1 individuals in this case? That being Perry
2 Murphy, Sherry Bowie, the Defendant Jimmy
3 Gilstrap and his wife, Loretta Gilstrap?

4 A. Yes, sir, I did.

5 Q. How did they get on your radar?

6 A. Like I said before, I look through
7 and see what I see as an excessive amount of
8 purchases. I can add that person to a watch
9 list. If you go onto a watch list, it gives
10 me an e-mail, an alert every time you go to
11 make a purchase. I get real time
12 information. From that, I -- if I see that
13 something is abnormal, I would go back into
14 the store's purchase record, look at who
15 bought before, who bought after, and from
16 that I can develop a group.

17 Q. And did you develop a group in ---

18 A. I did.

19 Q. --- this investigation?

20 A. Yes, sir.

21 Q. Who was included that?

22 A. That would be Perry Murphy, Sherry
23 Bowie, Jimmy Gilstrap, Loretta Gilstrap.

24 Q. I'd like to have you go through what
25 has been put in evidence as of this point:

State of South Carolina v. Jimmy Gilstrap

124

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of John Ross - Direct Examination

1 State's Exhibit 22 and State's Exhibit 23.
2 First, State's Exhibit 22, I want you to
3 start on the last page and describe for the
4 jury who is making purchases that have been
5 recorded in this NPLeX records. Who made the
6 purchase, when and where.

7 A. Okay. The very first is February
8 11th, 2013, at 8:30 in the afternoon at
9 WalMart in Central. Jimmy Gilstrap. It has
10 his signature.

11 Q. Okay. Continue.

12 A. The second one is February 27th, 5:55
13 p.m. at the Easley WalMart. Jimmy Gilstrap
14 was the signature.

15 The next one is March 8th, 2013 at Easley
16 WalMart, Jimmy Gilstrap.

17 March 27th, 2013, at the Central WalMart.
18 Jimmy Gilstrap.

19 April the 9th, 2013, at 11:35 at the
20 Central WalMart. Jimmy Gilstrap.

21 April the 18th, 2013, Jimmy Gilstrap at
22 the Central WalMart.

23 May 2nd, 2013, Jimmy Gilstrap at the
24 Central WalMart.

25 May 24th, 2013, at the Central WalMart,

State of South Carolina v. Jimmy Gilstrap

125

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of John Ross - Direct Examination

1 Jimmy Gilstrap.

2 June 14th, 2013, at the Walgreens in
3 Seneca. Jimmy Gilstrap.

4 July 9th, 2013, at the Pickens WalMart.
5 Jimmy Gilstrap.

6 July 13th at the Central WalMart. Jimmy
7 Gilstrap.

8 August the 8th, 2013, at the Central
9 WalMart. Jimmy Gilstrap.

10 August 26th, 2013, at the WalMart in
11 Travelers Rest.

12 September 23, 2013, at the WalMart in
13 Travelers Rest.

14 September 18th, 2013 at the Central
15 WalMart. Jimmy Gilstrap.

16 September 26th, 2013, at the Central
17 WalMart.

18 October 6th, 2013, at the Central
19 WalMart.

20 October 24th, 2013, at the Travelers Rest
21 WalMart.

22 November 10th, 2013, at the Easley
23 WalMart.

24 December the 6th, 2013, at the Central
25 WalMart.

State of South Carolina v. Jimmy Gilstrap

126

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of John Ross - Direct Examination

1 Q. Now if you'll refer to State's
2 Exhibit 23.

3 A. Yes, sir.

4 Q. What is the first name included in
5 those records? If you'll go to the very end,
6 I think it is a little easier
7 chronologically.

8 A. It's for Loretta Gilstrap.

9 Q. If you will, start with the first
10 one and take us through the purchases for
11 that individual, when and where.

12 A. Loretta Lynn Gilstrap, purchased on
13 January 4th, 2013, at the Easley WalMart.

14 January 15th, 2013, at the Easley
15 Walmart.

16 January 25th, 2013, at the Easley
17 WalMart.

18 March 28th, 2013, at the Easley WalMart.

19 April 12th, 2013, at the Easley WalMart.

20 June 6th, 2013, at the Pickens WalMart.

21 That was also returned on June 6th, at the
22 Pickens WalMart.

23 July 3rd, 2013, at the Pickens WalMart.

24 July 15th, 2013, at the Pickens WalMart.

25 August 18th, 2013, at the Easley WalMart.

State of South Carolina v. Jimmy Gilstrap

127

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of John Ross - Direct Examination

1 August 24th, 2013, at the Easley WalMart.
2 September 5th, 2013, at the CVS in
3 Clemson.

4 There was a Block on September 14th,
5 2013, at the WalMart in Powdersville.

6 There was a block on September 16th,
7 2013, at the WalMart in Travelers Rest.

8 September 22nd, 2013, a purchase at
9 WalMart in Easley.

10 September 29th, 2013, there was a
11 purchase at the WalMart in Anderson on
12 Liberty Highway.

13 October 12th, 2013, a purchase at the
14 Easley WalMart.

15 October 23rd, 2013, at the Easley
16 WalMart.

17 November 3rd, 2013, a purchase at the
18 Pickens WalMart.

19 November 22nd, 2013, at the Easley
20 WalMart.

21 There were all purchases by Loretta
22 Gilstrap.

23 Q. Who is the next person included in
24 those records?

25 A. Sherry Renee Bowie.

State of South Carolina v. Jimmy Gilstrap

128

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of John Ross - Direct Examination

1 Q. Maybe we can condense it a little
2 bit this time and just give us the timeline
3 of when they started purchasing and how
4 often.

5 A. Just the dates?

6 Q. (Affirmative nod), rather than
7 making you go through the ---

8 A. Okay. Sherry Bowie:

9 February 12th, 2013 for Sherry Bowie

10 March 14th, 2013 for Sherry Bowie

11 March 28th, 2013 for Sherry Bowie

12 April 11th, 2013

13 April 24th, 2013

14 May 4th, 2013

15 May 23rd, 2013

16 June 11th, 2013

17 July 10th, 2013

18 July 23rd, 2013

19 August 2nd, 2013

20 August 10th, 2013

21 August 24th, 2013

22 September 5th, 2013

23 September 18th, 2013

24 October 8th, 2013

25 October 20th, 2013

State of South Carolina v. Jimmy Gilstrap

129

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of John Ross - Direct Examination

1 November 3rd, 2013.

2 Q. What time was that November 3rd?

3 A. November 3rd was at 12:49 p.m. from
4 the Central WalMart.

5 Q. Just briefly, Perry Murphy, when it
6 started and how often it was up to his last
7 purchase?

8 A. Perry Murphy:

9 February 14th, 2013

10 March 14th, 2013

11 March 28th, 2013

12 April 11th, 2013

13 April 22, 2013

14 May 4th, 2013

15 May 20th, 2013

16 May 30th, 2013

17 June 9th, 2013

18 June 19th, 2013

19 July 9th, 2013

20 July 18th, 2013

21 July 31, 2013

22 August 9th, 2013

23 August 19th, 2013

24 August 31st, 2013

25 September 12th, 2013

State of South Carolina v. Jimmy Gilstrap

130

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of John Ross - Direct Examination

1 September 19, 2013

2 October 6th, 2013

3 October 17, 2013

4 October 30th, 2013.

5 Q. Okay. Given all that -- first of
6 all, the items being purchase each time was
7 what?

8 A. Pseudoephedrine.

9 Q. Now, in your investigation, explain
10 how all those purchases allowed you to link
11 these individuals together.

12 A. At times during the investigation
13 we'd see that those people had purchases in
14 proximity to one another, if not the same
15 store on the same day but at times before or
16 after. People who lived at the same
17 household, with the same address, buying
18 boxes the day after would be suspicious.

19 Q. And the locations for all those
20 purchases were within how close to one
21 another?

22 A. The pharmacies for the most part
23 were close. There was one over in Greenville
24 County, in the Travelers Rest area, then
25 Powdersville.

State of South Carolina v. Jimmy Gilstrap

131

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of John Ross - Cross Examination

1 Q. That being the farthest away?

2 A. Yes, sir.

3 Q. And once you were monitoring these
4 purchases, is that what led to the eventual
5 knock-and-talk on November 3rd?

6 A. Yes, once I received a Watch hit and
7 noticed something very apparent, I would
8 forward that information to the narcotics
9 agents that were working, just to give them a
10 heads up as to what was going on, what was
11 happening in case they would come across them
12 or heard talk of that person.

13 Q. You went out to the scene that day?

14 A. I did. Yes, sir.

15 SOLICITOR BUCKNER: Judge, I have no
16 further questions at this time.

17 THE COURT: Cross-examination?

18 CROSS EXAMINATION

19 BY DOROTHY MANIGAULT:

20 Q. Mr. Ross, the NPLEx records that you
21 just read from, they all show legal purchases
22 of decongestants?

23 A. Yes, ma'am.

24 Q. And then the one that I think you
25 read on -- I think on State's Exhibit 23, you

1 read for one person that they had two
2 Blocks.

3 A. Yes, ma'am.

4 Q. That means that they were not
5 allowed to purchase?

6 A. That's correct., Yes, ma'am.

7 Q. You said that your Watch list would
8 be purchases by the same household.

9 A. Yes, ma'am.

10 Q. Same address?

11 A. Yes, ma'am.

12 Q. Same day?

13 A. Yes, ma'am.

14 Q. Proximity of the pharmacies?

15 A. Yes, ma'am.

16 DOROTHY MANIGAULT: Thank you.

17 THE COURT: Redirect?

18 SOLICITOR BUCKNER: Just briefly, Your
19 Honor.

20 REDIRECT EXAMINATION

21 BY SOLICITOR BUCKNER:

22 Q. What is the limit that one person is
23 allowed to purchase ---

24 A. Nine grams (9 grams) within thirty
25 days..

State of South Carolina v. Jimmy Gilstrap

133

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of John Ross - Redirect Examination

1 Q. And what was the amount purchased on
2 each one of those?

3 A. The ranges varied: 2.4 grams is the
4 average. Some go down as low as 1.44 grams,
5 but on average it was 2.4 grams.

6 Q. And you stated to the jury that only
7 nine grams is allowed to be purchased within
8 thirty days?

9 A. Within thirty days, that's correct.
10 That's the law.

11 Q. When those purchases were blocked,
12 what would be the reason for that?

13 A. They would have purchased in excess
14 of nine grams within thirty days.

15 Q. Thank you.

16 SOLICITOR BUCKNER: No further
17 questions, Your Honor.

18 THE COURT: Recross?

19 DOROTHY MANIGAULT: Nothing, Your
20 Honor.

21 THE COURT: Thank you very much. You
22 may step down.

23 (WITNESS STEPS DOWN)

24 THE COURT: You may call your next
25 witness.

State of South Carolina v. Jimmy Gilstrap

134

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Perry Murphy - Direct Examination

1 SOLICITOR BUCKNER: The State calls
2 Perry Murphy.

3 (WITNESS TAKES STAND)

4 PERRY MURPHY, having been sworn to tell
5 the truth, and nothing but the truth,
6 testified as follows:

7 DIRECT EXAMINATION

8 BY SOLICITOR BUCKNER:

9 Q. Mr. Murphy, try and speak loudly
10 whenever you answers the questions. Okay?

11 A. Yes, sir.

12 Q. Where do you work, Mr. Murphy?

13 A. I'm on disability.

14 Q. Disability?

15 A. (Affirmative nod).

16 Q. Do you live here in Pickens County?

17 A. Yes, sir.

18 Q. How long have you been here?

19 A. About all my life.

20 Q. Do you know the defendant in this
21 case, Jimmy Gilstrap?

22 A. Yes, sir.

23 Q. How do you know him?

24 A. I actually knowed of him but I was
25 introduced to him through Renee and his wife.

State of South Carolina v. Jimmy Gilstrap

135

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Perry Murphy - Direct Examination

1 Q. When you say Renee, you mean?

2 A. Girlfriend. Sherry Bowie.

3 Q. Are y'all dating now?

4 A. Naw.

5 Q. You were at the time this was going
6 on?

7 A. Yeah.

8 Q. Now, explain for the jury how you
9 first came into contact with -- well, before
10 we do that, were you charged in relation to
11 this incident?

12 A. Yes, sir.

13 Q. What were you charged with?

14 A. Manufacturing methamphetamine.

15 Q. Did you plead guilty to that charge?

16 A. Yes, sir.

17 Q. Did you ever tell law enforcement
18 that you did not have the ingredients for
19 manufacturing meth in your residence?

20 A. Uh -- I took them in. When they
21 come up, I let them go in and search because
22 there was everything there.

23 Q. Okay. Did you plead guilty to more
24 than one charge?

25 A. (No verbal response).

State of South Carolina v. Jimmy Gilstrap

136

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Perry Murphy - Direct Examination

1 Q. Did you also plead guilty to
2 manufacturing methamphetamine, exposing a
3 child to the manufacture of meth?

4 A. Yes, sir.

5 Q. How old was that child?

6 A. He was about fifteen..

7 Q. Whose child was it?

8 A. Sherry's.

9 Q. That child, I assume, lived with
10 y'all in the residence?

11 A. Yes.

12 Q. You pled guilty to that charge?

13 A. Yes, sir.

14 Q. Did you plead guilty to that charge
15 in 2014?

16 A. Yes, sir.

17 Q. So that would be about a year after
18 you were arrested?

19 A. Yes, sir.

20 Q. When you pled guilty, did you stand
21 up in front of a court and admit what you'd
22 done?

23 A. Yes, sir.

24 Q. All right. Explain for the jury how
25 you first came in contact with Jimmy Gilstrap

State of South Carolina v. Jimmy Gilstrap

137

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Perry Murphy - Direct Examination

1 as far as meth is concerned?

2 A. Well, Loretta is the one that come
3 to us first and ---

4 Q. When you say "us", who do you mean?

5 A. Me and Renee -- Sherry.

6 Q. You can call her Renee. I just want
7 to make sure that it's clear who you are
8 talking about?

9 A. Okay. And said that he was getting
10 some pretty good stuff. So we tried that.
11 We didn't know that he was the one making it
12 then.

13 Q. When you say stuff, what do you
14 mean?

15 A. Meth.

16 Q. Continue.

17 A. Okay. Then it just led up to, uh,
18 us going to buy boxes. First it started out
19 that we took him a box for a pack of
20 cigarettes. Then it got into where we'd get
21 a quarter gram to get a box. If we bought
22 the box, we'd get more.

23 Q. When you say that you bought a box,
24 what are you talking about?

25 A. Sudafed.

State of South Carolina v. Jimmy Gilstrap

138

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Perry Murphy - Direct Examination

1 Q. Sudafed?

2 A. (Affirmative nod).

3 Q. So you purchased meth originally
4 from Jimmy Gilstrap, is that what you're
5 saying?

6 A. Yeah.

7 Q. Then that led somehow to you buying
8 Sudafed.

9 A. (Affirmative nod).

10 Q. Explain how that happened?

11 A. It just happened. I mean, we
12 started out just doing the meth. Then we
13 started buying the boxes and it just -- just
14 every ten days I was going to get a box.

15 Q. When you say that you were doing it
16 every ten days, was Jimmy Gilstrap asking you
17 to do that?

18 A. At first he'd get us to go get a
19 box.

20 Q. Just one box?

21 A. Well, that's all that I could get,
22 would be one box.

23 Q. Right.

24 A. That happened a few times. I'd just
25 go get a box on my own and then he'd come by

State of South Carolina v. Jimmy Gilstrap

139

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Perry Murphy - Direct Examination

1 and work it up.

2 Q. When you say "work it up", what do
3 you mean?

4 A. Put it a bottle and shake it. Put
5 it in a bottle and shake it up. I don't know
6 what all went into it.

7 Q. Well, where was this going on? How
8 did this start happening at your residence?

9 A. At first it was at his house. But I
10 didn't go there. When I started doing it, it
11 was at my house.

12 Q. Well, how did it go from being made
13 at Jimmy's house to your house?

14 A. I don't know.

15 Q. Well, did he ask you if he could
16 start doing it at your house?

17 A. I don't know if he asked me or if I
18 told him that he could make it there. I
19 don't remember how that happened exactly.

20 Q. Well, explain for the jury what
21 exactly was going on when it was being made
22 at your house. What did you see Jimmy doing?

23 A. Well, we both would shake the
24 bottle. He would take the bottle to the
25 kitchen. He had a drain bottle, he's been

State of South Carolina v. Jimmy Gilstrap

140

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Perry Murphy - Direct Examination

1 shaking it. He had a hose onto it and hooked
2 it in a glass smashing it and it'd smoke up.

3 Q. What else did you see that he was
4 using?

5 A. I know he was using some kind of
6 salt that had iodine or something in it. I
7 thought that it was fertilizer but evidently
8 it wasn't fertilizer, it was Drano. The
9 grinder, where he'd grind the pills up.

10 Q. Did he give you meth that he'd made
11 at any point in time?

12 A. Yeah, always.

13 Q. Was that considered payment for you
14 purchasing Sudafed?

15 A. Yeah, I got a quarter. If I
16 purchased the box, then I got a little bit
17 more than a quarter. If he bought the box,
18 he'd just give me some for him doing it.

19 Q. Would he leave that out for you at
20 your ---

21 A. He'd give it to us.

22 Q. He'd just give it to you straight
23 up?

24 A. (Affirmative nod).

25 Q. Would he ever put it out on a mirror

State of South Carolina v. Jimmy Gilstrap

141

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Perry Murphy - Direct Examination

1 for you?

2 A. Well, uh, he would have it on a
3 tray. He'd just push it up in a pile.

4 Q. And that would be your cut?

5 A. Yeah.

6 Q. I'm assuming that wasn't all the
7 meth that he made, right?

8 A. No, sir. He took what he had. I
9 don't know exactly how much come out of it.
10 I'd see where he'd shove it up in a little
11 pile, cut me a pile out and he'd take his and
12 then they'd go.

13 Q. What would he do with it?

14 A. I don't know.

15 Q. I am going to show you what has been
16 marked as State's Exhibit 19. When you say
17 that he would leave it out on a tray for you,
18 is that what you're referring to?

19 A. It would be on that tray but I put
20 it where it's at.

21 Q. This is a photo taken by Detective
22 Kevin Durham the day that you were arrested.
23 Do you remember that being there?

24 A. Yeah.

25 Q. Had Jimmy left that for you?

State of South Carolina v. Jimmy Gilstrap

142

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Perry Murphy - Direct Examination

1 A. Well, he left it on a tray in the
2 kitchen and I took it to the bedroom and put
3 it in a drawer.

4 Q. Okay. All right. Now, when Jimmy
5 would talk to you about making these
6 purchases, how did that work? He would show
7 up at your house and then you'd go do it?
8 Or would you talk about specifically when and
9 how much?

10 A. At first, I think that they had --
11 or she had a little calendar marked up to
12 when you could get some.

13 Q. Who is she?

14 A. His wife, Loretta.

15 Q. She had a calendar worked up?

16 A. She had it wrote out on paper, you
17 know, when you'd be able to get it and when
18 you couldn't get it.

19 Q. Okay. And both -- each one of them
20 talked to you about when and where to
21 purchase the Sudafed?

22 A. Well, I always went to WalMart.

23 Q. Which WalMart was that?

24 A. Central.

25 Q. How far is your house from there?

State of South Carolina v. Jimmy Gilstrap

143

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Perry Murphy - Direct Examination

1 A. About five or six miles.

2 Q. How far is the residence where Jimmy
3 and Loretta were living when this was going
4 on, how far was that from your house?

5 A. Probably a half mile.

6 Q. So they were pretty close to that
7 WalMart as well?

8 A. Yeah.

9 Q. When you bought this Sudafed, did
10 you always use your own money or did
11 sometimes Jimmy give you money to buy it?

12 A. At first he give me some money to
13 get it and then after that I -- I mean, I
14 bought it out of my own pocket.

15 Q. Every time that you bought Sudafed,
16 were you given meth by Jimmy?

17 A. Yeah, (affirmative nod).

18 Q. Let's talk a little bit more about
19 -- you said that you actually saw him making
20 meth.

21 A. (Affirmative nod).

22 Q. Describe exactly what you saw when
23 this was going on.

24 A. He'd just be in the kitchen. He'd
25 have the window raised up and have a fan

1 setting there drawing the smoke out. He'd
2 just shake that Coke bottle and it'd make
3 smoke come up out of the glass.

4 Q. I'm going to show you a photo here,
5 see if this accurately describes what you're
6 talking about -- State's Exhibit 13, is that
7 the type of bottle that you are describing to
8 the jury?

9 A. Yes, sir.

10 Q. And it is crushed in for what
11 reason?

12 A. Where he was squeezing it.

13 Q. When you squeeze it, why do you
14 squeeze it?

15 A. I guess to push the air out of it.

16 Q. State's Exhibit 1, did you ever see
17 Jimmy or Loretta using batteries at any point
18 in time when they were at your residence?

19 A. Well, I knowed that she had to go to
20 the store one night to get batteries. He'd
21 cut them open. I am assuming that was what
22 was in the bottle, the bottle that he was
23 shaking. There were little black balls or
24 something in there and I guess that's what
25 they was.

State of South Carolina v. Jimmy Gilstrap

145

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Perry Murphy - Direct Examination

1 Q. And why would he ask you to shake it
2 every now and then?

3 A. (No verbal response).

4 Q. Was he busy/preoccupied with doing
5 anything else?

6 A. I guess you shake it that long --
7 you have to shake it like forty-five minutes
8 or something.

9 Q. Really?

10 A. (Affirmative nod).

11 Q. I show you State's Exhibit 15,
12 there's two bottles in this. Did you ever
13 notice a hose like that coming from a bottle?

14 A. Yes, sir.

15 Q. Is that how it was used in your
16 residence?

17 A. Yes, sir.

18 Q. Did Jimmy use that?

19 A. Yes, sir.

20 Q. How did he use it?

21 A. That's how you squeezed it out of
22 the bottle into a glass.

23 Q. Okay. I show you State's Exhibit
24 14. The bottle that is intact there -- it's
25 not very clear on this. What would that

1 bottle be used for? Do you remember seeing a
2 substance like that, a sludge?

3 A. That's the bottle he would shake.

4 Q. Would the actual meth come out of
5 this bottle?

6 A. I'm assuming -- I mean, that's what
7 was the bottle shaken up. It's opened up and
8 smells like ammonia.

9 Q. Okay.

10 A. Then he'd take that to the kitchen
11 and do whatever he had to do with it.

12 Q. Okay. Whenever you would buy the
13 Sudafed, what did Jimmy Gilstrap initially do
14 with it? Do you remember?

15 A. He'd grind it up, put it in that
16 bottle and shake it.

17 Q. Do you remember what he used to
18 grind it up with?

19 A. A coffee grinder.

20 Q. Was it similar to the one pictured
21 in this photo, with that cord hanging off of
22 it?

23 A. Yeah.

24 Q. I can show you on this one -- it'll
25 be easier. Show the jury, hold it up for

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Perry Murphy - Direct Examination

147

1 them.

2 A. (Displaying State's Exhibit 14 to
3 jury).

4 Q. Now, did Sherry or Renee, as you
5 refer to her, did she ever participate in
6 making the meth other than buying the
7 Sudafed?

8 A. She might have showed up but not all
9 that much.

10 Q. Was that yours and Renee's only
11 involvement, just shaking the bottle
12 occasionally?

13 A. She might be there, but it was
14 actually my doing.

15 Q. Okay. When do you think you
16 actually started purchasing the Sudafed for
17 Jimmy?

18 A. It would be when I first started,
19 around January or February.

20 Q. Okay. When Jimmy and Loretta were
21 there in the residence with you, did you
22 ever see them use meth?

23 A. Yeah, we all used it.

24 Q. How would y'all use it?

25 A. Snort it.

State of South Carolina v. Jimmy Gilstrap

148

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Perry Murphy - Direct Examination

1 Q. Okay. Did y'all ever have any kind
2 of issue with a fire or any kind of safety
3 concern when this was being made in the
4 house?

5 A. It blazed up one time in the sink.

6 Q. What did y'all do?

7 A. It just went right back down.

8 Q. Who was there when that happened?

9 A. All four of us.

10 Q. How many times do you think Jimmy
11 Gilstrap made meth in your house that you
12 remember seeing?

13 A. I'd say at least two dozen times.

14 Q. Two dozen times?

15 A. (Affirmative nod).

16 Q. And how often -- strike that from
17 the record. Let me show you State's Exhibit
18 11. Do you remember seeing this Drano used
19 at any point in time?

20 A. No, sir. I always thought that it
21 was fertilizer. I didn't know it was Drano.

22 Q. When you say that you thought it was
23 fertilizer, you mean when you saw ---

24 A. When I saw it in the bottle.

25 Q. Okay. In the NPLeX records that

State of South Carolina v. Jimmy Gilstrap

149

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Perry Murphy - Direct Examination

1 were introduced into evidence earlier, why
2 did you make purchases two weeks apart? Why
3 did you have to wait for two weeks before
4 making a purchase?

5 A. That's all that you're allowed to
6 buy it.

7 Q. Did you ever talk with Jimmy
8 Gilstrap or Loretta about how much Sudafed a
9 person could buy?

10 A. No. I think that they might have
11 told me that you couldn't get it but every
12 ten days.

13 Q. All right. Did you ever go with
14 Jimmy or Loretta to the jockey lot?

15 A. Yes, sir.

16 Q. Why were you giving them rides?

17 A. They didn't have no way of going.

18 Q. What were they selling at the jockey
19 lot?

20 A. It started out, I guess, material/
21 fabric, just stuff that they picked up.

22 Q. Did they ever have meth on them when
23 they were down at the jockey lot?

24 A. They had it on them, (affirmative
25 nod). I mean, we'd done it setting there.

State of South Carolina v. Jimmy Gilstrap

150

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Perry Murphy - Direct Examination

1 Q. Do you still use meth now, Perry?

2 A. No, sir.

3 Q. When is the last time you used meth?

4 A. The day I got busted.

5 Q. Hadn't ever used it since then?

6 A. I ain't had a chance.

7 Q. The day that -- first off, when the
8 officers arrived at your residence that day,
9 did you give them consent to search your
10 trailer?

11 A. Yes, sir.

12 Q. Did you ever tell them that there
13 wasn't any meth or any ingredients for making
14 meth in your trailer?

15 A. (Negative gesture).

16 COURT REPORTER: Your answer, sir?

17 WITNESS: No. No, sir.

18 DIRECT EXAMINATION CONTINUED

19 BY SOLICITOR BUCKNER:

20 Q. Did Jimmy -- were Jimmy and Loretta
21 actually at that residence at any point the
22 day that you were arrested?

23 A. They were there that morning. I
24 took him to get some gas to put in his
25 vehicle because they sat in the car with the

State of South Carolina v. Jimmy Gilstrap

151

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Perry Murphy - Cross Examination

1 heater running and they run out of gas.
2 They put gas in and he left. I went to get
3 the gas around 9:30 and they left like around
4 11:30 or something like that that morning.

5 Q. Did they say where they were going?

6 A. Naw.

7 Q. And how long after that, just
8 approximately, do you think that you were
9 arrested?

10 A. A little around 2:00.

11 SOLICITOR BUCKNER: Judge, I have no
12 further questions at this time.

13 THE COURT: All right. Cross-
14 examination?

15 CROSS EXAMINATION

16 BY DOROTHY MANIGAULT:

17 Q. Mr. Murphy, how long have you used
18 meth?

19 A. How long have I used it?

20 Q. Yes, sir.

21 A. On and off since about 2001.

22 Q. And you testified to the court today
23 that you no longer use meth?

24 A. Right.

25 Q. And that your last use of meth was

State of South Carolina v. Jimmy Gilstrap

152

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Perry Murphy - Cross Examination

1 the day that you got arrested, November 2013?

2 A. Yes, ma'am.

3 Q. How long have you lived at [REDACTED]
4 Norris -- did you live at [REDACTED] Norris Highway?

5 A. We lived there -- I lived with my
6 sister for probably a year and a half. Then
7 I put a trailer down there and we stayed down
8 there for probably a year and a half.

9 Q. So you and Sherry Bowie lived
10 together in your trailer for about a year
11 and a half?

12 A. Yes, ma'am.

13 Q. Now, the pictures that the State has
14 shown you, some of them from State's Exhibit
15 1 through 21, those are pictures that you saw
16 -- those were all taken at your house?

17 A. Yes, ma'am.

18 Q. On your property?

19 A. Well, my sister's property.

20 Q. Okay. Where you lived?

21 A. Correct.

22 Q. So there were two trailers on that
23 property on November 4th, 2013?

24 A. Right.

25 Q. You and Sherry and her son lived in

State of South Carolina v. Jimmy Gilstrap

153

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Perry Murphy - Cross Examination

1 one trailer, and your sister lived in one
2 trailer?

3 A. Yes, ma'am.

4 Q. Did your sister participate in using
5 meth or making meth or come into your house?

6 A. No, she's handicapped. She's in a
7 wheelchair.

8 Q. Okay. Did you get her to purchase?

9 A. She purchased once or twice. I let
10 her think that she was buying them for me.

11 Q. So you got your sister to purchase
12 decongestants or Sudafed, pseudoephedrine for
13 you?

14 A. Right.

15 Q. And you said that she was handi-
16 capped?

17 A. Right.

18 Q. That handicap is the result of an
19 accident?

20 A. Yes, ma'am.

21 Q. So you lied to your sister about the
22 use or the reason for purchasing the Sudafed?

23 A. Yes.

24 Q. You said one or two times, would
25 there be more than that?

State of South Carolina v. Jimmy Gilstrap

154

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Perry Murphy - Cross Examination

1 A. I don't think she got it maybe but
2 once or twice. It might be more but I --
3 (negative gesture).

4 Q. Now, you kept saying in some of the
5 responses that you don't know how meth is
6 made.

7 A. Right.

8 Q.. But then you later would describe
9 the procedure that was used, the bottles --
10 specifically in State's Exhibit 11 -- how you
11 would have to shake the bottle and that you
12 would shake the bottle sometimes. Is that
13 right?

14 A. Right.

15 Q. And the two cans of Drano show in
16 the State's exhibit, those were found in your
17 house; is that right?

18 A. I never seen them. I mean -- I
19 don't know how I would have seen it, it was
20 all under the counter.

21 Q. So if Detective Durham said that
22 they came out of your house, you would
23 dispute him?

24 A. No. I mean, there was stuff in
25 there to make meth with but I didn't know

State of South Carolina v. Jimmy Gilstrap

155

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Perry Murphy - Cross Examination

1 what all was in there.

2 Q. And you lived in that property for a
3 year and a half?

4 A. Yes, ma'am.

5 Q. Did you ever use the kitchen?

6 A. Yes, ma'am, but the stove didn't
7 work or anything. We didn't have power, we
8 didn't have no lines or that.

9 Q. Not so fast. I didn't understand
10 you.

11 A. I was eating at my sister's.

12 Q. Okay. I gotcha.

13 A. The stove didn't work. So we wasn't
14 in the kitchen cooking nor nothing like that.

15 Q. Did you have a refrigerator?

16 A. Yes, ma'am. We finally got a
17 refrigerator.

18 Q. But on November 4th, 2013, you didn't
19 have power in the kitchen still?

20 A. We had power, just to the
21 refrigerator, wall receptacles and the
22 lights.

23 Q. But you just didn't cook there?

24 A. Right.

25 Q. Now, you said that you had known Mr.

State of South Carolina v. Jimmy Gilstrap

156

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Perry Murphy - Cross Examination

1 Gilstrap for a while but was introduced to
2 him by ---

3 A. I had known of him. I just wasn't
4 associated with him close.

5 Q. So when you testified previously
6 under oath you said that you knew him for
7 several years. So would that be incorrect?

8 A. I used to live behind his daddy, so
9 I knew of him. I just didn't socialize with
10 him or nothing, didn't talk to him or nothing
11 but I knowed of him.

12 Q. Okay. And do you know how -- you
13 call her Renee -- Sherry Bowie met Jimmy
14 Gilstrap or Loretta Gilstrap?

15 A. No. She went to school with him.

16 Q. Do you know where she met with them?

17 A. Do what?

18 Q. Do you know where she met up with
19 them?

20 A. No.

21 Q. Started this enterprise with them?

22 A. No. Well, actually I think that he
23 hung around somebody else that she used to
24 hang around with and that's how they got
25 closer together.

State of South Carolina v. Jimmy Gilstrap

157

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Perry Murphy - Cross Examination

1 Q. So for a period from the -- from
2 State's Exhibit 23, the NPLEx record that
3 shows your name, Perry Murphy, for the period
4 from February 14th, 2013 through October 30th,
5 2013, you're saying that all of these
6 decongestants, pseudoephedrine, were
7 purchased by you for somebody else?

8 A. Yes.

9 Q. And you're saying that they were
10 purchased for Jimmy Gilstrap?

11 A. I bought them for him to make meth
12 with, (affirmative nod).

13 Q. And the purchases -- and you said
14 that you were using meth since 2001, is that
15 right?

16 A. Off and on, (affirmative nod). I
17 took off a couple years in between there and
18 then I took like a five-years that I was
19 clean, then I got back on it.

20 Q. So you were using meth since 2001,
21 may have gotten off some time in there, but
22 you went back to using meth -- when?

23 A. I think it was sometime around -- I
24 used like 2001-2005, then I went to New York
25 and stayed for about four and a half years

State of South Carolina v. Jimmy Gilstrap

158

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Perry Murphy - Cross Examination

1 and I was clean. I come back in 2010 and I
2 started back using it.

3 Q. How often did you use meth?

4 A. Every chance that I could.

5 Q. Describe your habit to me at that
6 time.

7 A. Just when I could get it. It might
8 be two or three times a week, then it got to
9 where it would be pretty regular.

10 Q. Two or three times a week, the
11 pretty regular?

12 A. (Affirmative nod).

13 Q. What is pretty regular? Every day?

14 A. Like a fifty sack.

15 Q. I don't know what that is. What is
16 a fifty sack?

17 A. Well, I don't know -- ever how much
18 it is. A fifty sack, you'd get it and it'd
19 last maybe two or three days.

20 Q. So how much stuff is in a fifty
21 sack, pack, whatever?

22 A. I don't know. Probably like a half
23 a gram.

24 Q. Half a gram?

25 A. (No verbal response).

State of South Carolina v. Jimmy Gilstrap

159

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Perry Murphy - Cross Examination

1 Q. So you were using that on a regular
2 basis from 2010, 2011? What year did you
3 say?

4 A. Say the end of 2010.

5 Q. 2010.

6 A. (Affirmative nod).

7 Q. And you and Sherry just started
8 living together in 2011?

9 A. Yeah, I think so.

10 Q. You testified earlier that you had
11 gone to Mr. Gilstrap's house, is that right?

12 A. Yes, ma'am.

13 Q. His residence?

14 A. (Affirmative nod).

15 Q. Did you ever go inside?

16 A. No, ma'am.

17 Q. So when you went to Mr. Gilstrap's
18 house, who was there with you?

19 A. Sometimes I'd go by myself,
20 sometimes it'd be me and Sherry.

21 Q. All right. You said that at first
22 that Jimmy Gilstrap gave you money to buy the
23 pseudoephedrine or decongestants?

24 A. Yes, ma'am. At first.

25 Q. What does that mean? One time? Two

1 times?

2 A. I think five or six times, then I
3 started getting it on my own.

4 Q. So the purchases that were made,
5 according to this sheet, you paid for most of
6 them yourself?

7 A. Yes, ma'am.

8 Q. And after you made the purchases,
9 did you take it to your house?

10 A. I'd take it back to the house and
11 he'd come over.

12 Q. Did you call him?

13 A. Didn't have a phone, I'd go by his
14 house or something.

15 Q. How many times would you say that
16 you'd go by his house?

17 A. I been over there several times.

18 Q. Several times?

19 A. (Affirmative nod).

20 Q. Would that be three?

21 A. (No verbal response).

22 Q. Twenty?

23 A. (No verbal response).

24 Q. Four?

25 A. At least a dozen.

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Perry Murphy - Redirect Examination

161

1 Q. At least a dozen?

2 A. (Affirmative nod).

3 DOROTHY MANIGAULT: Nothing further,
4 Your Honor.

5 THE COURT: Redirect?

6 SOLICITOR BUCKNER: Just briefly, Your
7 Honor.

8 REDIRECT EXAMINATION

9 BY SOLICITOR BUCKNER:

10 Q. Perry, were you addicted to meth at
11 the time all this was going on?

12 A. I would say that I was.

13 Q. Would you say that you would do
14 about anything to get meth?

15 A. Pretty much.

16 Q. Anything that Jimmy asked you to do?

17 A. Well, not anything.

18 Q. Did you and Jimmy ever have any kind
19 of run-ins with one another?

20 A. Afterwards.

21 Q. Yeah?

22 A. Uh, ---

23 Q. I mean, did you have any kind of
24 disagreement while this meth making was going
25 on?

State of South Carolina v. Jimmy Gilstrap

162

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Sherry Bowie - Direct Examination

1 A. No, not really.

2 Q. And you don't have any reason to not
3 tell the truth today, do you?

4 A. No, sir.

5 SOLICITOR BUCKNER: Judge, no further
6 questions.

7 DOROTHY MANIGAULT: Nothing further.

8 THE COURT: Thank you, sir. You may
9 step down.

10 (WITNESS STEPS DOWN)

11 THE COURT: Call your next witness.

12 SOLICITOR BUCKNER: The State calls
13 Sherry Bowie.

14 (WITNESS TAKES STAND)

15 SHERRY RENEE BOWIE, having been sworn to
16 tell the truth, and nothing but the truth,
17 testified as follows:

18 DIRECT EXAMINATION

19 BY SOLICITOR BUCKNER:

20 Q. Ms. Bowie, before we get started
21 with what you remember from this incident,
22 did you plead guilty to manufacturing meth
23 and manufacturing meth in the presence of a
24 child?

25 A. Yes.

State of South Carolina v. Jimmy Gilstrap

163

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Sherry Bowie - Direct Examination

1 Q. Did you plead guilty to that in
2 2014?

3 A. Yes.

4 Q. Would that be about a year after you
5 were arrested on this charge?

6 A. Yes.

7 Q. And when you pled guilty, did you
8 admit in open court what you had done?

9 A. Yes.

10 Q. Were you promised anything in
11 exchange for your testimony in this trial?

12 A. No.

13 Q. When is the last time you used
14 methamphetamine?

15 A. When I got arrested, in 2013.

16 Q. Did you use methamphetamine prior to
17 that day?

18 A. Yes.

19 Q. Did you -- would you describe
20 yourself as being addicted to methamphetamine
21 back then?

22 A. Yes.

23 Q. Tell the jury how you know Jimmy
24 Gilstrap?

25 A. I've known him since school. We

State of South Carolina v. Jimmy Gilstrap

164

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Sherry Bowle - Direct Examination

1 went to school together, so it's been years
2 now. I've known him for a long time.

3 Q. And when did you first kind of get
4 hooked up with Jimmy and Loretta Gilstrap in
5 regards to meth?

6 A. Well, they lived close to us, so I'd
7 see them out -- you know, at stores and just
8 around.

9 Q. Well, when -- did you ever buy meth
10 from them?

11 A. No.

12 Q. When did you get meth from them?

13 A. When I started purchasing the
14 pseudoephedrine pills.

15 Q. Were you approached initially by
16 Jimmy Gilstrap or Loretta Gilstrap to buy
17 Sudafed?

18 A. Both really. I can't remember which
19 one come first but, yeah, both had approached
20 me.

21 Q. Just so that it is clear for the
22 jury, you were living with Perry Murphy at
23 this point in time?

24 A. Yes.

25 Q. At the address where the search took

State of South Carolina v. Jimmy Gilstrap

165

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Sherry Bowie - Direct Examination

1 place?

2 A. Yes.

3 Q. And when did y'all start getting
4 meth, in relation to when you were arrested,
5 from them? Or when did they ask you to start
6 buying Sudafed?

7 A. Around, I guess, February of -- I
8 guess in 2013.

9 Q. How did that come about? Was it
10 agreed that you'd buy Sudafed in exchange for
11 meth or ---

12 A. Well, they knew exactly when the
13 time span was to get 'em, whatever.

14 Q. What do you mean, the time span?

15 A. When to purchase.

16 Q. Okay.

17 A. They'd ask me, you know, if I would
18 go get them a box and they'd give me some in
19 return.

20 Q. Who would ask you to do that?

21 A. Jimmy asked and Loretta asked.

22 Q. Okay. And would they give you money
23 sometimes to buy that Sudafed?

24 A. Sometimes they would because I
25 wasn't working, and I didn't have the money.

State of South Carolina v. Jimmy Gilstrap

166

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Sherry Bowie - Direct Examination

1 Q. What would you do once you'd bought
2 the Sudafed?

3 A. I'd give them the pills and they --
4 they made meth.

5 Q. Did you give it to Jimmy every time?

6 A. Yes.

7 Q. Once you gave it to him, what would
8 say?

9 A. He'd say, you know, that he'd get it
10 to us or that we'd get some.

11 Q. Some methamphetamine?

12 A. Yes.

13 Q. How did they start using your
14 residence to make the meth?

15 A. I don't know. Perry had gave them
16 permission to come over there and use his
17 residence.

18 Q. And you were okay with that at the
19 time?

20 A. I wouldn't -- if it was me, no,
21 because I had my child there.

22 Q. Okay. Well, once you gave them the
23 boxes of Sudafed, what did you see Jimmy do
24 with it?

25 A. I never really tried to pay

State of South Carolina v. Jimmy Gilstrap

167

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Sherry Bowie - Direct Examination

1 attention but I was around when they was
2 shaking the bottle.

3 Q. Shaking the bottle?

4 A. Yeah and it looked like -- to me it
5 looked like cat litter or something in it.

6 Q. What you're describing -- showing
7 you State's Exhibit 14, is that what you're
8 referring to?

9 A. (Affirmative nod), um-humm.

10 Q. What is in the noncrushed-up bottle
11 in this photo?

12 A. Yes.

13 Q. Showing you State's Exhibit 19, what
14 is that in that photo?

15 A. That was a tray that we had used to
16 put the meth on to store it.

17 Q. And was that meth given to y'all by
18 Jimmy Gilstrap?

19 A. Yes.

20 Q. Was that meth given to y'all that
21 day, the day that you were arrested, by Jimmy
22 Gilstrap?

23 A. They had been there that morning and
24 gave us some that they had layed on that
25 tray.

State of South Carolina v. Jimmy Gilstrap

168

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Sherry Bowie - Direct Examination

1 Q. I show you State's Exhibit 6. Is
2 this an example of the box of Sudafed that
3 you were purchasing?

4 A. Yes.

5 Q. Is this the same kind that you would
6 buy?

7 A. Yes.

8 Q. Did you ever see Jimmy crush up
9 these Sudafed pills?

10 A. No. I mean, once I gave him the
11 pills, I would just go about -- in the living
12 room or -- I didn't really sit there and
13 watch what they done.

14 Q. Have you ever made meth before,
15 Sherry?

16 A. No.

17 Q. Have you ever seen anybody else make
18 meth, other than Jimmy?

19 A. No.

20 Q. Did you ever see Loretta make meth?

21 A. No.

22 Q. Did both Jimmy and Loretta give you
23 direction on when to go purchase Sudafed?

24 A. Who do you think -- how many
25 different times do you think that they told

State of South Carolina v. Jimmy Gilstrap

169

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Sherry Bowle - Direct Examination

1 you when to buy it?

2 A. I don't know exactly specific times.

3 Q. Okay.

4 A. But I can remember one day
5 specifically that she wanted me to go get
6 some. When I went in, they talked like I
7 couldn't -- I asked if it wasn't time for me
8 to get it. I went back out to tell her and
9 she wanted me to go back in and tell them
10 that they was wrong.

11 Q. When you say "them", do you mean the
12 people at the pharmacy?

13 A. Yes.

14 Q. Do you ever remember any kind of
15 smoke coming out of the kitchen?

16 A. Yes, there was smoke that would come
17 out of the kitchen. He'd raise the trailer
18 window up to let the smoke out.

19 Q. Okay. Did Jimmy or Loretta ever
20 tell you that they thought that they were
21 being watched by law enforcement?

22 A. Not come right out and say it but I
23 sort of had suspicions when I had noticed
24 that they were parking their vehicle way up
25 behind their house and that's when they

1 started wanting to come to Perry's
2 residence.

3 Q. Did you ever try and lie to law
4 enforcement about what was going on in y'all's
5 residence?

6 A. No.

7 Q. Do you have any reason not to tell
8 the truth today?

9 A. No.

10 Q. Do you have any pending charges of
11 dishonesty?

12 A. No.

13 Q. I guess it's been three years since
14 you pled guilty to these charges; is that
15 correct?

16 A. Yes.

17 SOLICITOR BUCKNER: Judge, I have no
18 further questions at this time.

19 THE COURT: Cross-examination?

20 DOROTHY MANIGAULT: Thank you, Your
21 Honor.

22 CROSS EXAMINATION

23 BY DOROTHY MANIGAULT:

24 Q. Ms. Bowie, how long have you used
25 meth?

State of South Carolina v. Jimmy Gilstrap

171

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Sherry Bowle - Cross Examination

1 A. For a long -- for many years.

2 Q. Could you give me an estimate of how
3 many years? Five? Ten? Fifteen? Twenty?

4 A. I don't know, probably since about
5 2000.

6 Q. You were arrested on November 4th,
7 2013?

8 A. Yes.

9 Q. How long did you stay in jail?

10 A. I think it was like four days.

11 Q. And you are asking this court to
12 believe today that since November 4th, 2013,
13 that you've not used meth; is that correct?

14 A. That's correct.

15 Q. I am going to show you two documents
16 and ---

17 DOROTHY MANIGAULT: Your Honor, may I
18 approach the witness?

19 THE COURT: Yes.

20 CROSS EXAMINATION CONTINUED

21 BY DOROTHY MANIGAULT:

22 Q. Would you look at these two
23 documents and tell me whether you recognize
24 your signature on either document or both?

25 A. (Upon review), what is this for?

State of South Carolina v. Jimmy Gilstrap

172

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Sherry Bowie - Cross Examination

1 Q. Is your signature on that document?

2 A. I guess.

3 Q. On the line where it says --
4 underneath Defendant, is that your signature?

5 A. I guess.

6 Q. I need a yes or no, ma'am.

7 A. I think it is, yes.

8 Q. Did you plead guilty on May 22nd,
9 2014?

10 A. Yes.

11 Q. Did you sign these documents so that
12 the judge could give you a sentence?

13 A. Yes, I guess I did.

14 Q. So you pled guilty, uh, to unlawful
15 methamphetamine in the presence of a minor
16 child, to unlawful exposure to a minor child;
17 is that correct?

18 A. Yes.

19 Q. What was the sentence that the judge
20 gave you?

21 SOLICITOR BUCKNER: Judge, objection.
22 She can't talk about this in the middle of a
23 trial. She's a codefendant on the case. I
24 think it is inappropriate to be talking about
25 sentencing.

State of South Carolina v. Jimmy Gilstrap

173

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Sherry Bowie - Cross Examination

1 THE COURT: All right, ladies and
2 gentlemen. Let's take an afternoon break.
3 Do not discuss the case, keep an open mind,
4 we will be with you shortly.

5 (JURY OUT @ 2:29 P.M.)

6 THE COURT: What did she ask her?

7 DOROTHY MANIGAULT: I asked her what
8 her sentence was.

9 THE COURT: Under what theory is that
10 appropriate?

11 DOROTHY MANIGAULT: Your Honor, the
12 State asked her did she have reason to come
13 testify today?

14 THE COURT: Right.

15 DOROTHY MANIGAULT: The indictment
16 sentencing sheet to which she testified (sic)
17 in 2014, showed that she was given credit for
18 time served and probation, which I believe
19 would be an incentive for her testimony
20 today.

21 THE COURT: And what is the parole
22 evidence basis for that statement?

23 DOROTHY MANIGAULT: Your Honor, the
24 promises -- the alleged offer to testify was
25 made -- for her to testify and for Mr. Murphy

State of South Carolina v. Jimmy Gilstrap

174

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Sherry Bowie - Cross Examination

1 to testify was made to them back in 2014,
2 before they pled guilty.

3 THE COURT: Okay.

4 DOROTHY MANIGAULT: They received a
5 credit for time served and ---

6 THE COURT: Well, everybody receives
7 credit for time served when they plead
8 guilty. It's a South Carolina statute. I
9 don't understand what that had to do with
10 incentive.

11 DOROTHY MANIGAULT: They were
12 codefendants in the same case, Your Honor.
13 Her case is closed. She has testified. He
14 has testified. Her case is closed. So there
15 is no prejudicial value against her for
16 telling the jury what she received as a
17 sentence.

18 THE COURT: The question is that you're
19 giving the situation -- you've created the
20 insinuation that she received a sentence
21 based on the promise that she would testify.
22 I'm asking you what is your good faith basis
23 for that assertion.

24 DOROTHY MANIGAULT: Your Honor, the
25 assertion is simply that she was offered to

State of South Carolina v. Jimmy Gilstrap

175

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Sherry Bowie - Cross Examination

1 testify, she was given a deal, she got time
2 served and here she is today testifying.
3 That is all that I have to offer.

4 THE COURT: Okay. That is not
5 admissible and it is not permissible. There
6 is no evidence that she got a specific
7 sentence in exchange for her testimony. Do
8 you have any information that states that?
9 Hand me that sheet right there.

10 SOLICITOR BUCKNER: Judge, it says "no
11 recommendation" on the ---

12 THE COURT: I can't read it that far
13 away.

14 WITNESS: (Tenders).

15 THE COURT: I mean, I'm looking at --
16 calm down." Okay? I need you to take a deep
17 breath, okay.

18 WITNESS: Yes, sir.

19 THE COURT: Ms. Bowie is shaking, she's
20 nervous and I'm telling her to take a deep
21 breath and calm down. I know that you think
22 that this has something to do with you but it
23 really doesn't. It's a legal argument.
24 Okay?

25 WITNESS: (Affirmative nod).

1 THE COURT: So what I'm looking at now,
2 which is what Ms. Manigault just handed to
3 the witness, is the witness' sentencing
4 sheets from this case where she pled guilty
5 on or about May 22nd, 2014, before Judge
6 Miller in Pickens County to manufacturing
7 methamphetamine and the unlawful manufacture
8 of methamphetamine in the presence of a minor
9 child. She was prosecuted by Mr. Buckner and
10 -- who was your attorney?

11 WITNESS: Scott Alexander.

12 THE COURT: Scott Alexander.

13 WITNESS: Steve Alexander.

14 THE COURT: Steve Alexander represented
15 her and the sentencing sheets are both
16 clearly marked "without recommendation or
17 negotiation". Judge Miller gave her time
18 served on one charge and gave her ten years
19 suspended on time served with three years of
20 probation on the second charge, to obey her
21 DSS treatment, substance abuse counseling,
22 random alcohol and drug testing, and \$500 to
23 the Public Defender Fund.

24 At what point does this become relevant?

25 I mean, it is clearly relevant that these

State of South Carolina v. Jimmy Gilstrap

177

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Sherry Bowie - Cross Examination

1 convictions are admissible for the purposes
2 under the prior convictions -- admissible to
3 say that she has had these convictions in the
4 past ten years and carry over one year
5 imprisonment.

6 Why do we need to get into the specific
7 sentence?

8 DOROTHY MANIGAULT: Judge, she
9 testified that she stayed in jail four days.

10 THE COURT: Okay.

11 DOROTHY MANIGAULT: This is a manu-
12 facturing meth charge which carries zero to
13 fifteen years.

14 THE COURT: Right.

15 DOROTHY MANIGAULT: So I guess my
16 insinuation is that there was a promise
17 though the indictment ---

18 THE COURT: Whoa, whoa, whoa. See,
19 you're making allegations that there is no
20 good faith basis for. You can't say that
21 there was probably a promise.

22 The way that you make an allegation is a
23 Motion to quote, unquote, reveal the deal,
24 when the Solicitor's Office has to go on
25 record and say: 'Was Ms. Bowie, in this

State of South Carolina v. Jimmy Gilstrap

178

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Sherry Bowie - Cross Examination

1 case, offered anything in exchange for her
2 agreeing to testify?'

3 Then the Solicitor's Office comes into
4 court and states as an officer of the court
5 whether or not Ms. Bowie was promised
6 anything in exchange for her testimony.

7 It is not an insinuation that you can
8 just toss out there, you know, that obviously
9 she got some sweetheart deal because she'd
10 agreed to testify in this case. Do you have
11 any evidence that she was promised anything
12 in exchange for her testimony?

13 DOROTHY MANIGAULT: I have ---

14 THE COURT: Or is it just insinuation?

15 DOROTHY MANIGAULT: I have no evidence
16 that she was offered anything to testify.

17 THE COURT: Mr. Buckner, I am asking
18 you as an officer of the court was Ms. Bowie
19 promised anything in exchange for her
20 agreeing to testify?

21 SOLICITOR BUCKNER: No, she has not
22 been, Judge.

23 THE COURT: Did she plead guilty as
24 charged?

25 SOLICITOR BUCKNER: Yes.

State of South Carolina v. Jimmy Gilstrap

179

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Sherry Bowie - Cross Examination

1 THE COURT: Did she plead guilty
2 without recommendation and/or negotiation?

3 SOLICITOR BUCKNER: She did, Your
4 Honor..

5 THE COURT: So she had what I'd call a
6 straight up plea, as charged, to the two
7 criminal offenses that she was originally
8 charged with on November 4th, 2013, and
9 whatever Judge Miller gave her, Judge Miller
10 gave her?

11 SOLICITOR BUCKNER: That's correct.

12 THE COURT: And she got sentenced that
13 day?

14 SOLICITOR BUCKNER: That's correct.

15 THE COURT: Has she been promised
16 anything in exchange for her testimony here
17 today?

18 SOLICITOR BUCKNER: No, Your Honor.

19 THE COURT: All right. I am not going
20 to allow this line of questioning.

21 Her criminal record is clearly admissible
22 at this point, clearly relevant to the issue
23 at hand and it clearly falls under the rules
24 of prior criminal convictions, but I'm not
25 going to allow you to go into what she got

State of South Carolina v. Jimmy Gilstrap

180

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Sherry Bowie - Cross Examination

1 because there's no -- there's no good faith
2 basis. At this point there's no basis for
3 any insinuation that she received any kind of
4 special deal in exchange for her testimony.
5 She pled guilty straight up. She pled guilty
6 as charged. Judge Miller saw fit to give her
7 probation based on his discretion and his
8 ability to do so under the statute she was
9 charged with. That was his decision.

10 All right, let's take about ten minutes
11 and be back.

12 Listen to me, Ms. Bowie. I understand
13 that you're nervous. Okay? I want you to go
14 get a drink of water, go to the restroom.
15 You're not allowed to discuss the case with
16 anybody in any way, shape or form. You're
17 not allowed to talk about the case with
18 anybody in any way, shape or form. In ten
19 minutes I want you sitting right back in that
20 chair. Okay?

21 WITNESS: Yes, sir.

22 THE COURT: Ten-minute break.

23 (BRIEF RECESS)

24 (DEFENDANT PRESENT)

25 (WITNESS RESUMES STAND)

State of South Carolina v. Jimmy Gilstrap

181

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Sherry Bowle - Cross Examination

1 THE COURT: Are we ready? State ready?

2 SOLICITOR BUCKNER: Yes, sir, Your

3 Honor.

4 THE COURT: Defense ready?

5 DOROTHY MANIGAULT: We're ready, Your

6 Honor. I just have one question that I need

7 to make clear -- I know what your ruling is,

8 but may I enter those two documents to be

9 marked?

10 THE COURT: Yes, we will mark them as a

11 Court's exhibit.

12 COURT REPORTER: Court's Exhibit 1.

13 (SO ENTERED AS COURT'S EXHIBIT 1)

14 DOROTHY MANIGAULT: Thank you.

15 SOLICITOR BUCKNER: Judge, would it be

16 too much for me to ask for some sort of

17 curative instruction? I know that she didn't

18 say exactly what the sentence was but -- I

19 understand, and I'll leave it in your

20 discretion.

21 THE COURT: One thing you can do is

22 that there is a charge, a jury charge, in

23 reference to sentencing. What it says

24 basically is that 'sentencing is completely

25 and totally in my discretion and shouldn't be

State of South Carolina v. Jimmy Gilstrap

182

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Sherry Bowie - Cross Examination

1 a part of your consideration, is not evidence
2 in the case, is not a factor and you
3 shouldn't be worried about it in any way,
4 shape or form.' I can add that jury charge
5 in.

6 SOLICITOR BUCKNER: Thank you, Judge.

7 THE COURT: Bring in the jury.

8 (JURY IN @ 2:55 P.M.)

9 THE COURT: Welcome back, ladies and
10 gentlemen. Thank you for your patience. We
11 will continue now with Ms. Bowie's cross-
12 examination. Ms. Manigault, the floor is
13 yours.

14 DOROTHY MANIGAULT: Thank you, Your
15 Honor.

16 CROSS EXAMINATION RESUMED

17 BY DOROTHY MANIGAULT:

18 Q. Ms. Bowie, you said that you were
19 arrested on November 4th, 2013; correct?

20 A. Yes.

21 Q. And you appeared before the court on
22 May 22nd, 2014; is that correct?

23 A. Yes.

24 Q. So that was a period of approxi-
25 mately six months that you entered your

State of South Carolina v. Jimmy Gilstrap

183

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Tommy Blankenship - Direct Examination

1 guilty plea?

2 A. Yes.

3 Q. Just for clarification, you lived at

4 ■ Norris Highway in Central with Perry

5 Murphy for a period of how long?

6 A. Maybe about two years or so.

7 Q. You lived with him for about two

8 years?

9 A. Yes.

10 Q. At that address?

11 A. Yes.

12 DOROTHY MANIGAULT: Thank you.

13 THE COURT: All right. Redirect?

14 SOLICITOR BUCKNER: No further

15 questions, Your Honor.

16 THE COURT: Thank you, ma'am, you may

17 step down.

18 (WITNESS STEPS DOWN)

19 THE COURT: You may call your next

20 witness.

21 SOLICITOR BUCKNER: The State calls

22 Tommy Blankenship to the stand.

23 (WITNESS TAKES STAND)

24 TOMMY BLANKENSHIP, having been sworn to

25 tell the truth, and nothing but the truth,

1 testified as follows:

2 DIRECT EXAMINATION

3 BY SOLICITOR BUCKNER:

4 Q. Mr. Blankenship, where do you work?

5 A. Pickens County Sheriff's Office.

6 Q. How long have you been with Pickens
7 County?

8 A. I've been with the Pickens County
9 Sheriff's Office for twelve years and for ten
10 of those years I've been in the Special
11 Operations Unit.

12 Q. Tell me a little bit about what you
13 do in your capacity with Special Operations?

14 A. The Special Operations Unit, our
15 primary focus is vice crimes, drug crimes,
16 anything that your standard uniform deputy
17 wouldn't handle: murders-for-hire,
18 prostitution, gambling, drug investigations.
19 Most of our time is spent with drug
20 investigations. Those drug investigations
21 can be anything from investigating the
22 manufacture, distribution or trafficking with
23 illegal drugs; working with confidential
24 informants to move up to the larger targets,
25 the people who are bringing illegal drugs

State of South Carolina v. Jimmy Gilstrap

185

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Tommy Blankenship - Direct Examination

1 into our county.

2 Q. And in your job with the special
3 operations unit, how many drug cases do you
4 think you've investigated?

5 A. Drugs cases, total?

6 Q. Just an estimate.

7 A. That would be a hard estimate. Over
8 ten years, I would guesstimate that we would
9 probably work, at minimum, a hundred drug
10 cases a year -- not necessarily me as the
11 lead investigator but we also work with the
12 South Carolina Law Enforcement Division in
13 State grand jury cases. Plus we have our own
14 cases going on. We have five different
15 agents that all have their own cases going,
16 which we assist with. I'd guesstimate at
17 least a hundred a year, so it'd be at least a
18 thousand.

19 Q. How much would you estimate,
20 percentagewise, of those cases deal with
21 methamphetamine?

22 A. The majority of them. I would say
23 upward of over eighty percent.

24 Q. Are you familiar with the process of
25 manufacturing methamphetamine?

State of South Carolina v. Jimmy Gilstrap

186

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Tommy Blankenship - Direct Examination

1 A. Yes, I am.

2 Q. Can you explain to the jury how
3 you're familiar with that process and what
4 kind of certifications ---

5 A. In 2007, I began my career in the
6 Special Operations Unit and in 2008 I was
7 sent to a school to be certified in
8 clandestine laboratories, primarily focusing
9 on methamphetamine. It was a one-week course
10 where you're taught the different methods for
11 manufacturing methamphetamine. You are
12 taught the ingredients that are used, all the
13 chemicals that could or may be present, the
14 ones that are likely to be present and the
15 dangers associated with each one. The class
16 also informed us and taught us how to
17 properly separate and dismantle chemicals
18 that are reactive with each other.

19 Prior to that I actually have a bachelors
20 in education, my content area was science
21 education and before it expired I had a
22 certificate to teach science at the high
23 school secondary level, which included
24 general sciences, chemistry and biology.
25 But since working in Special Operations, I

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Tommy Blankenship - Direct Examination

187

1 did the clandestine laboratory school.

2 We work, on average, anywhere from
3 ten to twenty-five labs per year, some years
4 higher, some years lower. So I've had
5 extensive experience in dismantling and
6 investigating clan lab case.

7 I also have to attend yearly an eight-
8 hour course on Bio Standards, which is
9 basically recertification where we go back
10 over any new trends that are taking place in
11 the manufacture of methamphetamine, any other
12 chemicals, additional hazards, as well as
13 some of the hazards that take place. Some
14 clandestine labs can look very similar to
15 methamphetamine but they're not actually
16 manufacturing methamphetamine and there are
17 some additional dangers.

18 In the year 2014 or 2015, I became
19 certified as a site safety officer, which was
20 a three-day course held by NES, which is the
21 company that certifies pretty much everybody
22 in the nation to be clandestine lab
23 certified.

24 The site safety officer certification
25 allows me to actually teach the recertifica-

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Tommy Blankenship - Direct Examination

188

1 tion each year at our Sheriff's Office. So
2 last year was the first year that I actually
3 was the instructor for that course.

4 I am also the clandestine lab response
5 team coordinator, so any meth labs that are
6 reported through the Sheriff's Office that a
7 deputy responds to, I'm to be notified. I
8 handle all the paperwork and the EPI forms
9 that have to be turned into SLED.

10 Q. So you're an instructor for some
11 classes for ---

12 A. Clandestine lab recertification.

13 Q. --- the Sheriff's Office?

14 A. Yes, the Sheriff's Office and other
15 municipalities that are local, that don't
16 have a person to do the recertification or --
17 SLED does one each year, but generally they
18 do it towards the middle of the state. It's
19 less expensive on the municipalities for them
20 to just ride over to the Sheriff's Office
21 than to go to Columbia.

22 Q. And just as a reminder for the jury,
23 we had this explained earlier, but what does
24 clandestine mean?

25 A. The word "clandestine" means nothing

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Tommy Blankenship - Direct Examination

189

1 more than secret. A methamphetamine lab that
2 is done, hidden from public view.

3 Q. Okay. And this training and all
4 these certifications that you've received,
5 would that be considered above what
6 nationally is required of somebody?

7 A. Yes.

8 Q. Have you ever been qualified as an
9 expert to testify in certain courts?

10 A. Yes, I have in South Carolina. One
11 time.

12 Q. When? When was that?

13 A. Two years ago.

14 Q. And what were you qualified as an
15 expert in?

16 A. I was qualified as an expert in the
17 manufacture of methamphetamine.

18 Q. Is that the only time that you've
19 testified as an expert?

20 A. Yes.

21 SOLICITOR BUCKNER: Judge, at this
22 time I would offer Agent Blankenship as an
23 expert to testify within the field of
24 methamphetamine production.

25 THE COURT: *Voir dire?*

State of South Carolina v. Jimmy Gilstrap

190

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Tommy Blankenship - Direct Examination

1 DOROTHY MANIGAULT: None, Your Honor.

2 THE COURT: Any objection?

3 DOROTHY MANIGAULT: None, Your Honor.

4 THE COURT: Ladies and gentlemen,
5 normally when a person testifies that person
6 is not allowed to give their opinion.
7 Normally when a person testifies they have to
8 testify as to what they saw, they heard, they
9 did or they sensed by smell or touch or
10 something of that nature.

11 However, there is an exception under the
12 Rules that when someone is qualified by
13 education or experience, that person is
14 permitted to give their opinions in certain
15 areas, if the Court qualifies them as an
16 expert. This witness will be qualified as an
17 expert in the area of the manufacture of
18 methamphetamine. He will be allowed to give
19 opinion testimony in that area.

20 Now, that does not mean that you have to
21 accept his opinion but it is evidence that
22 can use in any way that you see fit and give
23 it the weight and credibility that you feel
24 is appropriate, just as you're required to do
25 with every single witness that comes before

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Tommy Blankenship - Direct Examination

191

1 you.

2 Mr. Buckner, you may continue.

3 SOLICITOR BUCKNER: Thank you, Judge.

4 DIRECT EXAMINATION CONTINUED

5 BY SOLICITOR BUCKNER:

6 Q. Agent Blankenship, would you explain
7 for the jury the different kinds of methods
8 that are used to make methamphetamine?

9 A. Sure. There are pretty much only
10 three methods chemically.

11 The first is called the P2P method, which
12 uses phenyl-2-propanone and methylamine.
13 It's very rare anymore because the majority
14 of standard individuals cannot access either
15 one of those chemicals. They are heavily
16 controlled by the government. That was the
17 original method in the United States, that
18 the biker gangs would use back in the early
19 seventies.

20 Since then it has kinda expanded. We
21 have the Red Phosphorus method, which you
22 actually isolate red phosphorus to create
23 methamphetamine, still using pseudoephedrine.

24 Then you have the Birch method, which the
25 slang term is the Nazi Method, or the

1 anhydrous method.

2 They are all names for the same thing, a
3 Birch reduction of pseudoephedrine to
4 methamphetamine.

5 The P2P method is the only one that does
6 not require pseudoephedrine. It's actually
7 -- you actually create methamphetamine from
8 the methylamine using the phenyl-2-propanone.
9 But if you use red phosphorous of the
10 anhydrous method, the Nazi method or Birch
11 reduction, both of those you have to have
12 pseudoephedrine, in which -- through the
13 chemical process -- you actually release a
14 hydroxide group out of the pseudoephedrine
15 molecule to create methamphetamine.

16 Q. What method is commonly seen in your
17 experience here in Pickens County?

18 A. Here in Pickens County, we have seen
19 very, very few Red P labs. The majority
20 found is going to be the Birch method just
21 because of the lessening of the dangers,
22 because red phosphorus is extremely
23 flammable. On top of that it also creates
24 phosphine gas. Phosphine gas is deadly at
25 one part per million, so it is extremely

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Tommy Blankenship - Direct Examination

193

1 dangerous. From the interviews that we've
2 done, most people do not like the "high" that
3 is received from that type of methampheta-
4 mine, so most people move towards the Birch
5 method.

6 In the past we saw people stealing
7 anhydrous ammonia from farmers, because they
8 were using it as fertilizers. Since then
9 there has been a lot of regulations put on
10 that and a lot of people realize the dangers,
11 and the simplicity of what is called the
12 shake-and-bake.

13 The shake-and-bake is what we see most of
14 the time now because it's very easy. If a
15 person can follow a recipe and bake a cake,
16 they can make methamphetamine using the
17 shake-and-bake method. We have -- I'd have
18 to review the logs in our office but probably
19 in the last fifty labs that we've had in
20 Pickens, every single one of them has been a
21 shake-and-bake lab.

22 Q. Let's talk about the shake-and-bake,
23 is that the same thing as a "one pot" method?

24 A. Yes, it's called a one pot.

25 Q. Okay. What ingredients are

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Tommy Blankenship - Direct Examination

194

1 typically used in these kinds of cooks?

2 A. For a one-pot lab, first you have to
3 have pseudoephedrine because that is your
4 precursor. You cannot make methamphetamine
5 through the Birch reduction without it.

6 Q. So pseudoephedrine is your main
7 ingredient?

8 A. You're going to have to have
9 pseudoephedrine, it's the primary.

10 From there you're going to need some sort
11 of a base. The majority of the time they use
12 sodium hydroxide, which is found in drain
13 cleaners, Red Devil lye and things like that.

14 You'll need a lithium or a reactive
15 metal. Most people use lithium because it is
16 the most easily obtained.

17 So you need pseudoephedrine, sodium
18 hydroxide and a lithium metal. Then you'll
19 need some sort of ammonia source. Most
20 people use ammonia nitrate. Ammonia nitrate
21 can be gathered either from cold packs,
22 fertilizers, uh, I actually think that there
23 is some kitty litter that contains ammonia
24 nitrate. You'll have to have some sort of
25 solvent to -- for the reaction to take place.

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Tommy Blankenship - Direct Examination

195

1 You'll need a vessel for everything to be put
2 in.

3 So that's ammonia nitrate, -- I believe
4 that I listed everything. It is a list. You
5 really could write it down on a piece of
6 paper. It's very similar to baking a cake.

7 Q. I'm going to show you some photos in
8 a second that might help clarify some of
9 this. For right now, the pseudoephedrine,
10 why is that so important in making the meth?

11 A. Molecularly, pseudoephedrine is very
12 similar. Whenever you manufacture
13 methamphetamine using the one-pot method,
14 you're creating what's called a solvated
15 electron. When a solvated electron comes
16 into contact with the Sudafed molecule, it
17 attaches to what is called the hydroxide
18 group, which is just a piece of hydrogen
19 oxygen that are bonded together to a carbon.
20 When it bonds to that, it releases it. Once
21 that is released, you have methamphetamine.

22 Q. Okay. Are there laws governing the
23 purchase of Sudafed in South Carolina?

24 A. Yes, there are.

25 Q. What are those?

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Tommy Blankenship - Direct Examination

196

1 A. The first thing is that it can't be
2 sold over the counter. That's why it is
3 behind the counter. You have to show
4 identification. Every time you purchase it,
5 its logged in NPLEx. NPLEx keeps a record.
6 NPLEx actually has safeguards in place to
7 prevent you from breaking the law. It is
8 against the law to possess more than three
9 grams of pseudoephedrine in a day or nine
10 grams within a thirty-day period.

11 So what happens is, if you purchase three
12 grams today from any store of your choice,
13 then you cannot purchase pseudoephedrine
14 again today because the system is going to
15 block you to prevent you from breaking the
16 law. Once you buy your nine grams -- if you
17 buy three grams today, three grams tomorrow,
18 three grams the day after. From that point,
19 from the first purchase on, you will not be
20 allowed to purchase again. Once again, it's
21 a safeguard to prevent you from breaking the
22 law.

23 Q. So in your experience as an expert
24 witness about meth and in your investigations
25 of these things, how do these meth cooks get

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Tommy Blankenship - Direct Examination

197

1 enough pseudoephedrine to keep their meth
2 business going?

3 A. Generally what happens is that
4 you'll have a cook and he'll have what we
5 call smurfs. It's called smurfing. It's
6 derived from the cartoon by Peyo where you
7 had the little blue guys that go around and
8 they get Smurf berries for Papa Smurf. It
9 kind of works the same way in the drug
10 organization. You have one or two main
11 people who know how to manufacture
12 methamphetamine. What they will do is they
13 make some sort of deal with their smurfs,
14 that if they will go out and either purchase
15 or steal or however -- whatever process they
16 need to do to get their pseudoephedrine, --
17 when they return them, they will reward them.
18 I have seen cash rewards, I've seen them buy
19 them cigarettes, I've had individuals
20 actually testify in court that a cook was
21 buying them groceries in return for buying
22 pseudoephedrine. The majority of the time
23 they're getting methamphetamine as a reward.
24 Methamphetamine is such an addictive
25 stimulant, it allows the cook to harness some

1 sort of power over their smurfs, for lack of
2 a better term.

3 Q. Once these smurfs return to the
4 cook with this pseudoephedrine, what does he
5 use in this one-pot method to put it all
6 together to make the methamphetamine?

7 A. He ---

8 Q. You talked about the ingredients
9 earlier, but he takes the pseudoephedrine and
10 does what with it?

11 A. Okay. What the -- it depends on the
12 cook. There are a couple of different ways.

13 If he is looking for the best yield
14 possible, he'll already have his ammonia
15 nitrate and his sodium hydroxide react in a
16 solvent to create anhydrous ammonia. Once he
17 has that anhydrous ammonia, he can have his
18 lithium strips inside of there and the
19 lithium strips actually dissolve in the
20 ammonia to create the solvated electron.

21 Q. When you say lithium strips, those
22 are from a battery?

23 A. Generally, most of the time,
24 (affirmative nod). And I say lithium because
25 that is really the most readily-available

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Tommy Blankenship - Direct Examination

199

1 reactive metal. You could use magnesium,
2 calcium. Any of those in their purest form
3 are very reactive and any of them would work
4 just fine, but lithium is the most readily-
5 available through lithium batteries.

6 Once you have those in there, it creates
7 a solvated electron. It depends on the cook
8 and his knowledge and -- just how well he
9 understands the process. Someone who is well
10 versed usually grinds their pills up and do
11 what is called a "pill wash." If you take
12 the pill wash -- you'll grind the pills up,
13 then you actually put them in a container
14 with the solvent.

15 What that solvent does is removes the
16 binder away from the pseudoephedrine. When
17 you purchase pseudoephedrine, the pill itself
18 will only contain a portion, so many
19 milligrams of pseudoephedrine, and the rest
20 of it is binder. You know, there's an array
21 of things the binder is composed of, and none
22 of that is used for the cook whatsoever. All
23 they want is the pseudoephedrine.

24 So if they do the pill wash, as soon as
25 they dump that into their cook with the

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Tommy Blankenship - Direct Examination

200

1 solvated electrons, they can have
2 methamphetamine instantaneously.

3 If they're not doing that, they may crush
4 it to increase the surface area. It's kind
5 of like digestion. You know, when you eat
6 the better that you chew your food the better
7 that your digestive system is going to work
8 because it increases the surface area for the
9 hydrochloric acid to break down food.

10 The same idea here. If you increase the
11 surface area of the pseudoephedrine, it makes
12 more of it readily available to the solvated
13 electrons to keep the hydroxide group off and
14 create methamphetamine.

15 The process that you -- you could grind
16 it up but whether you grind it up or not, you
17 can put all those ingredients in a single
18 bottle and that's why it is called a shake-
19 and-bake.

20 They start to shake it, it gives off a
21 small amount of heat but it increases in
22 pressure and they actually have to burp it.
23 By burp, I mean that they release the
24 pressure through the cap, which would expel
25 ammonia gas. Then they tighten it back down,

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Tommy Blankenship - Direct Examination

201

1 let it build up pressure.

2 They have to burp it because once it
3 builds up to a certain pressure the reaction
4 will no longer take place. You have to give
5 room for the reaction to work, so they have
6 to release the pressure off the vessel.
7 Shake it, put it back.

8 Once that finishes reacting, you have
9 finished methamphetamine inside the
10 solutions, which is usually Coleman fuel,
11 starter fluids, something that works as a
12 solvent.

13 Once you have that finished product, you
14 have to separate the liquid from all the mush
15 that you have in the bottom, which is usually
16 your ammonium nitrate crills, you'll still
17 have some lithium down in there -- usually
18 it's fully reactive, so it will be really
19 dark instead of shiny. You'll have some
20 leftover sodium hydroxide. All of that junk
21 is just sitting in the bottom. Your finished
22 product of methamphetamine is going to be in
23 the top thin liquid layer which has to be
24 drawn off or filtered out.

25 Once you have that finished product, you

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Tommy Blankenship - Direct Examination

202

1 get a product that is useable because at that
2 point in time it's going to be a pretty
3 caustic base. The pH is going to be pretty
4 high.

5 You have to actually create what's called
6 gas generator, which is separate vessel. In
7 the gas generator, you're going to mix a
8 salt-like sulphuric or muriatic acid with
9 salt. When acids mix with salt, it gives off
10 hydrochloric gas. When I was talking about
11 digestion, it's the same acid that's in your
12 stomach. It's a gaseous form.

13 So whenever you mix those together that
14 will be in that bottle, you'll see pictures
15 that usually has a tube that comes out of it.
16 If you dip that tube down into your solution
17 that contains methamphetamine, as that
18 hydrochloride gas bubbles through, it binds
19 to that methamphetamine creating methampheta-
20 mine hydrochloride, which is a salt because
21 it precipitates out of the liquid. At that
22 time, you filter it out and you have finished
23 methamphetamine that is useable by the human
24 body.

25 Q. Okay. If I could get you to

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Tommy Blankenship - Direct Examination

203

1 identify just a couple of photos here. This
2 is State's Exhibit 2. Does this look like an
3 ingredient that would be used, in your
4 opinion, in a one-pot cook?

5 A. Yeah, it looks like a coffee filter
6 that has a white powder in it. There are two
7 different stages in a cook that this could
8 absolutely be a part of.

9 The first would be a pill wash. When you
10 wash the pills and you evaporate off your
11 solvent, you're going to want to filter out
12 the impurities and whatnot and this would
13 catch your ephedrine, which would be
14 basically pure ephedrine for your cook.

15 The other possibility would be that it
16 could be the finished product after you've
17 already salted off your methamphetamine.
18 Once you have that solvent it's still inside
19 your solution, so you would need to separate
20 it out to be a useable product.

21 Q. Okay.

22 A. Coffee filters are very common in
23 methamphetamine production, in pretty much
24 every aspect.

25 Q. What about that photo right there,

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Tommy Blankenship - Direct Examination

204

1 State's Exhibit 5?

2 A. A trash can with what looks like
3 Drano crystal. It's probably going to be
4 sodium hydroxide, uh, -- Drano makes two
5 different types of drain cleaner. One is
6 acidic, one is base. They are both very
7 caustic. The reason why is because when your
8 drains get clogged, they get clogged with
9 hair, you know, things that are organic.
10 Organic matters dissolve very easily with
11 very strong bases or acids. Depending on
12 what type pipes you have, that would
13 determine what you'd use. But I believe that
14 the crystals are going to be sodium
15 hydroxide, which is a strong base used for
16 the manufacture of methamphetamine.

17 Q. And State's Exhibit 12, show that to
18 the jury and explain what that is.

19 A. That right here is a one-pot cook
20 that has already had the finished product
21 drained off of it. What you're going to see
22 left in the photographs are ammonium crills,
23 ammonium nitrate crills, as well as you can
24 pick out a couple of little pieces of lithium
25 metal that are down in there.

State of South Carolina v. Jimmy Gilstrap

205

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Tommy Blankenship - Direct Examination

1 The reason that I know that is a finished
2 cook and not at the beginning of a cook is
3 because if you put ammonium nitrate in that
4 bottle without some sort of solution about
5 it, then it's going to ignite because lithium
6 metal is strictly reactive to water. It is
7 so reactive that just water vapor in the air
8 can cause it to burst into flames.

9 Then beside it looks like a bag of
10 ammonium nitrate crills. Those could be from
11 either a cold pack -- cold packs are what we
12 see people get most of, because if you cut
13 them open it's -- that's how you get ammonium
14 nitrate and you have water. When you use the
15 cold pack it has a thermo genic effect where
16 it actually feels cold to the body. That's
17 where we see most of our ammonium nitrate.

18 Q. Showing you State's Exhibit 19.

19 A. Right.

20 Q. In your opinion as an expert, does
21 that look like a finished product of
22 methamphetamine?

23 A. Yeah, it does because it's more
24 crystallized instead of a powder form. It's
25 not quite what would be "ice", which is --

1 as far as methamphetamine, there are two
2 different forms: crank or ice.

3 Crank is usually used because of its
4 evaporation temperature. It actually burns
5 before it will vaporize, so usually this is
6 snorted or injected intravenously.

7 Yes, that looks like finished crank,
8 which is methamphetamine before it is made
9 ice.

10 Q. Okay. Let's get back to the
11 smurfing that you talked about a little while
12 ago. In this case, in evidence there are
13 NPLeX records showing pseudoephedrine
14 purchases for the entire year of 2013 by four
15 different individuals, including the
16 defendant in this case, Jimmy Gilstrap.

17 Is that, in your expert opinion
18 indicative of a smurfing situation?

19 A. It would be strongly correlated.
20 It would -- generally whenever we use NPLeX
21 to find a methamphetamine lab, generally we
22 -- if someone is purchasing multiple times in
23 a month, that's usually a good target for us
24 to look for.

25 Q. Okay. And you briefly touched on it

State of South Carolina v. Jimmy Gilstrap

207

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Tommy Blankenship - Direct Examination

1 earlier, but as far as how hazardous this is
2 when you have these clandestine meth labs,
3 what could potentially happen when you mix
4 all of these ingredients together?

5 A. There's a lot of bad thing that
6 could happen. Let me start with one -- when
7 we start to dismantle this, the first thing
8 that we have to do is put on a chemical
9 resistant suit. On top of that, depending on
10 the nature -- if it's a closed environment,
11 by OSHA standards we have to wear a SCBA,
12 which is a self-contained breathing
13 apparatus. So we have to wear this big suit
14 with air tanks and everything that completely
15 protects us from any of the air around us.

16 Once we are able to downgrade and know
17 that there is sufficient oxygen in the area,
18 then we use an APR, which is just basically a
19 filtered breathing apparatus that filters out
20 particulates as well as any small different
21 types of gases, like the ACL generators.

22 The dangers associated -- the reason that
23 we wear those is because, number one, all of
24 these things are deemed hazardous materials
25 by OSHA, because they are extremely caustic.

1 They can cause chemical burns to your skin,
2 to your eyes, your nose because of the
3 ingredients that they are mixing. The
4 original cook is a very strong base and can
5 burn your skin, because it's so high in pH.
6 Then on the other side, you have the gas
7 generator(s) which is a very strong acid and
8 can burn your skin.

9 It's also usually giving off hydrochloric
10 acid which is extremely caustic. The first
11 place that is going to enter your body is
12 through your nasal passage, which are very --
13 you know, you've seen membranes that are very
14 watered, so it's going to attack those and
15 burn those first.

16 I talked about the lithium strips being
17 so reactive to air and to water. A lot of
18 times cooks will actually add a little bit of
19 water to their Coleman fuel or whatever solid
20 that they're using because it kind of helps
21 kick start that reaction.

22 What generally happens is -- what I tell
23 people is that if you find a one-pot cook,
24 it's a bomb. Treat it like a bomb. What you
25 have is you have an extremely flammable.

State of South Carolina v. Jimmy Gilstrap

209

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Tommy Blankenship - Direct Examination

1 substance wrapped around an extremely
2 reactive metal. All that metal needs is some
3 air to create fire.

4 When we find these that have burned,
5 generally what happens is that that piece of
6 lithium is getting hot because it reacts. It
7 comes in close contact with the exterior of
8 whatever vessel they're using and -- if it
9 penetrates, it creates a blowtorch basically,
10 or a flame. A flame thrower. It blows
11 ignited Coleman fuel, or whatever solvent
12 that they are using. So we treat those the
13 same way that we do an explosive apparatus.

14 A lot of times when we carry them out of
15 a house, we try to utilize an apparatus --
16 we've made a couple of them in the past where
17 we've used a PVC pipe that is attached down
18 inside a five-gallon bucket and we carry it
19 out on the end of a stick so that if it were
20 to flash fire it doesn't shrink-wrap us in
21 our chemical suits because they are not fire
22 retardant.

23 As I said there is the gas generator that
24 creates what -- a lot of people call them
25 "smoke bombs." It's extremely caustic acid

1 that could incapacitate you. I can't
2 remember the parts per million at which it is
3 lethal but it causes severe burns in the
4 lungs.

5 Q. In your expert opinion, given all
6 that and how hazardous it is, if you're a
7 meth dealer who does this cooks -- a meth
8 cook, if you will -- would you want to
9 conduct these cooks somewhere outside of your
10 own residence?

11 A. Absolutely.

12 Q. Due to the potential for ---

13 A. Yeah. They're volatile, they're
14 hazardous chemicals. Whenever you do this
15 cook, just because you're finished with the
16 cook and you've taken all those things and
17 thrown them away there is still residual
18 inside the residence of everything that you
19 just created:

20 The hydrochloric acid will settle into
21 the walls.

22 The bases that you used -- the ammonia
23 that you released in your cook, residuals
24 will be released inside your home.

25 All of that stuff stays until you get rid

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Tommy Blankenship - Cross Examination

211

1 of it.

2 Now, like anything, it has a half life
3 and over time it eventually will dissipate.
4 But it's not unusual for us to go inside a
5 home and we can't actually take pH strips and
6 if they've been cooking in the house we can
7 rub a pH strip and it will measure whether
8 there is an acid or a base, depending on
9 which part of the cook they were doing in
10 that part of the residence.

11 Q. And after reviewing these photos, in
12 your opinion was this an active meth lab that
13 was found in this residence?

14 A. It was one that had just been used,
15 yeah. It is still useable at that point in
16 time.

17 SOLICITOR BUCKNER: Judge, I have no
18 further questions at this point in time.

19 THE COURT: Cross?

20 DOROTHY MANIGAULT: Yes. Thank you,
21 Your Honor.

22 CROSS EXAMINATION

23 BY DOROTHY MANIGAULT:

24 Q. Were you on scene on 11-4-2013?

25 A. No, ma'am, I was not.

State of South Carolina v. Jimmy Gilstrap

212

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Tommy Blankenship - Cross Examination

1 DOROTHY MANIGAULT: Nothing further.

2 SOLICITOR BUCKNER: Nothing further,

3 Judge.

4 THE COURT: You may step down.

5 (WITNESS STEPS DOWN)

6 THE COURT: You may call your next
7 witness, Mr. Buckner.

8 SOLICITOR BUCKNER: At this time, Your
9 Honor, the State rests.

10 THE COURT: All right, ladies and
11 gentlemen. The State has rested its case.
12 There are some legal matters that I need to
13 take up outside of your presence.

14 Please retire to your jury room. You are
15 still not allowed to discuss the case. You
16 still must keep an open mind. We will be
17 back with you in just a few moments. Thank
18 you very much.

19 (JURY OUT @ 3:23 P.M.)

20 THE COURT: Mr. Gilstrap, I need you
21 to stand up for me. Do you swear that the
22 information that you're going to give this
23 court will be the truth, the whole truth and
24 nothing but the truth, so help you God?

25 DEFENDANT: I do.

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Tommy Blankenship - Cross Examination

213

1 THE COURT: Can you understand me okay?

2 DEFENDANT: Yes, sir.

3 THE COURT: Have you understood me
4 throughout this trial?

5 DEFENDANT: Yes, sir.

6 THE COURT: You may put your hand down.

7 DEFENDANT: (Complies).

8 THE COURT: Thank you. How far did you
9 go in school?

10 DEFENDANT: Twelfth grade.

11 THE COURT: The twelfth grade?

12 DEFENDANT: Yes, sir.

13 THE COURT: What kind of work do you
14 do?

15 DEFENDANT: I am a subcontractor
16 building decks or putting in windows, vinyl
17 windows.

18 THE COURT: A subcontractor that does
19 home repairs and things like that?

20 DEFENDANT: Things like that and I sell
21 at the jockey lot.

22 THE COURT: Great. All right. At this
23 time I'm going to explain to you some of your
24 rights. If you do not understand anything
25 that I say, please let me know. If you want

State of South Carolina v. Jimmy Gilstrap

214

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Tommy Blankenship - Cross Examination

1 me to explain anything further, please just
2 let me know. Do you understand what I am
3 saying?

4 DEFENDANT: Yes, sir.

5 THE COURT: Okay. Now we've reached
6 the stage of the trial where you may present
7 your defense. You have the right to claim
8 the protections that are given to you by the
9 Fifth Amendment to the Constitution of the
10 United States.

11 This amendment states, in part, that no
12 person shall be compelled in any criminal
13 case to be a witness against himself. This
14 means that you cannot be required to testify
15 in this case.

16 You have the right to testify on your own
17 behalf, however no one can make you testify.
18 This is a personal right and no one can waive
19 or give up that right except you.

20 If you decide to testify, you'll be
21 subject to the same rules that govern other
22 witnesses and you may be examined and cross-
23 examined on any relevant issue in this case.

24 In addition, if you have any convictions
25 that involve dishonesty or false statements,

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Tommy Blankenship - Cross Examination

215

1 or for crimes punishable by imprisonment for
2 more than one year, and I determine that the
3 probative value of any of this evidence
4 outweighs its prejudicial effect to you, the
5 Solicitor will be able to introduce your
6 record to attack your credibility.

7 If you decide to testify, this decision
8 on your part must be made freely, voluntarily
9 and intelligently with the knowledge of the
10 protections that are given to you by the
11 Fifth Amendment and the consequences of your
12 decision to testify.

13 If you decide not to testify, I will tell
14 the jurors and instruct them that they cannot
15 give the fact that you did not testify any
16 consideration whatsoever, and that there is
17 to be absolutely no prejudice to you because
18 you did not testify.

19 It is left entirely up to you whether or
20 not you testify. You may talk to your
21 attorney, your family or anyone else but the
22 final decision is left entirely up to you.

23 Do you understand what I have explained
24 to you so far?

25 DEFENDANT: Yes, sir.

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Tommy Blankenship - Cross Examination

1 THE COURT: Do you have any questions
2 about what I have explained to you so far?

3 DEFENDANT: No, sir.

4 THE COURT: Prior to today have you and
5 your attorney discussed this issue?

6 DEFENDANT: Yes, sir.

7 THE COURT: Do you need any more time
8 to meet with her or anyone else before making
9 the decision as to whether or not you want to
10 testify?

11 DEFENDANT: Yes, sir.

12 THE COURT: You want a few minutes to
13 talk with her?

14 DEFENDANT: (Affirmative nod).

15 THE COURT: That's perfectly fine.
16 I will give you that. Okay?

17 DEFENDANT: Yes, sir.

18 THE COURT: We are going to do some
19 legal arguments, then we will take a break
20 and give you an opportunity to talk with her.
21 Then when we come back, you'll need to be
22 prepared to tell me whether or not you want
23 to testify. Okay?

24 DEFENDANT: Okay.

25 THE COURT: Does he have any criminal

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Tommy Blankenship - Cross Examination

217

1 history, Mr. Buckner?

2 SOLICITOR BUCKNER: Judge, all I have
3 on his NCIC is a 1987 distribution of
4 marijuana.

5 THE COURT: Okay. So that would not be
6 admissible against you. I would not let the
7 jury know that you had a prior conviction
8 from 1987. Okay?

9 DEFENDANT: (Affirmative nod).

10 THE COURT: There's Rules on criminal
11 history and one of the rules is that it be
12 within ten years. That is substantially
13 outside the ten-year range. If you decided
14 to testify, I would not let anyone examine
15 you on the fact that you have a prior felony
16 drug conviction. Make sense?

17 DEFENDANT: Yes, sir.

18 THE COURT: All right, you may sit down
19 right where you are.

20 DEFENDANT: (Complies).

21 THE COURT: Ms. Manigault, would you
22 like to make directed verdict Motions?

23 DOROTHY MANIGAULT: Yes, Your Honor.
24 I make a Motion for a directed verdict that
25 the State has not proved all the elements of

State of South Carolina v. Jimmy Gilstrap

218

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Tommy Blankenship - Cross Examination

1 the charge of manufacturing methamphetamine
2 considering the evidence presented in the
3 best light for the State.

4 THE COURT: Mr. Buckner, your response?

5 SOLICITOR BUCKNER: Thank you, Your
6 Honor. I think the codefendants testimony
7 alone is sufficient. Viewing the evidence in
8 the light most favorable to the State, it is
9 enough to get me past the directed verdict at
10 this stage.

11 Each codefendant testified that they
12 operated under the direction of the
13 Defendant. There is no disputing their
14 testimony that meth was inside the residence,
15 that the ingredients were there for a meth
16 lab. There are NPLeX records indicating that
17 both the defendant and his wife both made
18 pseudoephedrine purchases. Combining that
19 with the testimony, it is the State's
20 position that there is plenty of evidence to
21 deny the defense Motion.

22 THE COURT: Under Rule 19 of the South
23 Carolina Rules of Criminal Procedures, the
24 standard for a directed verdict in criminal
25 cases is taking the light most favorable to

State of South Carolina v. Jimmy Gilstrap

219

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Tommy Blankenship - Cross Examination

1 the nonmoving party, considering the
2 existence of the evidence and not the weight
3 of the evidence. That is the standard that
4 is to be applied at this point in time.

5 Based on the testimony of Detective
6 Durham, Mr. Murphy, Ms. Bowie, Investigator
7 Ross and Mr. Blankenship there is sufficient
8 evidence for this case to go forward to the
9 jury at this point in time.

10 There is evidence before this jury --
11 again, I am not considering the weight of the
12 testimony, just the existence of the
13 testimony, that there was a plan and purpose
14 in purchasing pseudoephedrine or Sudafed for
15 the purposes of manufacturing methampheta-
16 mine.

17 There is direct evidence by witnesses
18 that they witnessed this happening, that they
19 participated in this happening, and that they
20 were active participants in Mr. Murphy's
21 residence along with the defendant in this
22 case, Mr. Gilstrap.

23 I respectfully deny your Motion for a
24 directed verdict at this time.

25 Anything else? (No response).

State of South Carolina v. Jimmy Gilstrap

220

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Tommy Blankenship - Cross Examination

1 How long do you need with Mr. Gilstrap,
2 Ms. Manigault?

3 DOROTHY MANIGAULT: Just five minutes.

4 THE COURT: Let's take a five-minute
5 break.

6 DOROTHY MANIGAULT: Ten.

7 THE COURT: Okay, let's take a ten-
8 minute break and then we will come back and
9 move forward as needed.

10 (BRIEF RECESS)

11 (DEFENDANT PRESENT)

12 THE COURT: Mr. Gilstrap, have you had
13 enough time to speak with Ms. Manigault or
14 anybody else that you need to about your
15 decision to testify?

16 DEFENDANT: Yes, sir.

17 THE COURT: And do you wish to testify
18 in this case?

19 DEFENDANT: Yes, sir.

20 THE COURT: Ready to go forward, Ms.
21 Manigault?

22 DOROTHY MANIGAULT: Yes, sir.

23 THE COURT: Anything from the State
24 before we go forward?

25 SOLICITOR BUCKNER: Nothing from the

State of South Carolina v. Jimmy Gilstrap

221

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Jimmy Gilstrap - Direct Examination

1 State, Your Honor.

2 THE COURT: Bring in the jury.

3 (JURY IN @ 3:43 P.M.)

4 THE COURT: Ladies and gentlemen,
5 welcome back. Thank you very much.

6 The State has rested its case.

7 Now the defense has an opportunity to put
8 on a case if they would like to. As I
9 explained to you at the beginning and I will
10 explain to you at the end, the defense does
11 not have to put on any evidence. The burden
12 of proof in this case is upon the State to
13 prove the guilt of the defendant beyond a
14 reasonable doubt. So the defendant does not
15 have to put on any evidence, but they can if
16 they want to. Okay?

17 Ms. Manigault, would you like to call any
18 witnesses?

19 DOROTHY MANIGAULT: Yes, Your Honor.

20 THE COURT: You may call your first
21 witness.

22 DOROTHY MANIGAULT: Jimmy Gilstrap.

23 THE COURT: Please come forward, Mr.
24 Gilstrap.

25 (WITNESS TAKES STAND)

State of South Carolina v. Jimmy Gilstrap

222

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Jimmy Gilstrap - Direct Examination

1 JIMMY GILSTRAP, having been sworn to
2 tell the truth, and nothing but the truth,
3 testified as follows:

4 DIRECT EXAMINATION

5 BY DOROTHY MANIGAULT:

6 Q. Mr. Gilstrap, how old are you?

7 A. Forty-eight (48).

8 Q. And where do you live?

9 A. I live in Norris.

10 Q. What is your address in Norris?

11 A. [REDACTED] Short Drive.

12 Q. How long have you lived there?

13 A. Really just a couple of weeks.

14 Q. In November 2013, particularly
15 November 4th, where did you live?

16 A. I lived at [REDACTED] Mildred Street, in
17 Norris.

18 Q. Now, you've heard the testimony from
19 the witnesses that the State presented today.
20 Do you know Perry Murphy?

21 A. Yes.

22 Q. How do you know Perry Murphy?

23 A. Him and his girlfriend gave us a
24 ride to the jockey lot and stuff. I knew her
25 and when she started dating him, I ---

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Jimmy Gilstrap - Direct Examination

223

1 Q. So you met Perry Murphy through
2 Sherry Renee Bowie?

3 A. Right.

4 Q. I think Ms. Bowie testified that you
5 went to school together?

6 A. Yes.

7 Q. Was that one through twelve, middle
8 school or high school?

9 A. She was a little bit younger than
10 me, so I -- so I guess I don't remember her
11 as much as she does me.

12 Q. Okay. Did you have any kind of
13 social relationship with Sherry Bowie before
14 or after you finished school?

15 A. No, not really. What do you mean by
16 social?

17 Q. Did y'all go to clubs together, did
18 you go to parties together, did you have
19 dinner together, did they come to your house?

20 A. No, ma'am.

21 Q. All right. Did Sherry Bowie or
22 Perry Murphy ever come over to your house?

23 A. He used to come over there to borrow
24 a lawnmower before and to borrow tools, yes.

25 Q. So has he ever been inside your

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Jimmy Gilstrap - Direct Examination

224

1 home?

2 A. No, ma'am.

3 Q. And the only reason that he's come
4 to your home was to borrow tools?

5 A. Yes, ma'am.

6 Q. Was there any other reason?

7 A. Not that I can think of.

8 Q. Were you manufacturing meth out of
9 your home on [REDACTED] Mildred Street?

10 A. No, ma'am.

11 Q. In 2013?

12 A. No, ma'am.

13 Q. Did Perry Murphy come to your home
14 to use meth or to purchase meth from you?

15 A. No, ma'am.

16 Q. Do you sell meth?

17 A. No, ma'am.

18 Q. Do you make meth?

19 A. No, ma'am.

20 Q. Have you ever made meth in your
21 home?

22 A. Never.

23 Q. That was on Mildred?

24 A. Never.

25 Q. Have you ever made meth in the home

State of South Carolina v. Jimmy Gilstrap

225

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Jimmy Gilstrap - Direct Examination

1 of Perry Murphy and Sherry Renee Bowie ---

2 A. Never.

3 Q. --- that was at Lot [REDACTED] Norris
4 Highway in Central?

5 A. Never.

6 Q. Have you ever seen Perry Murphy or
7 Sherry Renee Bowie use meth?

8 A. No.

9 Q. Have you ever used meth with them at
10 their home?

11 A. No.

12 Q. Have you ever seen them make meth at
13 their home?

14 A. No.

15 Q. The testimony from Ms. Bowie and Mr.
16 Murphy says that you have -- that you told
17 them or instructed them to buy pseudo-
18 ephedrine for you to make meth at their home.
19 Is that correct?

20 A. Not true.

21 Q. Have you ever instructed Perry
22 Murphy or Sherry Renee Bowie to buy
23 decongestants, Sudafed, pseudoephedrine from
24 WalMart or anywhere else?

25 A. No.

State of South Carolina v. Jimmy Gilstrap

226

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Jimmy Gilstrap - Direct Examination

1 Q. Have you ever given Sherry Renee
2 Bowie or Perry Murphy money to buy
3 decongestants, Sudafed or pseudoephedrine?

4 A. No.

5 Q. How often did you see Sherry Renee
6 Bowie and Perry Murphy?

7 A. Maybe once every month or two, not
8 very often.

9 Q. So when you say that y'all had gone
10 together to the jockey lot, how many times
11 was that?

12 A. There was about two months where
13 they'd carry us on the weekends. Not every
14 weekend, sometimes it'd rain or whatever and
15 we wouldn't need a ride for a week or two.
16 We'd like go down Saturday morning and stay
17 until Sunday evening, we'd camp.

18 Q. What kind of things were you selling
19 at the jockey lot?

20 A. Mostly fabric on rolls.

21 Q. Okay.

22 A. Rolls of fabric, by the yard.

23 Q. And you heard Mr. Murphy, one of the
24 two testified that you used meth while you
25 were sitting in the car parking lot at the

State of South Carolina v. Jimmy Gilstrap

227

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Jimmy Gilstrap - Direct Examination

1 jockey lot. Is that a true statement?

2 A. Not true.

3 Q. This investigation started on
4 November 4th, 2013, when Perry Murphy and
5 Renee was arrested. Were you at the house
6 at [REDACTED] Norris Highway on November 4th?

7 A. No, ma'am.

8 Q. Were you at that house on November
9 3rd?

10 A. No, ma'am.

11 Q. Had you been at that house at any
12 time previous to the arrest of these two
13 individuals?

14 A. Maybe about a week before that I'd
15 went to help see if I could clear a drain for
16 Renee, because she was getting ill at him for
17 not having the dishes done or something. He
18 was giving her a hard time.

19 Q. So who contacted you to come and get
20 the drain ---

21 A. She called me, crying. Said that he
22 had left and was mad at her for not doing the
23 dishes. That the drain didn't work, so
24 therefore she couldn't do the dishes.

25 Q. So did you go to Perry and Renee's

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Jimmy Gilstrap - Direct Examination

1 house?

2 A. Yes, ma'am.

3 Q. And you went there to -- where was
4 the drain, the kitchen or the bathroom?

5 A. The kitchen.

6 Q. When you got there, what happened?

7 A. When I got there, I knocked on the
8 door. She just like hollered from in the
9 back to come in. I said, 'It's me, I'm here
10 to check the drain.' She said okay. It was
11 like a mess in there. I'm having to move
12 stuff to clear the sink. She was kinda
13 talking the whole time.

14 When I opened up underneath the sink to
15 check the trap, I was like 'well, y'all have
16 got drain opener right here, have you tried
17 that?' She was, like, 'Whoa, no, no. Just
18 get out -- never mind.' Cut me off.

19 Q. So did you continue to -- what did
20 you do? Did you close the door and come out
21 from under the sink?

22 A. Right. I shut the door back and was
23 headed out to the porch and she said, 'Well,
24 come here a minute, I want to show you
25 something.' And she was, like, 'Look, he's

State of South Carolina v. Jimmy Gilstrap

229

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Jimmy Gilstrap - Direct Examination

1 dressed up in my nighties and stuff.' She
2 was going to show me pictures of him. And
3 I was, like, 'I don't want to see that.'

4 Q. The him was Perry Murphy?

5 A. Yes. And then she came out
6 provocatively dressed, tried to throw herself
7 on me and ---

8 Q. What did -- when you say
9 provocatively dressed, what did she have on?

10 A. Like a nightie, I suppose.

11 Q. When you got to the house, what did
12 she have on?

13 A. She was in her room. I didn't see
14 her.

15 Q. She just yelled to come on in?

16 A. (Affirmative nod).

17 Q. So she came out of the room and she
18 was in a nightie?

19 A. Right.

20 Q. You were under the sink and asked
21 about the Drano, is that correct?

22 A. Well, I had done come out from
23 underneath the sink.

24 Q. All right.

25 A. She'd told me to just stop. You

1 know, I was like standing at the door.

2 Q. The front door, to exit?

3 A. Right..

4 Q. When you asked her why didn't they
5 use the Drano that you found underneath the
6 sink to unclog the sink, was there a response
7 from her?

8 A. It was like she just screamed out
9 'never mind, just quit, he's going to be
10 mad.'

11 Q. All right. So did you leave the
12 home?

13 A. I was leaving and he was pulling up,
14 so I was kinda trapped in between a rock and
15 a hard spot.

16 Q. So the "he" that was pulling up was
17 Perry Murphy, is that right?

18 A. Yes, ma'am.

19 Q. And did you have any kind of
20 conversation with Mr. Murphy as you were
21 leaving?

22 A. Yes, we got in a pretty heated
23 altercation and, uh, -- once he went in and
24 saw how she was and -- I had walked over
25 because my wife was getting ready to go, and

State of South Carolina v. Jimmy Gilstrap

231

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Jimmy Gilstrap - Direct Examination

1 I was going to walk back home. As I was
2 leaving, she was pulling up and I was telling
3 her about it. She was getting mad, my wife
4 was getting mad. Perry took off and went to
5 his sister's house and came back with a
6 shotgun.

7 Q. All right. So all of this occurred
8 about a week or so before November 4th, is
9 that right?

10 A. Round about a week. Yes, ma'am.

11 Q. So do you have any idea why Mr.
12 Murphy would be upset with you, to pull a
13 shotgun on you?

14 A. I don't know what she told him. I
15 don't know what she told him.

16 Q. All right. Did you leave?

17 A. Yes.

18 Q. Did you -- did Perry or you say
19 anything to each other while you were
20 leaving?

21 A. He said, 'I got something for you.'
22 I said, 'That's alright, you going to jail
23 anyway' for pulling the gun on me, but I
24 never took it any further.

25 Q. Now, the State had some pictures

1 that they showed -- I'll let you look at
2 them.

3 A. (Reviewing).

4 Q. State's Exhibits 1 through 21, just
5 glance at each of them and then I will ask
6 you a question.

7 A.. (Upon review), okay.

8 Q. Have you seen these pictures before?

9 A. Yes, ma'am.

10 Q. Did I give them to you?

11 A. Yes, ma'am.

12 Q. The items that are in these
13 pictures, State's Exhibits 1 through 21, had
14 you seen them before I showed you the
15 pictures? All except the Drano?

16 A. No.

17 Q. Had you seen any of these items in
18 these pictures, State's Exhibits 1 through
19 21, had you seen any of these items before
20 you saw them in the pictures?

21 A. No, ma'am.

22 Q. But you did testify today that you
23 saw the Drano under the sink?

24 A. Right.

25 Q. Did you see any other evidence of

State of South Carolina v. Jimmy Gilstrap

233

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Jimmy Gilstrap - Direct Examination

1 illegal activities going on in Mr. Murphy's
2 house?

3 A. No, ma'am; not -- other than the
4 power problems and not having a permit to
5 move the mobile home there. That's the only
6 illegal things that I can think so.

7 Q. So when you say the power problems,
8 you're talking about him running the
9 extension cord from one trailer to another?

10 A. Right, and him just having it wired
11 up in the -- right there in plain sight.

12 Q. Okay. You've heard Mr. Murphy
13 testify that you directed him and that you
14 were making the meth. You heard that, right?

15 A. Right.

16 Q. What reason would Perry Murphy have
17 to come into this court today to lie on you?

18 A. I guess because I told people that
19 he was dressing in his wife's undergarments.
20 And he thought that I was sleeping with her,
21 I guess.

22 Q. And when you told him that he going
23 to jail that day before the 4th, what did you
24 mean that he was going to jail anyhow?

25 A. Because he pulled a gun on me.

1 Pointed and presented a firearm at me.

2 Q. After November 4th, did you have any
3 further contact or problems with Perry
4 Murphy?

5 A. He's tried to run over me on three
6 separate occasions. He's tried to run over
7 me on the side of the road.

8 Q. Were you walking or driving?

9 A. I was walking.

10 Q. Where were you living at that time?

11 A. I was living in Six Mile but I was
12 at an address in Norris fixing up a house on
13 two occasions. On one occasion I was having
14 a yard sale in Central. That was the closest
15 call, was in Central.

16 Q. Were these incidents reported to law
17 enforcement?

18 A. The one in Central, Yes, ma'am, I
19 did. But they came out and they said that
20 they couldn't do nothing because I jumped
21 from the city and landed in the county.

22 Q. Don't tell me anything that they
23 said. But you did call law enforcement?

24 A. Yes, ma'am.

25 Q. Now, there was testimony that on

State of South Carolina v. Jimmy Gilstrap

235

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Jimmy Gilstrap - Direct Examination

1 November -- the morning of November 4th, I
2 believe, that you were at the house, at Perry
3 Murphy's house, that you had run out of gas
4 and that he had to take you to the store to
5 get some gas. Is any of that testimony true?

6 A. No, ma'am. Not true.

7 Q. Were you there at the house at all
8 on November 4th?

9 A. No.

10 Q. At any date from February 2013
11 through November the 4th, 2013, did you go
12 to Perry Murphy's house to make meth?

13 A. No.

14 Q. Did you make meth at your own house?

15 A. No.

16 Q. Did you ever supply Perry Murphy
17 with meth?

18 A. No.

19 Q. Had you ever bought meth from
20 somebody else and gave it to Perry Murphy?

21 A. No.

22 Q. So it is your testimony that you did
23 not see Mr. Murphy or Renee that often?

24 A. No, not very often.

25 Q. But for a two-month stretch they

1 were giving you rides to the jockey lot?

2 A. Yes.

3 Q. There have been some NPLEx pharmacy
4 records introduced that you and your wife had
5 purchased decongestants or pseudoephedrine.

6 Is that true?

7 A. Yes.

8 Q. Why did you purchase the
9 decongestants or pseudoephedrine?

10 A. Everybody in my family takes it.
11 We lived in a home there in Norris that had a
12 lot of mold and building problems, where the
13 basement flooded at times. My children had
14 been on it since they were little. Other
15 than some kind of medication -- they took
16 what they were prescribed when they were
17 small.

18 Q. Everybody was self-medicating by
19 over-the-counter medication, is that what
20 you're saying?

21 A. Yes, ma'am.

22 Q. When you lived in the house that had
23 mold and mildew, how long did you live in
24 that house?

25 A. For about five or six years.

State of South Carolina v. Jimmy Gilstrap

237

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Jimmy Gilstrap - Direct Examination

1 Q. Okay. And were you buying -- were
2 you and your wife and/or family members
3 buying pseudoephedrine or decongestants
4 during that time period also?

5 A. Yes.

6 Q. Did you know that the house had mold
7 in it?

8 A. No, not until after we moved in and
9 were kinda stuck there then, you know.

10 Q. Has anybody in your family used
11 anything besides the decongestant? An
12 inhaler or anything else?

13 A. My wife and my daughter, they use an
14 inhaler some.

15 Q. Everybody is still taking over-the-
16 counter decongestants?

17 A. Yes, ma'am.

18 Q. Were you arrested on November 4th,
19 2013?

20 A. No, ma'am.

21 Q. When were you arrested?

22 A. It was in May -- May 12th, I think,
23 of 2014.

24 Q. Some six months after the November
25 4th date?

State of South Carolina v. Jimmy Gilstrap

238

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Jimmy Gilstrap - Cross Examination

1 A. Yes, ma'am.

2 DOROTHY MANIGAULT: No further
3 questions, Your Honor.

4 THE COURT: All right.

5 SOLICITOR BUCKNER: Just briefly, Your
6 Honor.

7 CROSS EXAMINATION

8 BY SOLICITOR BUCKNER:

9 Q. Jimmy, why didn't you call the
10 police about Perry pulling a gun at you?

11 A. Because I'm not that kind. It
12 wasn't that big a deal to me, you know.

13 Q. It wasn't a big deal?

14 A. Not really. No, sir. Because all
15 that, you know, I didn't -- I guess I would
16 have if he'd shot it, you know.

17 Q. Did you not call them because it
18 didn't happen?

19 A. It happened, (affirmative nod).
20 Yes, it did happen.

21 Q. Why didn't you call the police the
22 other two times that he tried to hit you with
23 his car?

24 A. Because it did no good the first
25 time.

State of South Carolina v. Jimmy Gilstrap

239

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Jimmy Gilstrap - Cross Examination

1 Q. Was it because you didn't want the
2 police to come to your house to talk to you?

3 A. I didn't care if they come to my
4 house or not, I was -- I wasn't at my house.
5 I was at another house, the house that I was
6 working on.

7 Q. So your testimony today is that
8 Sherry Bowie called you to come over to her
9 house, who you don't know very well, from
10 what you've testified to earlier that you'd
11 see her once a month or something like that,
12 to clean her drain. She then propositioned
13 you sexually, showed you photos of her
14 husband in women's clothing, and when you
15 resisted, her boyfriend at the time
16 encountered you on the way out, got angry,
17 and then they both concocted a plan at that
18 point in time to frame you for making meth?

19 A. I am not sure what their deal was.
20 She was mad.

21 Q. But that is what you're testifying
22 to today. Correct?

23 A. Sounds like it to me.

24 Q. They concocted a plan to frame you
25 for manufacturing meth because of what

State of South Carolina v. Jimmy Gilstrap

240

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of David Gilstrap - Direct Examination

1 happened?

2 A. He was calling the police for every
3 little thing that happened after that,
4 everything. He said that I had his dog tied
5 up and captured one time, and had the police
6 come out for that.

7 SOLICITOR BUCKNER: Judge, I have no
8 further questions.

9 THE COURT: Redirect?

10 DOROTHY MANIGAULT: None. Thank you,
11 Your Honor.

12 THE COURT: You may step down.

13 (WITNESS STEPS DOWN)

14 THE COURT: You may call your next
15 witness.

16 DOROTHY MANIGAULT: Thank you, Your
17 Honor. I call David Gilstrap.

18 (WITNESS TAKES STAND)

19 DAVID GILSTRAP, having been sworn to tell
20 the truth, and nothing but the truth,
21 testified as follows:

22 DIRECT EXAMINATION

23 BY DOROTHY MANIGAULT:

24 Q. Mr. Gilstrap, how old are you?

25 A. Twenty-five (25).

State of South Carolina v. Jimmy Gilstrap

241

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of David Gilstrap - Direct Examination

1 Q. How are you related to Jimmy
2 Gilstrap?

3 A. I'm his son.

4 Q. And do you live with Mr. Gilstrap,
5 your father?

6 A. Yes, ma'am.

7 Q. And your mother?

8 A. Yes, ma'am.

9 Q. In November of 2013, particularly on
10 November 3rd and 4th, were you living at your
11 mom and dad's house?

12 A. Yes, ma'am.

13 Q. Were you with them those two days?

14 A. (Affirmative nod).

15 Q. Tell me how long you were with them.

16 A. Well, the 3rd, I was there at the
17 jockey lot working. They come down there
18 around 6:00, 6:30.

19 We went over to my grandmother's house
20 and was working on my old Ford truck. So I
21 was working on the truck.

22 About 10:00 or 10:30 I went and laid down
23 in the van that we had. Then -- I fell
24 asleep.

25 The next morning I woke up around 5:00

1 o'clock at the house. I walked in there,
2 took a shower, got dressed, went and fed the
3 dogs.

4 Then we left, went to Greenville to my
5 grandmother's house so that I could finish
6 rebuilding the motor for the truck.

7 Then around 9:00, they went to my
8 sister's house because it was her birthday.
9 They stayed for a couple of hours, then they
10 got back around 11:00 or 11:30.

11 Q. So on the 3rd, your parents gave you
12 a ride to the jockey lot?

13 A. My parents, (affirmative nod).

14 Q. And they picked you up from the
15 jockey lot about 6:00?

16 A. Yes, ma'am.

17 Q. Y'all went to your grandmother's
18 house, you said?

19 A. Yes, ma'am.

20 Q. In Greenville?

21 A. Yeah, we was doing work there.

22 Q. What kind of work?

23 A. Electrician work, plumbing, building
24 the house.

25 Q. And you were working on your truck

State of South Carolina v. Jimmy Gilstrap

243

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of David Gilstrap - Direct Examination

1 also?

2 A. Yes, ma'am.

3 Q. And you said that you fell asleep
4 around 10:00?

5 A. Yes, ma'am.

6 Q. Did you fall asleep at your grand-
7 mother's house or your house?

8 A. My grandmother's, in the van.

9 Q. At that time, did your parents live
10 at your grandmother's house?

11 A. Not then.

12 Q. So when you woke up in the van --
13 was that the van that your mother and father
14 was driving that day?

15 A. Yes, ma'am.

16 Q. And they'd picked you up at the
17 jockey lot in that van?

18 A. Yes, ma'am.

19 Q. So when you woke up in the van, you
20 were at home at your parents' house?

21 A. Yes, ma'am.

22 Q. And you woke up about 5:00 a.m.

23 A. Yes, ma'am.

24 Q. That was on November 4th?

25 A. Yes, ma'am.

State of South Carolina v. Jimmy Gilstrap

244

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of David Gilstrap - Direct Examination

1 Q. When you went into the house, your
2 parents were in the house?

3 A. Yes, ma'am.

4 Q. And you work them up?

5 A. Yes, ma'am.

6 Q. What did y'all do after they woke up
7 and got dressed?

8 A. They went and got dressed, I went
9 outside and fed the dogs and then we took off
10 to Berea to my grandmother's house so that I
11 could finish rebuilding the motor in the
12 truck.

13 Q. What time do you think that y'all
14 left home on the morning of November 4th?

15 A. It was around 7:00, 7:30.

16 Q. And how far away -- did you say to
17 Berea?

18 A. Yes, ma'am.

19 Q. How far was Berea from where you
20 lived at the time?

21 A. About thirty minutes, thirty to
22 forty-five minutes depending on traffic.

23 Q. How long did y'all stay in Berea?

24 A. We was there all day.

25 Q. So your mother, Loretta, and your

State of South Carolina v. Jimmy Gilstrap

245

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of David Gilstrap - Direct Examination

1 father, Jimmy Gilstrap, was in Berea ---

2 A. Well, they went up the road to -- I
3 guess it would be Greenville, it's off
4 Haywood Road, to my sister's apartment.

5 Q. And that was for her birthday
6 celebration?

7 A. Yes.

8 Q. And you said that they stayed there
9 for a couple of hours?

10 A. Yes, ma'am.

11 Q. So when they got back to Berea, it
12 was about what time?

13 A. We got there about 8:00'ish.

14 Q. So your dad, your mom and you stayed
15 in Berea from about 8:00'ish until they left
16 to go to Woodruff (sic) Road?

17 A. Yes, ma'am.

18 Q. And that that would have been about
19 what time they left to go to Woodruff road?

20 A. About 9:30.

21 Q. That night?

22 A. That morning.

23 Q. Did you go to Woodruff Road with
24 them?

25 A. No, ma'am, I finished working on the

1 truck.

2 Q. What is your sister's name?

3 A. Stephanie Lynn Gilstrap.

4 Q. I think that I may have asked you
5 this, but do you take decongestants?

6 A. Yes, ma'am.

7 Q. Over the counter?

8 A. Yes, ma'am.

9 Q. Are you still taking them today?

10 A. Yes, ma'am.

11 Q. How often do you take them?

12 A. Pretty much almost every day because
13 I'm allergic to just about everything.

14 Q. Were you allergic from a young
15 child?

16 A. Yes, ma'am, I have been my whole
17 life.

18 Q. Who buys your decongestants for you?

19 A. My mother and father.

20 Q. Do you buy any yourself sometimes?

21 A. Oh, yes, ma'am.

22 DOROTHY MANIGAULT: No further
23 questions, Your Honor.

24 SOLICITOR BUCKNER: Briefly, Your
25 Honor.

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of David Gilstrap - Cross Examination

247

1 CROSS EXAMINATION

2 BY SOLICITOR BUCKNER:

3 Q. What's your relationship with the
4 defendant in this case?

5 A. He's my father.

6 Q. Do you love your dad?

7 A. Yeah.

8 Q. How old were you on November 4th,
9 2013?

10 A. 2013, I would have been twenty-two.

11 Q. And were you still living with your
12 parents?

13 A. Yes, sir.

14 SOLICITOR BUCKNER: Judge, I have no
15 further questions.

16 THE COURT: Redirect?

17 DOROTHY MANIGAULT: No, sir. Your
18 Honor, may we approach?

19 THE COURT: Ladies and gentlemen.

20 (OFF RECORD BENCH CONFERENCE)

21 THE COURT: Ladies and gentlemen, we
22 have a witness that had to be somewhere this
23 afternoon so the time is cutting it a bit too
24 close, so we're going to stop here for the
25 afternoon. We will come back tomorrow

State of South Carolina v. Jimmy Gilstrap

248

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of David Gilstrap - Cross Examination

1 morning and start sharp at 9:30 a.m., ready
2 to go. More than likely you will have this
3 case and be deliberating before lunch. Okay?
4 That's my plan for tomorrow.

5 Now, you may not discuss this case with
6 anyone in any way, shape or form. You made
7 promises to yourself, to each other, to the
8 parties, to the lawyers and to me that you
9 will not discuss this case in any way, shape
10 or form.

11 You will not do any research. You will
12 not look up anything. You will not look up
13 anybody in any way that I could even imagine
14 at this point in time. I want you to come
15 back tomorrow morning the same way that you
16 are right now.

17 I want you to keep an open mind about
18 the case. You've still not heard all the
19 testimony and the evidence in the case. The
20 attorneys will have an opportunity to make
21 closing arguments. I still have to tell you
22 what the law is that applies in this case.
23 I want you to have a good, solid open mind
24 about the case.

25 I want you to come back tomorrow morning

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of David Gilstrap - Cross Examination

249

1 refreshed, ready to start right at 9:30. We
2 will be ready to go, we will push right
3 through and more than likely you will be
4 deliberating prior to lunch.

5 Thank you very much for your service.
6 You are excused for the evening. Be here at
7 9:30 tomorrow morning.

8 (JURY OUT @ 4:12 P.M.)

9 THE COURT: Anything from the State
10 before we break?

11 SOLICITOR BUCKNER: Nothing from the
12 State.

13 THE COURT: Anything from the Defense?

14 DOROTHY MANIGAULT: Nothing, Your
15 Honor.

16 THE COURT: I am still trying to put
17 together a manufacturing charge. If you want
18 to look at that tonight, let me know anything
19 you want me to consider in the morning.

20 Are you anticipating asking for a lesser-
21 included offense charge, Ms. Manigault?

22 DOROTHY MANIGAULT: No, sir.

23 THE COURT: Okay, so that alleviates
24 that issue. What you got there?

25 SOLICITOR BUCKNER: I've got a brief,

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of David Gilstrap - Cross Examination

1 (tendering).

2 THE COURT: Thank you. See you in the
3 morning at 9:30.

4 (COURT IN RECESS)

5 (TRANSCRIPT CONTINUED NEXT PAGE)

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State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of David Gilstrap - Cross Examination

251

1
2 JUNE 22, 2017

9:30 A.M.

3
4 (DEFENDANT PRESENT)

5 (OFF RECORD DISCUSSION RE CHARGE)

6 THE COURT: Okay, so the jury charge I
7 start off with what he is charged with.

8 I tell them that the fact that he was
9 arrested, charged and indicted is not
10 evidence.

11 You are the judge of the facts.

12 I am the judge of the law, and you have
13 to take the law as I give it to you.

14 That he is presumed to be innocent.

15 To find reasonable doubt, I use *Victor v.*
16 *Nebraska*.

17 I go through what is not evidence.

18 I go through direct and circumstantial
19 evidence, and I use the new circumstantial
20 evidence charge:

21 *"Crimes may be proven by circumstantial*
22 *evidence. The law makes no distinction*
23 *between the weight or value to be given to*
24 *either. However to the extent that the State*
25 *relies on circumstantial evidence, all of the*

1 *circumstances must be consistent with each*
2 *other and when taken together point*
3 *conclusively to the guilt of the accused*
4 *beyond a reasonable doubt.*

5 *If they merely portray the defendant's*
6 *behavior as suspicious, the proof has*
7 *failed."*

8 That is from the new circumstantial
9 evidence case that came out two or three
10 years ago now.

11 I go through the credibility of the
12 witnesses.

13 I go through expert witnesses.

14 Intent.

15 I define manufacturing methamphetamine.

16 Then I add the punishment paragraph,

17 *"That you've heard the testimony*
18 *concerning the penalty that a person can*
19 *serve for these crimes. You cannot consider*
20 *any possible penalty for any crime.*
21 *Punishment for a crime is for me to*
22 *determine. It should never be considered by*
23 *you in any way whatsoever."*

24 Then I go through this thing of talking
25 about duty to deliberate, to do it

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Stephanie Gilstrap - Direct Examination

253

1 respectfully with each other. That we
2 call it deliberations for a reason. Listen
3 to everybody's points of view, don't be in a
4 hurry.

5 Verdict must be unanimous.

6 That's it.

7 Anything from the State?

8 SOLICITOR BUCKNER: The State has no
9 problem with the charge.

10 THE COURT: Ms. Manigault?

11 DOROTHY MANIGAULT: No problem, Your
12 Honor.

13 THE COURT: Then we have a simple
14 verdict form that says, (reading): "We, the
15 jury, by unanimous consent find the Defendant
16 as to the charge of manufacturing .." --
17 guilty or not guilty. Then there is a place
18 for the foreperson to sign and date the form.

19 Is that okay with the State?

20 SOLICITOR BUCKNER: That's fine with
21 the State, Judge.

22 THE COURT: The defense?

23 DOROTHY MANIGAULT: That's fine, Your
24 Honor.

25 THE COURT: Let the record reflect that

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Stephanie Gilstrap - Direct Examination

254

1 Mr. Gilstrap, the Defendant, is present. Are
2 we ready to continue?

3 SOLICITOR BUCKNER: Yes, Your Honor.

4 THE COURT: Ms. Manigault?

5 DOROTHY MANIGAULT: Yes, sir, Your
6 Honor.

7 THE COURT: Bring in the jury.

8 (JURY IN @ 9:41 A.M.)

9 THE COURT: Good morning, ladies and
10 gentlemen. Welcome back. Thank you very
11 much for being on time and ready to go.

12 We are ready to continue now in the
13 Defense's case. Ms. Manigault, you may call
14 your next witness.

15 DOROTHY MANIGAULT: Thank you, Your
16 Honor. I call Stephanie Gilstrap to the
17 stand.

18 (WITNESS TAKES STAND)

19 STEPHANIE GILSTRAP, having been sworn to
20 tell the truth, and nothing but the truth,
21 testified as follows:

22 DIRECT EXAMINATION

23 BY DOROTHY MANIGAULT:

24 Q. Stephanie, how are you related to
25 the defendant in this case?

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Stephanie Gilstrap - Direct Examination

255

- 1 A. He's my father.
- 2 Q. Loretta Gilstrap is your mother?
- 3 A. Yes, ma'am.
- 4 Q. And who is your brother?
- 5 A. David Trey Gilstrap.
- 6 Q. How old are you, Stephanie?
- 7 A. Twenty-six (26).
- 8 Q. Do you live with your parents?
- 9 A. No, ma'am.
- 10 Q. Where do you live?
- 11 A. Greenville, Pelham Road off Haywood
- 12 Road.
- 13 Q. Do you work?
- 14 A. Yes, ma'am.
- 15 Q. Where do you work?
- 16 A. I work at Copper River and also at
- 17 Vulcan Shoes.
- 18 Q. What is your date of birth?
- 19 A. [REDACTED], 1990.
- 20 Q. So [REDACTED] is your birthday?
- 21 A. Yes, ma'am.
- 22 Q. You know what this case is about?
- 23 A. Yes, ma'am.
- 24 Q. Do you remember that your father was
- 25 arrested on November 4th, 2013?

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Stephanie Gilstrap - Cross Examination

1 A. Yes, ma'am.

2 Q. Do you recall that day?

3 A. Yes, ma'am.

4 Q. Can you tell the jury what you
5 recall about that day?

6 A. It was my birthday. My parents came
7 over that morning to celebrate my birthday,
8 to have breakfast with me before I went to
9 work.

10 Q. Do you recall what time that they
11 got there?

12 A. Maybe 9:30 or 10:00.

13 Q. How long did they stay with you that
14 morning?

15 A. Maybe an hour, hour and a half.

16 Q. Stephanie, do you take
17 decongestants?

18 A. Yes, ---

19 Q. For ---

20 A. --- for my allergies.

21 Q. Who buys your decongestants?

22 A. I do, or my parents have.

23 Q. Do you use over-the-counter
24 decongestants?

25 A. Yes, and sometimes I need an

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Stephanie Gilstrap - Cross Examination

257

1 inhaler.

2 DOROTHY MANIGAULT: Beg the Court's
3 indulgence. No further questions, Your
4 Honor.

5 THE COURT: ... Thank you very much. Mr.
6 Buckner?

7 SOLICITOR BUCKNER: Briefly, Your
8 Honor.

9 CROSS EXAMINATION

10 BY SOLICITOR BUCKNER:

11 Q. Stephanie, do you love your father?

12 A. Yes.

13 SOLICITOR BUCKNER: No further
14 questions, Judge.

15 THE COURT: Thank you, ma'am. You may
16 step down.

17 (WITNESS STEPS DOWN)

18 THE COURT: You may call your next
19 witness.

20 DOROTHY MANIGAULT: Your Honor, the
21 Defense rests.

22 THE COURT: All right. Ladies and
23 gentlemen, the Defense has rested its case.
24 There are some matters that I need to take up
25 outside of your presence.

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Stephanie Gilstrap - Cross Examination

1 You are still not allowed to discuss the
2 case, you must keep an open mind. We will be
3 back with you in just a few minutes. Thank
4 you very much.

5 (JURY OUT @ 9:49 A.M.)

6 THE COURT: Does the State wish to
7 present any reply evidence?

8 SOLICITOR BUCKNER: No, Your Honor.

9 THE COURT: Would you like to renew
10 your Motions?

11 DOROTHY MANIGAULT: Yes, Your Honor.
12 I renew my Motion for a directed verdict and
13 dismissal.

14 THE COURT: All right. Based on the
15 evidence that is before the Court at this
16 time, considering the existence of the
17 evidence and not the weight of the evidence,
18 there is still sufficient evidence for this
19 case to go to the jury.

20 The State has presented sufficient
21 evidence at this point, based on the standard
22 before the Court, through the testimony of
23 Mr. Murphy, Ms. Bowie, Investigator Durham,
24 Investigator Blankenship and Investigator
25 Ross -- or Deputy Ross -- for the jury to

State of South Carolina v. Jimmy Gilstrap

259

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Testimony of Stephanie Gilstrap - Cross Examination

1 make a decision on this case.

2 All right. Are y'all ready to go with
3 your closings?

4 SOLICITOR BUCKNER: Judge, if I could
5 have just about ten minutes to get the
6 projector warmed up?

7 THE COURT: Okay. Is that okay with
8 you?

9 DOROTHY MANIGAULT: That's fine, Your
10 Honor.

11 THE COURT: It's about twelve of 10:00.
12 Let's be ready to go at 10:00.

13 SOLICITOR BUCKNER: Thank you, Judge.

14 (BRIEF RECESS)

15 (IN CHAMBERS CONFERENCE)

16 (DEFENDANT PRESENT)

17 THE COURT: I assume the defense
18 requests that the State would open in full
19 and I would just assume that you would want
20 him to open in full as opposed to the way
21 that we used to do it, where the State opens
22 on the law, you make your closing argument
23 and then he gets to give a full-blown after
24 you do.

25 DOROTHY MANIGAULT: Your Honor, I

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Testimony of Stephanie Gilstrap - Cross Examination

260

1 would request that the State open in full.

2 THE COURT: I just assumed that because
3 that's the most beneficial to the Defendant,
4 that the State has to open in full. Then
5 they are only allowed to reply at the end.
6 I assume that's what you would want.

7 DOROTHY MANIGAULT: Yes, sir.

8 THE COURT: Okay.

9 DOROTHY MANIGAULT: And the reply at
10 the end is limited ---

11 THE COURT: --- to things that you have
12 brought up.

13 DOROTHY MANIGAULT: Even if he has
14 brought them up in his opening in full.

15 THE COURT: Anything that you say that
16 is contradictory to what you say, he's
17 allowed to reply. Like on a redirect
18 examination, where you can't go back and
19 start over with a new issue. If you've
20 brought up an issue, he's allowed to reply to
21 that issue.

22 DOROTHY MANIGAULT: Yes, sir.

23 THE COURT: Okay.

24 THE COURT: All right, let's bring them
25 in.

State of South Carolina v. Jimmy Gilstrap

261

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Closing Argument by Solicitor on behalf of State

1 (JURY IN @ 10:07 A.M.)

2 THE COURT: Welcome back, ladies and
3 gentlemen. Thank you very much for your
4 patience.

5 We have now reached the point of the
6 trial that is known as closing arguments.
7 This is where the attorneys have an
8 opportunity to come before you and summarize
9 the case from their respective points of
10 view.

11 You all have done a very good job this
12 week of paying attention to the attorneys and
13 paying attention to me. I would ask that you
14 now give the attorneys your undivided
15 attention as this is their final opportunity
16 to speak with you before you begin
17 deliberations.

18 As with anything else that happens in
19 Court, there are Rules as to the order in
20 which things happen. So the State will be
21 allowed to give their closing argument first,
22 the Defense will be allowed to give their
23 closing argument second, then the State will
24 be allowed to make what is called a reply
25 argument.

State of South Carolina v. Jimmy Gilstrap

262

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Closing Argument by Solicitor on behalf of State

1 Once those three arguments are over, I
2 will then tell you what the law is in South
3 Carolina as it pertains to the issues that
4 have arisen in the case.

5 Now, I don't put time limits on lawyers
6 in closing arguments. Some judges do. I do
7 not. This is their case and they are the
8 ones who have lived with this, so I don't
9 want them to feel hampered by any type of
10 constraints. Depending on the length of the
11 closing arguments, we may or may not take a
12 break in between the arguments and the jury
13 charge. If the arguments have gone on for a
14 reasonable period of time, we'll just jump
15 right into the jury charge.

16 Please give the attorneys your undivided
17 attention. Thank you very much.

18 Mr. Buckner, the floor is yours.

19 SOLICITOR BUCKNER: Thank you, Judge,
20 may it please the Court, Ms. Manigault, Mr.
21 Gilstrap.

22 THE COURT: Yes, sir.

23 SOLICITOR BUCKNER: Ladies and
24 gentlemen, is it really that easy? Is it
25 that easy to avoid getting in trouble by

State of South Carolina v. Jimmy Gilstrap

263

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Closing Argument by Solicitor on behalf of State

1 convincing two individuals who are addicted
2 to meth, who live right around the corner
3 from you, exploiting them for their addiction
4 and creating a meth lab at their house? Is
5 it that easy?

6 That is why we are here today. Jimmy
7 Gilstrap found an opportunity. He used his
8 family, he used his wife and he used these
9 two other people that he had already been
10 selling meth to and convinced them to
11 basically start using all these hazardous
12 materials to start making meth in their home.
13 He knew that he had the opportunity, he
14 seized that opportunity.

15 Now, I want to thank you again. We
16 talked about this before but I appreciate all
17 of you sitting through all this the past day
18 and into today, taking time away from your
19 families. We all appreciate your patient. I
20 appreciate you being attentive and listening
21 to all the evidence, the testimony and all
22 the witnesses in this case.

23 Just to go back over -- and the Judge is
24 obviously going to instruct you on the law
25 after Ms. Manigault and I have given our

State of South Carolina v. Jimmy Gilstrap

264

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Closing Argument by Solicitor on behalf of State

1 closing arguments. I want to reiterate that
2 everything that the judge says is what is to
3 be taken very seriously. If anything that I
4 say contradicts that, you listen to the judge
5 and not to me.

6 Proof in this criminal case, the State,
7 myself, is charged with proving that Jimmy
8 Gilstrap manufactured meth beyond a
9 reasonable doubt. We talked about this
10 before but that means proof that leaves you
11 firmly convinced that he was manufacturing
12 meth at Perry Murphy's and Sherry Bowie's
13 residence. Proof that does not cause you to
14 hesitate to act.

15 As I said before, that burden is not an
16 impossible one to overcome. Every person who
17 has ever been convicted at a trial, a jury
18 just like you sat there, listened to the
19 evidence very careful and came to the
20 decision that they were firmly convinced of
21 the guilt of a defendant.

22 Now, in this case there is an abundance
23 of evidence that should leave you firmly
24 convinced that Jimmy Gilstrap was
25 manufacturing meth. Just because it was not

State of South Carolina v. Jimmy Gilstrap

265

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Closing Argument by Solicitor on behalf of State

1 his residence -- just because he happened not
2 to be there when the officers showed up for
3 that knock-and-talk that day, does not mean
4 that he was not doing it.

5 We are going to go through each and every
6 bit of evidence in the case that allows you
7 to be firmly convinced of his guilt.

8 Just briefly, -- like I said, the Judge
9 will instruct you on the law in this case.
10 I've broken it down a little bit as to what
11 manufacturing meth is:

12 To manufacture or -- and that's a key
13 word, or -- to aid, abet, conspire or attempt
14 to manufacture. To produce, to prepare,
15 convert, process, cultivate or harvest. In
16 this case we're talking about manufacture or
17 produce it.

18 Now, under the law he does not have to
19 be caught in the act. That would be nearly
20 impossible to just happen to show up at
21 someone's home and catch someone in the act
22 of making meth. Sure, it could happen and
23 that would make a case more clear-cut. But
24 that can't always happen. You've heard
25 testimony in this case about clandestine meth

1 labs. They are done in secret, they're done
2 in hiding. So the law provides that an
3 attempt or a conspiracy to make meth also
4 makes a defendant guilty.

5 Now, in this case, you've heard testimony
6 from both Perry Murphy and Sherry Bowie. The
7 knock-and-talk was conducted on November 4th,
8 2013. They immediately admitted what was
9 going on when law enforcement showed up at
10 their house. All the ingredients were there,
11 there was meth laid out on the table. Perry
12 testified that that meth was provided by
13 Jimmy Gilstrap earlier that day, who laid it
14 out, as he described it, on a tray. The
15 photo clearly shows that. It was laid out
16 just as he always did. He made his meth.
17 Then he provided a little bit of cut for
18 Perry. Okay?

19 They immediately give information to law
20 enforcement once they are caught that day and
21 tell them, 'yeah, we were doing this but this
22 is Jimmy Gilstrap's meth lab.'

23 Perry Murphy doesn't know how to make
24 meth. Sherry Bowie definitely doesn't know
25 how to make meth. You could hear when they

State of South Carolina v. Jimmy Gilstrap

267

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Closing Argument by Solicitor on behalf of State

1 were testifying that they remembered things
2 that he was doing. Shaking the bottle, that
3 was very clear. They remembered smoke coming
4 out of the kitchen one day, because it was
5 very hazardous and him opening up their
6 kitchen window. All these things were very
7 precise memories that they had from when this
8 little venture, for lack of a better term,
9 was going on.

10 So they give information to law
11 enforcement that day and they immediately
12 tell them that Jimmy Gilstrap is involved in
13 making meth. From that point forward, their
14 story never changed.

15 They pled guilty, Sherry six months later
16 and Perry six months later, to the charge.
17 They never wavered. They admitted what they
18 had done. They were then convicted. They've
19 moved on ever since. Their story has never
20 changed. This is almost four years after
21 that happened. They don't have pending
22 charges in our office. They have no reason
23 to lie. They simply came to court and told
24 the truth.

25 There is no grudge there -- and I will

State of South Carolina v. Jimmy Gilstrap

268

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Closing Argument by Solicitor on behalf of State

1 get into that in a little bit when I talk
2 about the credibility of witnesses.

3 They clear point that they actually saw
4 Jimmy Gilstrap making meth in front of them.

5 On top of that, they both testified that
6 they were also given directions from both
7 Jimmy and his wife, Loretta, to go purchase
8 Sudafed; which Agent Blankenship testified is
9 the key ingredient in making methamphetamine.

10 They knew that they had to have that.
11 Jimmy and Loretta, being the brains behind
12 this operation, immediately concocted a
13 scheme, knowing that they are limited under
14 the law as to how much they can purchase.
15 They get these other two addicted, as they
16 testified to, totally addicted to meth at
17 this time, and they got them to start buying
18 meth for them so that they could make -- or
19 they start getting them to buy Sudafed for
20 them so that they could make meth.

21 This relationship started because they
22 were just buying meth off of them in general.
23 They found two suckers at that point in time.
24 They realized that 'we can get these two
25 people to buy Sudafed for us, so that we can

State of South Carolina v. Jimmy Gilstrap
Case No. 14-GS-39-01578
Jury Trial of June 21-22, 2017
Closing Argument by Solicitor on behalf of State

269

1 make more money making meth because we can
2 just pay them with a little bit of meth, and
3 that way our operation increases.' They saw
4 an opportunity with Perry and Sherry Bowie.

5 Now, the NPLEx records back all of that
6 up. They just -- the NPLEx records clearly
7 show that this was an operation ongoing
8 throughout the entire year of 2013. Every
9 two weeks, ten days, somewhere in that
10 timeline, one of these individuals, whether
11 it be Loretta, whether it be Jimmy, whether
12 it be Perry, whether it be Sherry, was
13 purchasing Sudafed so that Jimmy could make
14 methamphetamine in that residence.

15 They described it that way and the
16 records show it. That will be back there for
17 you to review. They have no reason to lie,
18 ladies and gentlemen. Nothing has been said
19 in court has disproven that in one way, shape
20 or form.

21 Now, the photos were put in evidence of
22 all the ingredients that were used to make
23 methamphetamine, that were found in the
24 residence. Agent Blankenship testified that
25 those are clearly used in making

State of South Carolina v. Jimmy Gilstrap

270

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Closing Argument by Solicitor on behalf of State

1 methamphetamine. Both witnesses, Perry
2 Murphy and Sherry Bowie, testified that that
3 is what those ingredients were being used
4 for, that they actually saw Jimmy Gilstrap
5 shaking the bottle and using the lithium
6 strips from the batteries, using that salt,
7 using that Drano which I will talk about in a
8 little while. Using all of that together,
9 with the hose from the bottle, and then
10 eventually making a finished product.

11 Now, they couldn't go into a whole lot of
12 detail because they didn't really care how it
13 was made. They just wanted that finished
14 product. Their whole motivation this entire
15 time was just 'give me that meth.'

16 So if a little detail was left out here
17 or there, that's because they were consumed
18 with that. That's what an addict does, all
19 they were thinking about was 'when am I going
20 to get that methamphetamine again.'

21 Now, that alone -- the NPLeX records
22 showing that each one of these individuals
23 was purchasing Sudafed, the key ingredient of
24 meth, and the testimony from both Perry and
25 Sherry is enough to show that there was an

State of South Carolina v. Jimmy Gilstrap

271

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Closing Argument by Solicitor on behalf of State

1 attempt made to make methamphetamine.
2 Combine that with the fact that the
3 ingredients were found in the residence,
4 that is enough under the law right there to
5 convict Jimmy Gilstrap of manufacturing
6 methamphetamine. No doubt about it. That
7 is proof that leaves you firmly convinced.

8 But on top of that, you can convict an
9 individual under the law for conspiring to
10 manufacture methamphetamine; which would go
11 in line with their testimony of how they were
12 directed by these individuals to go purchase
13 Sudafed for them to make meth. That alone
14 would make him guilty under the law in South
15 Carolina. But you combine that with him
16 making the purchases himself, it just
17 reiterates the major role that he was playing
18 in this endeavor.

19 Ladies and gentlemen, it cannot be
20 disputed what was actually be made in the
21 house because there is a photo, clear as day,
22 -- and I'll show it right now, (displaying).
23 Agent Blankenship testified this was a photo
24 that clearly showed the sludge after the meth
25 had been made and then (displaying), each

1 codefendant, Perry and Sherry, testified that
2 that was the methamphetamine that Jimmy
3 Gilstrap left for them on the day that they
4 were arrested, for them to use. Just as he
5 had always done. That was a common practice,
6 he would make the meth and then he'd leave a
7 little cut for Perry and Sherry because they
8 were hooked, addicted. He knew that he had
9 them and that's how you keep them hooked, you
10 give them a little bit every time.

11 Now, Agent Blankenship was qualified as
12 an expert witness in this case. The Judge
13 will instruct you as to exactly what that
14 means before you go to deliberate. That
15 allows him to offer an opinion as to evidence
16 in this case and facts in this case. In his
17 expert opinion, this was an active meth lab.
18 Also in his expert opinion, after being told
19 what was contained in the NPLEx records
20 combined with the photos of the meth lab and
21 testimony of the other witnesses, he
22 characterized this situation as one that is
23 often referred to as smurfing. He was
24 talking about how all the Smurfs would bring
25 back smurf berries to Papa Smurf.

State of South Carolina v. Jimmy Gilstrap

273

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Closing Argument by Solicitor on behalf of State

1 Well, ladies and gentlemen, Papa Smurf is
2 sitting right over here in the courtroom.
3 Jimmy Gilstrap is Papa Smurf, he convinced
4 two meth addicts to go bring him some smurf
5 berries back to their own residence, which
6 was quite crafty given that he knew that it
7 wasn't his own home. He was avoiding all
8 these hazardous materials that Agent
9 Blankenship testified to, where he might blow
10 his own house up. At the same time made them
11 look guilty, like it was their own operation.
12 But you heard them testify that they did not
13 know how to make meth. Papa Smurf did.

14 Now, let's talk about credibility of
15 witnesses. The Judge will instruct you on
16 credibility of witnesses also, how to
17 determine that as a juror.

18 Now, the State called three witnesses
19 that were law enforcement that investigated
20 -- well, two investigated this case. One
21 just offered an expert opinion as to the
22 facts in this case. They are just doing
23 their job. They are trained to do this, to
24 investigate these cases. They have no reason
25 to lie. They don't gain anything by the

1 result in this case. Nothing.

2 The other two witnesses, their cases are
3 already over. They have no motivation to not
4 tell the truth. There is nothing that they
5 could gain from that.

6 Now, you did hear testimony from the
7 Defendant that Sherry Bowie somehow was
8 sexually attracted to him, came on to him and
9 that caused a riff between him and Perry
10 Murphy. Why in the world? Those two are not
11 together anymore, they are no longer in a
12 relationship. There was a woman sitting here
13 with Perry Murphy, he is now with her.
14 Sherry Bowie is in a different relationship
15 as well. They no longer are together. Why
16 in the world would he still be mad about some
17 event that occurred between Sherry and Jimmy
18 to where he would come and lie under oath
19 almost four years later? Why would they
20 craft some sort of story in order to get
21 Jimmy Gilstrap in trouble after they've
22 already dealt with their charges? It doesn't
23 make any sense.

24 He also claimed that Perry Murphy pointed
25 a gun at him and tried to run him over. No

State of South Carolina v. Jimmy Gilstrap

275

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Closing Argument by Solicitor on behalf of State

1 police reports were offered here to indicate
2 that that every happened. None. None.

3 Neither one, Perry nor Sherry, had any
4 reason not to tell the truth. They showed up
5 of their own will. They no longer have any
6 charges in this county. They simply just
7 described what happened. There are no issues
8 there.

9 Now, the flip side of that coin, the
10 Defendant obviously is on trial. He's
11 claiming that he did not manufacture
12 methamphetamine. The two witnesses who
13 testified on his behalf are his own children,
14 his own kids. They testified that they love
15 their dad. They have a stake in the outcome
16 of this. Not Sherry. Not Perry. Neither
17 one of them.

18 Now, also under the law and the Judge
19 will instruct you on this as well, the
20 ingredients or the equipment for drug
21 manufacture or paraphernalia, evidence of
22 that, is considered *prima facie* evidence of
23 intent under South Carolina law. They are
24 clearly apparent here (indicating
25 photographs). Each witness testified that

1 those ingredients or equipment were furnished
2 by the Defendant in this case, Jimmy
3 Gilstrap; even further proof that he is
4 guilty beyond a reasonable doubt of
5 manufacturing methamphetamine.

6 I totaled the math in this case for the
7 Sudafed purchases. Over the course of 2013,
8 ten to eleven months leading up to the arrest
9 of Perry and Sherry, Loretta purchased
10 Sudafed nineteen times; Jimmy Gilstrap
11 purchased Sudafed twenty times; Perry Murphy
12 purchased Sudafed twenty-one times; Sherry
13 Bowie purchased Sudafed eighteen times. All
14 spaced out, about every other week or so.
15 That is a common scheme, a plan that they put
16 in effect to run this whole operation. It's
17 clear as day they were all working together.
18 But the two minions in this operation, the
19 two meth addicts are not on trial today. The
20 brains of the operation, Jimmy Gilstrap,
21 right here, is on trial. He was giving the
22 directions.

23 The testimony from the defense witnesses
24 that they were all suffering from some sort
25 of allergies or were living in a home with

State of South Carolina v. Jimmy Gilstrap

277

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Closing Argument by Ms. Manigault for Defense

1 mold and mildew -- first off, the
2 Defendant's children are old enough that I
3 think that they could go purchase their own
4 Sudafed, decongestants. They were in the
5 twenties at the time, 2013, and I wouldn't
6 think that mom and dad are still going to buy
7 it for them every single time. That makes no
8 sense.

9 Also, it's every two weeks. Every two
10 weeks. It's not just running around the
11 corner. These NPLeX records show that they
12 were going all over the place to make these
13 purchases. They are trying not to have a
14 consistent pattern to where they would get
15 caught. They were going to Seneca, they were
16 going to Travelers Rest, they were going to
17 Pickens, they were going to Easley. Then
18 they'd go to home base in Central
19 occasionally. That is not a grocery store
20 trip to get Sudafed for your family.

21 Ladies and gentlemen, the NPLeX records,
22 the testimony of Perry Murphy, Sherry Bowie,
23 the testimony of Kevin Durham, John Ross and
24 the expert testimony of Tommy Blankenship
25 clearly shows this was a scheme, an operation

State of South Carolina v. Jimmy Gilstrap

278

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Closing Argument by Ms. Manigault for Defense

1 in which Jimmy Gilstrap was manufacturing
2 methamphetamine in someone else's home. He's
3 guilty beyond a reasonable doubt. That's
4 proof that leaves you firmly convinced of his
5 guilt. I ask that you return a verdict of
6 Guilty in this case.

7 THE COURT: Thank you very much. Ms.
8 Manigault.

9 DOROTHY MANIGAULT: Thank you, Your
10 Honor. I begin by thanking you for your
11 attentiveness in this case as you listened to
12 the witness and to the information presented
13 by the State.

14 As His Honor has instructed you, he will
15 give you the law that will apply to the
16 information or facts that were presented and
17 you will apply that law together and come
18 back with a unanimous decision.

19 However, before we get to that point,
20 Your Honor instructed you that the State must
21 prove their case beyond a reasonable doubt.
22 It cannot be mere suspicion or a probability,
23 which is the level of evidence in civil
24 cases, but it has to be beyond a reasonable
25 doubt.

State of South Carolina v. Jimmy Gilstrap

279

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Closing Argument by Ms. Manigault for Defense

1 The mere fact that the State presented
2 six or seven witnesses, the total of the
3 witnesses does not matter. It is when you
4 sift the information and facts when you get
5 back to your jury room and twelve of you
6 decide what the law is and how it should be
7 applied, as His Honor gives it to you.

8 The Defendant, Jimmy Gilstrap, came to
9 court. He pled not guilty to the charge of
10 manufacturing meth. That is the plea that he
11 entered. He says that he did not manufacture
12 meth, that he did not aid in the manufacture
13 of meth, none of that.

14 So his plea of Not Guilty provided him
15 with what we refer to as the presumption of
16 innocence. That is a principle longstanding
17 in our system of justice. The presumption of
18 innocence I refer to sometimes as cloak, a
19 robe of righteousness or, in everyday
20 language, a trench coat. The Defendant came
21 in with a trench coat on, the presumption of
22 innocence, buttoned up to the neck. The
23 State may have presented some information
24 that may have unbuttoned the top coat, one
25 button, or two buttons. But we submit to you

State of South Carolina v. Jimmy Gilstrap

280

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Closing Argument by Ms. Manigault for Defense

1 that the trench coat, the robe of righteous,
2 the presumption of innocence was not removed.
3 Every button was not unbuttoned and the
4 trench coat was not taken off Jimmy Gilstrap.

5 Let's clear up some issue of things that
6 were presented to you in this case:

7 There was no testimony ever presented to
8 you that Loretta Gilstrap was charged as a
9 codefendant, or even charged, none from the
10 State. So let's just clear that out.

11 The credibility and believability of a
12 witness, His Honor will explain to you -- and
13 as Mr. Buckner said, whatever the Judge says
14 the law is, you take it as and not what we
15 say. Whatever the Judge instructs you is
16 what you take; though we would never
17 intentionally mislead you.

18 The credibility and believability of a
19 witness is for you to decide. You can decide
20 if you believe none of the witnesses and come
21 to an agreement or verdict; you can believe
22 some of the witnesses, you can believe one
23 witness as opposed to another witness; and
24 His Honor will instruct you that just because
25 a person is an expert, that does not mean

State of South Carolina v. Jimmy Gilstrap

281

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Closing Argument by Ms. Manigault for Defense

1 that you have to take their opinion.

2 However, in this case the expert
3 testified and we had no objection to him
4 being qualified as an expert because he was
5 testifying on how meth was manufactured,
6 which is key for your information. So the
7 expert testified that State's Exhibits 1
8 through 12 shows items that were used in what
9 he called a one pot or a Birch/Nazi method.
10 The expert also testified that the one pot
11 Birch/Nazi method is easy. It's easy to
12 make. He said that anyone who could follow a
13 recipe, his words, could make it.

14 Now, the reason I am leading you there is
15 because that Perry Murphy on the stand would
16 say, 'Well, I don't know how to make meth. I
17 don't know how to make meth.' Then he would
18 say 'well, no, you put the tube in the bottle
19 and then you shake it' -- 'oh, I only know
20 how to shake it because I saw him shaking
21 it.' But he would say to you that you have
22 to shake it forty-five minutes. So it wants
23 to know enough to pin the rest of it on Jimmy
24 Gilstrap.

25 I submit to you that Papa Smurf is Perry

1 Murphy. Yes, they admitted they are addicts.
2 That in 2000, Sherry testified that she'd
3 been using meth since that time. There was
4 no testimony presented that Jimmy Gilstrap
5 provided them meth from 2000 up to November
6 4th, 2013.

7 So -- Sherry testified that she may have
8 purchased five months -- again, if you
9 believe her. Who you believe is your
10 decision. So her contact, she said, with
11 Jimmy Gilstrap, if you believe it, was five
12 months, six months. Maybe eight months. I
13 think she said five but you recall the
14 testimony as you recall it. So from 2000 to
15 2013, she said that she used meth -- 2000 to
16 2013. There was no testimony that Jimmy
17 Gilstrap provided them with meth from 2000 to
18 2013. So all of a sudden they want you to
19 believe that they've now hooked up with Jimmy
20 Gilstrap and he's is providing them with
21 everything, that he is making meth in their
22 house.

23 There was no dispute that these items
24 pictured in State's Exhibits 1 through 21,
25 there's no dispute were found in the

State of South Carolina v. Jimmy Gilstrap

283

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Closing Argument by Ms. Manigault for Defense

1 residence of Jimmy Gilstrap (sic) and Sherry
2 Bowie. That's not in dispute. The pictures
3 show that -- I'm sorry. Sherry Bowie and
4 Perry Murphy.

5 The pictures show that the residence was
6 Perry Murphy's. Perry Murphy testified that
7 those items came out of Perry Murphy's home.

8 Sherry Bowie testified that she didn't
9 know what was in the home. Okay? She lived
10 there a year and a half with Perry Murphy but
11 she didn't know what was in the home.

12 So the credibility and the believability
13 of a witness is, of course, within your
14 purview as you decide and weigh the facts.

15 The fact that Mr. Gilstrap's daughter and
16 his son testified that he was with them on
17 November 4th, and remembered it because it was
18 his daughter's birthday, -- now Perry told
19 you that Jimmy Gilstrap was at his house on
20 the morning of November 4th. The fact that
21 the daughter and son testified that they were
22 together is not that incredible. You're with
23 family members, so anybody that would know
24 what you were doing and where you are would
25 potentially be a family member. The fact

State of South Carolina v. Jimmy Gilstrap

284

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Closing Argument by Ms. Manigault for Defense

1 that they testified on behalf of their
2 father, they testified that they were
3 together the morning of November 4th, 2013.

4 Something to gain. Sherry and Perry were
5 arrested on November 4th, 2013. Jimmy
6 Gilstrap was arrested on May 12th, 2014.
7 November, December, January, February, March,
8 April, May, some six to seven months.

9 The officers testified that when they
10 went to conduct a knock-and-talk, to get
11 information, one team went to Perry Murphy's
12 home on 11-4-2013 and one team went to Jimmy
13 Gilstrap's Gilstrap on 11-4-2013. Mr.
14 Gilstrap was not home, but they did talk with
15 Perry Murphy.

16 If they had gained the information on
17 11-4-2013 that they thought was so crucial
18 that Jimmy Gilstrap was, according to the
19 State, Papa Smurf or the leader there is a
20 six-month lapse in here that is not
21 explained, that was not addressed. If you
22 are going after a leader from information
23 that you gained on 11-4, why would you wait
24 six months to arrest Jimmy Gilstrap. Is
25 there some credibility issue here with the

State of South Carolina v. Jimmy Gilstrap

285

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Closing Argument by Ms. Manigault for Defense

1 information that they got? Is there some
2 believability issue here that is going on
3 with the information that they got on the 4th.
4 Jimmy Gilstrap was arrested May 12th, 2014.

5 The fact that the NPLeX records that were
6 provided and the testimony has been to you
7 that those records are common and usual in
8 thirty-five states, and they keep a record
9 with the signature and ID. They purchase of
10 decongestants are limited, as long as you buy
11 the quantify allowable by law, it is not
12 illegal. It is not illegal.

13 Again, there is no information presented
14 that Loretta Gilstrap was charged. So the
15 decongestant that was purchased, they're all
16 legal purchases.

17 Now, what the State would like you to
18 believe is that because all these four people
19 purchased decongestant that there is a nexus,
20 a link, a correlation, a connection and
21 they're all pointed towards Jimmy Gilstrap.
22 That is what the State wants you to believe.

23 People self-medicate, generally a good
24 deal. So if there is a decongestant,
25 Sudafed, that once was a prescription, now

1 not a prescription, then they self-diagnose.
2 People do it all the time. Some people
3 prefer to take local honey with a teaspoon of
4 vinegar to help their allergies.

5 But the testimony was that they were
6 living in a house for a number of months or
7 year with mold in the down area and they
8 didn't know it, but they were already in
9 there so they had to stay because of their
10 financial circumstances. Mold bothers their
11 sinus and breathing. They'd been diagnosed
12 with allergies and sinus problems.

13 The son said from when he was younger and
14 that, yes, he still used decongestants,
15 Sudafed. Why would the dad and mom continue
16 to buy for him? Well, he testified that he
17 bought some himself but that generally they
18 would buy for him. Anybody that has children
19 know that they may rely on mom and dad's
20 pocket for finances to assist them through
21 difficult times.

22 The son testified that they were at his
23 grandmother's house on the night of November
24 3rd, 2013; that he was fixing a truck, Dad
25 was working on the house doing some

State of South Carolina v. Jimmy Gilstrap

287

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Closing Argument by Ms. Manigault for Defense

1 remodeling for grandmother on something or
2 other. He went into the truck (sic) at 10:30
3 that night and he woke up the next morning at
4 5:00 and he was at home with mom and dad at
5 their house, that he was still asleep in the
6 truck. He woke up about 5:00 o'clock, went
7 into the house, took a shower, woke mom and
8 dad up. This was on the 4th of November, 2013
9 when Papa Smurf, Murphy, said that they were
10 at his house.

11 An interesting thing was -- is that
12 Murphy said that he had to give Gilstrap a
13 ride to get some gasoline from right down the
14 street the morning of the 4th. So he is
15 trying to pin or put Mr. Gilstrap at his
16 house the day of the knock-and-talk as much
17 as he can. He wants you to believe that Mr.
18 Gilstrap was at his house a lot. One of them
19 testified that maybe they saw him every other
20 day, one of them testified that maybe it the
21 purchases every ten days. I don't know.
22 Whatever the testimony is that you recall
23 them saying, then you recall that.

24 I submit to you that their testimonies
25 are not truthful and that they are lying.

State of South Carolina v. Jimmy Gilstrap

288

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Closing Argument by Ms. Manigault for Defense

1 Why would they come four years later to
2 say it? Because they said it that day and
3 they have to stick with what they said.

4 Why would Mr. Murphy be upset with Mr.
5 Gilstrap? Mr. Gilstrap may have thought that
6 he was trying to go with his wife, or went
7 with his wife, or that something was going on
8 there. But he testified -- my client
9 testified that, yes, he knew them; that, yes,
10 they gave him rides or they rode together at
11 various points in time, he testified for
12 about two months, to the jockey lot together.
13 So he's not trying to deny that he knows
14 them. He has not denied that.

15 What he is denying is that he did not
16 manufacture meth in their home, or anyplace
17 else. All right.

18 What they did -- people using an illegal
19 substance, for over seventeen to twenty
20 years, that's Sherry, and with a five-year
21 gap, so maybe ten years for Perry -- they're
22 going to find ways to get their drugs if they
23 have to make it themselves.

24 Yes, clandestine means in secret, so they
25 wouldn't have been making meth out in the

State of South Carolina v. Jimmy Gilstrap

289

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Closing Argument by Ms. Manigault for Defense

1 open. Generally people have labs in their
2 homes, on their properties or whatever.
3 These addicts will find ways to get meth to
4 satisfy their habit. I submit to you that
5 the testimony that has been presented by
6 Sherry and Perry are not truthful and are
7 basically lies.

8 There was testimony by the State that
9 there is no fingerprints, readable finger-
10 prints, that were found in the residence.
11 They got no fingerprints, so Jimmy Gilstrap
12 who was supposed to be there all these times
13 -- it seems like there would have been a
14 fingerprint somewhere. But the State has
15 said no fingerprints, smudges, not readable.

16 Again, the officer expert testified that
17 anyone could make meth, anyone. The shake-
18 and-bake method, which is the Birch/Nazi
19 method is very easy. You just have to follow
20 a recipe to make.

21 I submit to you that Sherry pled guilty
22 and Perry pled guilty because they were the
23 manufacturers, the actual manufactures of the
24 meth. It was in their home, their property.

25 I submit to you that you should return a

State of South Carolina v. Jimmy Gilstrap

290

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Closing Argument by Ms. Manigault for Defense

1 verdict of Not Guilty on behalf of Jimmy
2 Gilstrap. His Honor will tell you that the
3 verdict must be unanimous. Verdict, the
4 Latin term for verdict is "to speak the
5 truth." The truth in this case is that Jimmy
6 Gilstrap is not guilty of manufacturing meth.
7 Thank you very much.

8 THE COURT: Thank you, Ms. Manigault.
9 Mr. Buckner, would you like to reply?

10 SOLICITOR BUCKNER: I would, Your
11 Honor, just briefly.

12 THE COURT: Yes, sir.

13 SOLICITOR BUCKNER: Thank you, Judge.

14 Ladies and gentlemen, Perry and Sherry
15 pled guilty because they admitted that they
16 had conspired with Jimmy Gilstrap to purchase
17 Sudafed used to manufacture meth. That is
18 why they pled guilty. That makes them guilty
19 under the law; the same thing that makes
20 Jimmy Gilstrap guilty under the law.

21 Couple things I'd like to point out that
22 were brought up in defense's closing:

23 Perry Murphy simply testified to what he
24 saw, not that he knows how to make meth. He
25 saw Jimmy Gilstrap shaking the bottle, he saw

State of South Carolina v. Jimmy Gilstrap

291

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Closing Argument by Ms. Manigault for Defense

1 him doing it for thirty to forty-five minutes
2 at a time. He occasionally asked him to
3 help. That's what he testified to. He
4 didn't testify to some keen knowledge on how
5 it is made.

6 He testified, and so did Sherry, that
7 they saw smoke one time.

8 And he testified, once I had prompted
9 him by showing him these photos, that he
10 remembered seeing them being used in some
11 way, shape or form but he did not ever
12 testify to some detailed knowledge of how
13 each thing was used together. That did not
14 happen.

15 Also, another thing that was brought up,
16 Sherry and Perry each testified that they
17 bought meth from Jimmy Gilstrap prior to when
18 the Sudafed purchases started happening.
19 That is not true. They each testified that
20 they were buying from him before the Sudafed
21 purchases started in 2013. Each of them said
22 that is how the relationship started, that's
23 how he realized that they were addicts, that
24 how he realized that he could start using
25 them. They were addicted to meth and he knew

1 that they would purchase for him in
2 exchange for a little bit of meth.

3 There was testimony from law enforcement
4 that they couldn't get fingerprints. It's a
5 shame but they were unable to do it. The
6 attempt was made. There's no cover-up going
7 on here. If we'd had them, we would have put
8 them in front of you. But due to whatever
9 difficulties they were unable to be taken
10 from any of these items that were taken from
11 within the residence.

12 I also want to point out that there was
13 talk about how people self-medicate. People
14 do not self-medicate with Sudafed with an
15 organized purchased plan of when to purchase
16 every couple of weeks. That is not self-
17 medication. This is an organized plan on how
18 to make methamphetamine. That's clear.

19 The Defendant's family is claiming that
20 they had all these sinus and allergy
21 problems, it was brought up that that is why
22 they need the meth (sic). But they never
23 brought any medical records, there was no
24 testimony that they actually had these
25 problems. They're just saying that now.

State of South Carolina v. Jimmy Gilstrap

293

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Court's Charge on the Law

1 The price of Sudafed -- there is a photo
2 that's in evidence and you'll have it in the
3 jury room -- is around seven dollars. I
4 think Jimmy's children could probably have
5 purchased that for themselves. I don't think
6 that they are dependent on mom and dad every
7 time to buy seven dollars of Sudafed.

8 One last thing, Perry and Sherry, just
9 because they gave statements on November 4th,
10 2013, they don't have to stick to what they
11 said. They are not being forced to testify
12 to anything. They were put under oath and
13 they testified to what happened. Nobody is
14 forcing them to testify to anything. That is
15 just not true.

16 Ladies and gentlemen, I thank you for
17 your time.. That's all that I have.

18 THE COURT: Thank you very much, Mr.
19 Bucker. All right, ladies and gentlemen, it
20 is not my responsibility to tell you what the
21 law is as it applies to the issues that have
22 arisen in this case.

23 Now, this is often not the most exciting
24 thing that happens. It is basically just me
25 reading this to you, but I need you to pay

State of South Carolina v. Jimmy Gilstrap

294

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Court's Charge on the Law

1 close attention to what I say. This will be
2 the law that guides you and directs you
3 throughout your jury deliberation process.

4 The indictment has charged the Defendant
5 with the manufacture of methamphetamine. I
6 remind you that the fact that the Defendant
7 was arrested, charged and indicted in this
8 case is not evidence in the case and cannot
9 be considered by you as evidence of guilt in
10 this case. Nor does it create any presump-
11 tion or inference of guilt. The indictment
12 is simply the formal written instrument which
13 contains the charge made against the
14 Defendant. It is the formal document by
15 which the case is brought into this court.

16 Now, during this trial you and I have had
17 certain duties to perform. It is my
18 responsibility to preside over the trial and
19 I also had the duty to rule on the admissi-
20 bility of the evidence.

21 You are to consider only the competent
22 testimony before you. If there was any
23 testimony that I ordered stricken, you must
24 disregard that testimony.

25 You are to consider only the testimony

State of South Carolina v. Jimmy Gilstrap

295

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Court's Charge on the Law

1 that was presented from this witness stand
2 and the exhibits which have been made a part
3 of the record in the case.

4 I have the additional duty to charge you
5 on the law. I am the sole judge of the law
6 in this case. It is your duty as jurors to
7 accept the law as I give it to you and to
8 apply the law as I give it to you.

9 If you already have an idea as to what
10 the law is or what you think the law ought to
11 be, you must abandon your own idea. You are
12 sworn to accept the law and apply the law
13 exactly as I give it to you.

14 In every case tried in this court before
15 a jury, the jury becomes the sole and
16 exclusive judge of the facts. I cannot
17 state, comment on or make any statement to a
18 trial jury about the facts. Since you are
19 the sole judge of the facts, you are not to
20 infer from what I have said during the
21 progress of this trial, in ruling upon the
22 admissibility of evidence or otherwise, nor
23 anything that I say now, that I have any
24 opinion about the facts. The law does not
25 allow me to have an opinion about the facts.

State of South Carolina v. Jimmy Gilstrap

296

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Court's Charge on the Law

1 This is a matter for you to determine. It is
2 your duty to determine the effect, the value
3 and the weight of the evidence presented
4 during the trial.

5 Now, to these charges the Defendant has
6 pled Not Guilty. That plea puts the burden
7 upon the State to prove the Defendant guilty.

8 A person charged with committing a
9 criminal offense in South Carolina is never
10 required to prove himself innocent. It is an
11 important rule of law that a defendant in a
12 criminal trial, no matter what the
13 seriousness of the charge may be, will always
14 be presumed innocent of the crime for which
15 the indictment was issued unless guilt has
16 been proven by evidence that satisfied you of
17 that guilt beyond a reasonable doubt.

18 The presumption of innocence does not
19 end when you begin your deliberations but
20 accompanies the defendant throughout the
21 trial until you reach a verdict of guilt
22 based upon evidence that satisfies you of
23 that guilt beyond a reasonable doubt.

24 The presumption of innocence is like a
25 robe of righteousness placed around the

State of South Carolina v. Jimmy Gilstrap

297

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Court's Charge on the Law

1 shoulders of the defendant, which remains
2 with the defendant until it has been stripped
3 from the defendant by evidence satisfying you
4 of the defendant's guilt beyond a reasonable
5 doubt.

6 Presumption of innocence is not just some
7 mere legal theory, it is not just a legal
8 phrase. It' a substantial right to which
9 every single defendant is entitled unless you
10 are satisfied from the evidence of the
11 defendant's guilt beyond a reasonable doubt.

12 So what is beyond a reasonable doubt.
13 The State has the burden of proving the
14 defendant guilty beyond a reasonable doubt.
15 some of you may have been jurors in civil
16 cases where you were told that it is only
17 necessary to prove that a fact is more likely
18 true than not true, such as by the greater
19 weight or the preponderance of the evidence.
20 In criminal cases the State's proof must be
21 more powerful than that. It must be beyond a
22 reasonable doubt.

23 Proof beyond a reasonable doubt is proof
24 that leaves you firmly convinced of the
25 defendant's guilt. There are very few things

State of South Carolina v. Jimmy Gilstrap

298

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Court's Charge on the Law

1 that we know with absolute certainty and in
2 criminal cases the law does not require proof
3 that overcomes every possible doubt. If
4 based upon your consideration of the evidence
5 you are firmly convinced that the defendant
6 is guilty, you must find the defendant
7 guilty.

8 If on the other hand you think that there
9 is a real possibility that the defendant is
10 not guilty, you must give the defendant the
11 benefit of the doubt and find the defendant
12 not guilty.

13 Some things that you have heard during
14 this trial not evidence and you must not
15 consider them as evidence in deciding the
16 facts of the case:

17 Number one, the statements and any
18 arguments of the attorneys are not evidence.

19 Number two, the questions and the
20 objections of the attorneys are not evidence.

21 Number three, anything that I told
22 you to disregard.

23 While the arguments are a beneficial part
24 of every trial, you should remember that the
25 statements made by the lawyers are not

State of South Carolina v. Jimmy Gilstrap

299

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Court's Charge on the Law

1 evidence. In presenting their arguments,
2 lawyers often refer to evidence. However,
3 you should base your verdict on the evidence
4 as you remember it. If there is any conflict
5 between your recollection of -- between the
6 recollection(s) of lawyers about evidence and
7 your own recollection of the evidence, you
8 should rely upon your own understanding of
9 the evidence.

10 Now, there are two types of evidence,
11 direct and circumstantial evidence:

12 Direct evidence directly proves the
13 existence of a fact and does not require any
14 deduction.

15 Circumstantial evidence is proof of
16 a chain of facts or circumstances that
17 indicate the existence of a fact.

18 Crimes may be proven by circumstantial
19 evidence. The law makes no distinction
20 between the weight and the value to be given
21 either direct or circumstantial evidence.
22 However, to the extent that the State relies
23 upon circumstantial evidence, all of the
24 circumstances must be consistent with each
25 other and, when taken together, point

State of South Carolina v. Jimmy Gilstrap

300

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Court's Charge on the Law

1 conclusively to the guilt of the accused
2 beyond a reasonable doubt. If circumstances
3 merely portray the defendant's behavior as
4 suspicious, the proof has failed. The State
5 has the burden of proving the defendant
6 guilty beyond a reasonable doubt. This
7 burden rests with the State regardless of
8 whether the State relies upon direct
9 evidence, circumstantial evidence or some
10 combination.

11 Now, as I told you in the beginning, you
12 have to determine the credibility of the
13 witnesses. Credibility simply means
14 believability. It becomes your duty as
15 jurors to analyze and evaluate the evidence
16 and determine which evidence convinces you of
17 its truth.

18 In determining the believability of
19 witnesses who have testified, you may believe
20 one witness over several or several over one.
21 You may believe part of the testimony of a
22 witness and reject the remainder part of the
23 testimony of that same witness.

24 You may believe the testimony of a
25 witness entirely or reject it entirely.

State of South Carolina v. Jimmy Gilstrap

301

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Court's Charge on the Law

1 You may consider whether the witness has
2 exhibited to you any interest, bias,
3 prejudice or other motive.

4 You may also consider the appearance and
5 the demeanor of the witness while on the
6 witness stand.

7 As I told you in the beginning, use your
8 common sense.

9 Now, the Rules of Evidence ordinarily do
10 not permit witnesses to testify to opinions
11 or conclusions. An exception to this Rule
12 exists for expert witnesses. This is a
13 witness who by education and experience has
14 become an expert in some art, science,
15 profession or calling. That person is
16 allowed to state an opinion as to any
17 relevant and material matter in which the
18 witness claims to be an expert, and they can
19 state the reasons for their opinion(s).

20 You should consider any expert opinion
21 and, like any other evidence, give it the
22 weight that you believe that it deserves.

23 If you decide the opinion of an expert is
24 not based on sufficient education and
25 experience, if you conclude that the reasons

State of South Carolina v. Jimmy Gilstrap

302

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Court's Charge on the Law

1 given in support are not sound or that the
2 opinion is outweighed by other evidence, you
3 can disregard it entirely. An expert
4 witness' testimony is to be given no greater
5 weight than that of any other witness simply
6 because the witness is an expert.

7 You are not required to accept an
8 expert's opinion even though it is not
9 contradicted.

10 Now, what we are about to talk about is
11 the charge. The charge is manufacturing
12 methamphetamine.

13 In every criminal case, the State has to
14 prove intent. So in order to establish
15 criminal liability, criminal intent is
16 required. For example, the mental state
17 required to be proven by the State for a
18 particular crime might be purpose, intent,
19 knowledge, recklessness or criminal
20 negligence.

21 Criminal intent must be proven by the
22 State beyond a reasonable doubt. Criminal
23 intent is always a matter that must be
24 determined by the jury from the circumstances
25 surrounding the situation.

State of South Carolina v. Jimmy Gilstrap

303

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Court's Charge on the Law

1 There is no way to prove criminal intent
2 to a mathematical certainty. There is no way
3 that medical science can dissect a person's
4 brain and determine what that person had in
5 mind. So the law says that you may infer
6 criminal intent from the circumstances shown
7 to have existed. This is how you make a
8 determination of whether or not the element
9 requiring intent was present.

10 It is not necessary to establish intent
11 by direct and positive evidence but it may be
12 established by inference in the same way as
13 any other fact, by taking into consideration
14 the acts of the parties and all the facts and
15 circumstances of the case.

16 Criminal intent is a mental state. It is
17 a conscious wrongdoing. It is up to you to
18 determine what the defendant intended to do
19 based on the circumstances shown to have
20 existed.

21 Criminal intent can arise from an action
22 or a failure to act. It may arise from
23 negligence, recklessness or an indifference
24 to duty or to consequences considered by law
25 to be the equivalent of criminal intent.

State of South Carolina v. Jimmy Gilstrap

304

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Court's Charge on the Law

1 Now, the defendant is charged with
2 manufacturing methamphetamine. The State
3 must prove beyond a reasonable doubt that the
4 defendant manufactured, dispensed, delivered,
5 purchased or otherwise aids, abets, attempts
6 or conspires to manufacture, distribute,
7 dispense, deliver or purchase
8 methamphetamine.

9 The State must prove beyond a reasonable
10 doubt that the defendant produced, prepared,
11 converted, processed, cultivated, grew or
12 harvested a drug naturally or chemically.

13 "Manufacturing" includes any packaging or
14 repackaging of the drug or labeling or
15 relabeling of the drug's container.

16 What is methamphetamine. Methamphetamine
17 includes any salt, isomer, salt of an isomer,
18 or any mixture or compound containing
19 amphetamine or methamphetamine.

20 The possession of equipment or
21 paraphernalia used in the manufacturing of
22 methamphetamine is prima facie evidence of
23 the intent to manufacture.

24 Now, you have also heard testimony
25 concerning the potential penalty a person can

State of South Carolina v. Jimmy Gilstrap

305

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Court's Charge on the Law

1 serve for the crimes alleged in the
2 indictment. In determining the guilt or the
3 innocence of the defendant, you cannot
4 consider any possible penalty for any
5 particular crime. The punishment for the
6 crime is a matter for me to determine and it
7 should never be considered by you in any way
8 whatsoever at arriving at an impartial
9 verdict as to the guilt or innocence of the
10 defendant.

11 Now, let me say something to you about
12 the deliberations. "Deliberation" is defined
13 as a careful consideration weighing up with a
14 view to a decision.

15 The genius of this system is that it
16 allows twelve men and women from twelve
17 totally different backgrounds, life
18 experiences and perspectives to consider the
19 evidence, talk about it and reach a verdict.
20 We call those "deliberations" for a reason.
21 You are to consider the evidence in this case
22 carefully and deliberately, discuss it in a
23 calm, thorough and courteous manner. Listen
24 to the views of your fellow jurors. Consider
25 others' points and points of view, and talk

State of South Carolina v. Jimmy Gilstrap

306

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Court's Charge on the Law

1 through and discuss the evidence.

2 If you are doing something deliberately,
3 you're not in a big hurry. You should not be
4 in a big hurry here. This case is very
5 important to both sides. This is their only
6 day in court to resolve this issue.

7 When you retire to the jury room, you
8 should discuss the case with your fellow
9 jurors to reach agreement, if you can do so.

10 Your verdict must be unanimous. Each of
11 you must decide the case for yourself, but
12 you should do so after you have impartially
13 considered the evidence, discussed it fully
14 with each other and listened to each other's
15 view(s).

16 Do not be afraid to change your opinion.
17 If your discussion persuades you, then you
18 should. But do not come to a decision simply
19 because everyone else thinks it is right.

20 It is important that you attempt to reach
21 an unanimous verdict but, of course, only if
22 each of you can do so after having made your
23 own decision.

24 Do not change an honest belief about the
25 weight and the effect of the evidence simply

State of South Carolina v. Jimmy Gilstrap

307

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Court's Charge on the Law

1 to reach a verdict. In other words, do not
2 change your opinion simply for the sake of
3 reaching an unanimous verdict.

4 Now, a couple of final rules and then I
5 am going to send you back to your jury room.
6 Okay?

7 The next thing that is going to happen is
8 that I am going to send you back to your jury
9 room and you're still not allowed to discuss
10 the case. Okay? What I am going to do is
11 I'm going to check with the lawyers to make
12 sure that I've just told you everything that
13 I was supposed to tell you. Okay?

14 If I've said everything that I am
15 supposed to tell you, then when the exhibits
16 come back -- and they are right here -- when
17 the exhibits come in the room, that is your
18 sign that you may begin deliberating. Okay?
19 So when the bailiffs bring in the exhibits,
20 that's your sign that you can start talking
21 about the case.

22 You all have to be in the room to
23 deliberate, all twelve of you. Okay? So if
24 somebody needs to go to the restroom, to
25 smoke, to make a phone call, deliberations

State of South Carolina v. Jimmy Gilstrap

308

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Court's Charge on the Law

1 have to stop. All twelve of you have to be
2 in the room to deliberate.

3 Your verdict must be unanimous. All
4 twelve must agree on the verdict. Okay?

5 The next thing is, don't tell me the
6 count. When I first started doing this,
7 jurors liked to tell me the count for some
8 unknown reason. There's no point in time
9 where you ever need to say to me that 'the
10 count is X.' Okay? Your count is your count
11 and no one out here needs to know. Okay?

12 Now, this is your verdict form. It is
13 very simple. The lawyers have all seen it.
14 It's got the case caption at the top, "We,
15 the jury, by unanimous consent find the
16 Defendant..." -- guilty or not guilty, one or
17 the other.

18 Now, there's no meaning to what order
19 that I put these answers/choices in.
20 Literally, the case that I did earlier, I put
21 Guilty first and Not Guilty second. I switch
22 them up every time. One has to go first and
23 one has to go second.

24 You check the box that applies, Mister
25 Foreman, and you sign and date it.

State of South Carolina v. Jimmy Gilstrap

309

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Court's Charge on the Law

1 I am going to send you back to the jury
2 room. Do not discuss the case. The time
3 that you may begin discussing the case is
4 when the exhibits come back. At that time,
5 the two Alternates will step out.

6 You may go to your jury room and we'll be
7 back with you in just a second. Okay.

8 (JURY OUT @ 11:15 A.M.)

9 THE COURT: Any objections or
10 exceptions from the State?

11 SOLICITOR BUCKNER: None, Your Honor.

12 THE COURT: Any objections or
13 exceptions from the Defense?

14 DOROTHY MANIGAULT: No, Your Honor.

15 THE COURT: Please review your
16 exhibits.

17 (COUNSEL APPROVAL OF EXHIBITS)

18 (JURY IN DELIBERATIONS @ 11:18 A.M.)

19 (NOTIFIED OF VERDICT)

20 (DEFENDANT PRESENT)

21 THE COURT: Is the State ready to
22 receive the verdict?

23 SOLICITOR BUCKNER: State is ready,
24 Your Honor.

25 THE COURT: Defense?

State of South Carolina v. Jimmy Gilstrap

310

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Verdict & Sentence

1 DOROTHY MANIGAULT: Yes, Your Honor.

2 THE COURT: Bring in the jury.

3 (JURY IN @ 11:47 A.M.)

4 THE COURT: Mister Foreman, I
5 understand that the jury has reached a
6 verdict?

7 JUROR NUMBER 155: Yes, Your Honor.

8 THE COURT: If you would, pass the
9 verdict form to the bailiff.

10 BAILIFF: (Receives and tenders to
11 Judge Hood).

12 THE COURT: (Upon review), please
13 publish the verdict, Mr. Welborn.

14 CLERK: State of South Carolina
15 versus Jimmy Larry Gilstrap, Indictment 14-
16 GS-39-1578, (reading): "We, the jury, find
17 the Defendant, Jimmy Larry Gilstrap, on the
18 charge of manufacturing methamphetamine,
19 Guilty."

20 If this is your verdict and is still your
21 verdict, so say you all by raising your right
22 hand.

23 (UNANIMOUS RESPONSE BY JURORS)

24 THE COURT: All right, let the record
25 reflect that all jurors raised their right

State of South Carolina v. Jimmy Gilstrap

311

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Verdict & Sentence

1 hand.

2 Ladies and gentlemen, that concludes your
3 services in this case. Thank you for your
4 service, you are now excused.

5 (JURY DISMISSED)

6 THE COURT: Anything from either party
7 prior to sentencing -- anything from the
8 State prior to sentencing?

9 SOLICITOR BUCKNER: No, Your Honor.

10 THE COURT: Anything other than the
11 distribution of marijuana conviction from
12 1987, any other prior criminal history?

13 DOROTHY MANIGAULT: None, Your Honor.

14 THE COURT: Ms. Manigault?

15 DOROTHY MANIGAULT: Thank you, Your
16 Honor. Your Honor, my client is forty-eight
17 (48) years old. He generally works as a
18 contractor, home remodeling. He's between
19 employment now. He generally is just
20 selling, uh, odds and ends at the jockey lot.

21 Your Honor has heard the entire
22 testimony. We'd just ask for mercy in the
23 sentencing of this case.

24 THE COURT: Mr. Gilstrap, you do not
25 have to say anything. However you can say

State of South Carolina v. Jimmy Gilstrap

312

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Verdict & Sentence

1 something if you want to. Would you like to
2 say anything at all?

3 DEFENDANT: I've got a daughter three-
4 years-old.

5 THE COURT: All right. Stand up.

6 DEFENDANT: (Complies).

7 THE COURT: You've got ten days from
8 today's date to appeal this conviction and
9 the sentence of the Court. If you want to do
10 so, you need to let Ms. Manigault know that
11 within that timeframe. Do you understand
12 that right?

13 DEFENDANT: Yes, sir.

14 THE COURT: All right. The sentence of
15 this court is that you be committed to the
16 State Department of Corrections for a period
17 of ten (10) years. Credit for time served.
18 Good luck.

19 DOROTHY MANIGAULT: Thank you, Your
20 Honor.

21 SOLICITOR BUCKNER: Thank you, Judge.

22 THE COURT: All right.

23 (TRIAL CONCLUDED)
24
25

State of South Carolina v. Jimmy Gilstrap

313

Case No. 14-GS-39-01578

Jury Trial of June 21-22, 2017

Certificate of Court Reporter

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE) CERTIFICATE

I, the undersigned Deborah Garrison,
Circuit Court Reporter for the 13th Judicial
Circuit, hereby certify that the foregoing is a
complete and accurate transcript of the jury trial
held in the within action June 21-22, 2017, before
The Honorable Robert Hood;

I further certify that I am neither kin
nor counsel to any of the parties and have no
interest in the outcome of this action.



Deborah Garrison

Greenville, South Carolina

WITNESSES

Kevin Durham

Pickens County Sheriff's Office

5/13/2014

ARREST WARRANT NUMBER

2014A3910300036

ACTION OF GRAND JURY

TRUE BILL

Date

JUL 22 2014

[Signature]

Foreperson of Grand Jury

VERDICT

Guilty

[Signature]

Foreperson of Petit Jury

Date: 6/22/17

DOCKET NO. 2014-GS-39-1578
DGB

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

JUL 22 2014

TERM 2014

THE STATE

VS.

JIMMY LARRY GILSTRAP

Indictment for

3198

MANUFACTURING METHAMPHETAMINE

VIOLATION § 44-53-0375(b)(1)

STATE OF SOUTH CAROLINA)
COUNTY OF PICKENS)

INDICTMENT FOR
MANUFACTURING METHAMPHETAMINE

At a Court of General Sessions, convened on

JUL 22 2014

the Grand Jurors of Pickens

County present upon their oath:

That JIMMY LARRY GILSTRAP did in Pickens County, on or about the 4th day of November, 2013, knowingly manufacture methamphetamine or did knowingly provide financial assistance or otherwise attempt, aid, abet or conspire to manufacture methamphetamine or was knowingly in actual or constructive possession of the common ingredient(s) and/or supplies used in the manufacturing of methamphetamine. This is in violation of § 44-53-375 of the South Carolina Code of Laws (1976) as amended.

Certified Copy

Handel P. Walker

Clerk of Court
Pickens County, SC

Dated 6/30/17

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

Julian Buckner
SOLICITOR

BAR # 100344

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATE

Pickens

VS.

Jimmy Larry Gilstrap

AKA:

Race: WHITE Sex: M Age: 48

DOB: -1968 SS#:

Address: McAlister Street

City, State, Zip: Central, SC 29630

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: DRUGS/MANUFACTURE, DIST, PWID/ METH (GS)

INDICTMENT/CASE#: 2014GS3901578

A/W#: 2014A3910300036

Date of Offense: 11/4/2013

S.C. Code § 44-53-0375(b)(1)

CDR Code #: 3198

SENTENCE SHEET

0-15 years

☒ CONVICTED OF or ☐ PLEADS

in violation of § 44-53-0375(b)(1) of the S.C. Code of Laws, bearing CDR Code # 3198

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State

ATTEST:

Buckner, Daniel Graham

100344
SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 10 ~~days~~ months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services' standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections;☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 250.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$ 150.00
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
3% to County (if paid in installments)		\$ 8.25
TOTAL		\$ 283.25

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender and _____

Other: _____

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

Re Hood

2164

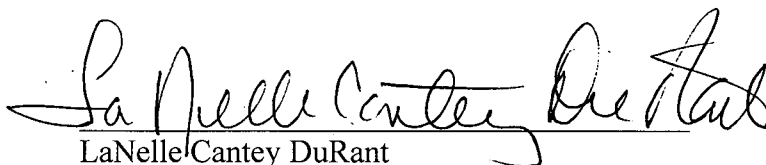
JUNE 22, 2017

Certified Copy
 Handled P. Welborn
 Clerk of Court
 Pickens County, SC
 Dated 6/30/17

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



LaNelle Cantey DuRant
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 30th day of May, 2018.

RECEIVED

MAY 30 2018

SC Court of Appeals