

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Laurens County

Honorable Robin B. Stilwell, Circuit Court Judge

RECEIVED
JUL 31 2018
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ROY ELLIS SMITH,

APPELLANT

APPELLATE CASE NO 2017-000532

RECORD ON APPEAL

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**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
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2015-GS-30-1138, 1139

State of South Carolina)
 vs.) Transcript of Record
)
)
Roy Ellis Smith)
 Defendant)

February 21 and 22, 2017
Laurens, South Carolina

B E F O R E:

Honorable Robin B. Stilwell, Judge

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

Dale Scott, Deputy Solicitor
Attorney for the State

Rauch Wise, Esq.
Attorney for the Defendant

Joy E. Holston
Official Court Reporter

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1 THE COURT: Mr. Wise, have you had the opportunity to
2 review the indictment, sir?

3 MR. WISE: Yes, sir.

4 THE COURT: I am going to publish the allegations on
5 the indictments. I just want to make sure you have seen
6 that before I do so. Ladies and gentlemen, we are going
7 to select a jury for the first case that is being called
8 to Bar this week. And that is the case of the State
9 versus Roy Ellis Smith. Those are indictments
10 15-GS-30-1138 and 1139. One indictment for manufacturing
11 methamphetamine and one indictment for disposal of
12 methamphetamine waste. Now, ladies and gentlemen, I am
13 going to read to you the allegations on the indictment.
14 Now, before I do I need to tell you something that is very
15 important. Before we get started in a criminal case I
16 need to make sure you know that in every criminal
17 proceeding in the United States of America and the State
18 of South Carolina and in the County of Laurens, a criminal
19 Defendant is presumed innocent until twelve deliberating
20 jurors determine that the State has met its burden of
21 proving each and every element of each offense beyond a
22 reasonable doubt. Until such time as a jury determines
23 that the State has met its burden of proof the Defendant
24 retains that presumption of innocence. So, just
25 conceptionally, if you will imagine that the Defendant

1 today, Mr. Smith, is wearing a robe just like I am and
2 that robe signifies innocence. He retains that robe of
3 innocence until such time as twelve deliberating jurors
4 decide that the State has met its burden of proof. Now,
5 the reason I tell you before we get started, is first I am
6 going to read you the allegations on the indictment and I
7 want to make sure you know when I read these allegations
8 on the indictment I am not suggesting to you that these
9 are the facts of the case. I have no opinion about the
10 facts of the case, I don't know anything about the case.
11 This is the first I will read these indictments therefore
12 I am not telling what the facts are in the case. The
13 jury, the jury determines what the facts are in a case.
14 But it is important that I tell you what the allegations
15 are so that you can know what the case is about before we
16 get started and so that you can intelligently answer the
17 questions that I pose. So, ladies and gentlemen, before
18 we begin asking the questions and before we begin with
19 jury selection in this case I will remind you that you
20 continue under the oath that you previously took to tell
21 the truth. Ladies and gentlemen, in the indictment for
22 manufacturing methamphetamine, the State would allege that
23 Mr. Roy Ellis Smith did on or about May 6th, 2015 in
24 Laurens County willfully, unlawfully and knowingly
25 manufacture and otherwise aid, abet, attempt or conspire

1 to manufacture methamphetamine. Ladies and gentlemen,
2 with regard to disposal of methamphetamine waste, the
3 State would allege that Mr. Smith on or about May 6th,
4 2015 in Laurens County willfully, unlawfully and knowingly
5 dispose of or cause to be disposed of any waste from the
6 production of methamphetamine or did knowingly assist,
7 solicit or conspire with another to dispose of
8 methamphetamine waste. Now, ladies and gentlemen, having
9 read that is there anyone among you who has any prior
10 knowledge, any prior opinion, or any previous position
11 regarding the parties or the subject matter of this case.

12 (No response.)

13 THE COURT: Let the record reflect no affirmative
14 response. Ladies and gentlemen, the Defendant in this
15 case, as I have told you, is Mr. Roy Ellis Smith. Yes
16 ma'am, I am sorry.

17 JUROR: I know this man from my, my daddy is his
18 childhood friend.

19 THE COURT: You are anticipating my next question.
20 Okay. I want you to stay right there, stand right there
21 and I am going to ask the question then I want you to
22 state your name and your juror number and then tell me
23 what you just said. Okay. Is there anyone among you who
24 has a personal, professional or family relationship with
25 Mr. Roy Ellis Smith.

1 (Whereupon, the remaining jury panel was excused from
2 open court.)

3 THE COURT: Counsel.

4 (Whereupon, a bench conference was held.)

5 THE COURT: Ladies and gentlemen, we were just
6 talking about where we want to go and how we want to
7 conduct the trial. So, I find that often times it is very
8 helpful for me to have a discussion with jury's before we
9 start a case to give you some kind of idea, first of all,
10 what your role is as jurors, distinguish that from what my
11 role is as a Judge. And then also give you some idea of
12 the procedure and the method we will follow at trial so
13 that at any point in the trial you will know where we
14 stand. And you will know what the in-game is, that is you
15 will know where we are going, okay. So, let's start out
16 by me explaining to you what your role is as jurors in the
17 trial. As jurors in the trial of a case you are the
18 judges of the facts, you will determine what the facts are
19 in the case. You have the sole and exclusive authority
20 and jurisdictions to decide the facts in the case. You
21 will decide what the facts are based on the evidence that
22 is presented in trial. Now generally speaking evidence
23 presented is in the form of witnesses who will take an
24 oath and the witness testifies. And during that testimony
25 often times you will receive other pieces of evidence such

1 as documents, you may receive reports, you may receive
2 physical objects that could be put into the record, you
3 can receive audio tapes, you can receive video tapes. It
4 can come in any number of forms. And I don't know what
5 the evidence is going to be in this case because right now
6 I know precisely about this case that you do and that is
7 what I read on those indictments. So, I don't know what
8 the evidence is going to be. But the parties will present
9 that evidence through the course of the trial as we go
10 through it. You will determine, based on that evidence
11 what the facts are. You will take those facts and you
12 will apply those facts to the law as I give it to you in
13 the case. Now, you are the judges of the facts, I am the
14 Judge of the law. Essentially what that means is that I
15 am the referee, the impartial referee, calls balls and
16 strikes. I am the one who makes sure you have the
17 appropriate law to consider in this case and I am also the
18 one that makes sure we follow the rules of court and the
19 rules of evidence in the conduct of the trial. Now, I
20 will wait to the very end of the trial to give you the
21 charge on the law and tell you what law is applicable.
22 Because like I said before, I haven't seen the evidence
23 and it is important for me, just like y'all, to see the
24 evidence before I presuppose what the law will be. So at
25 the end of the case I will give you a charge on the law.

1 Now, ladies and gentlemen, also as the Judge of the law I
2 will be ruling on objections and motions that are made
3 throughout the trial by the parties. The parties will
4 make objections and motions and it is my job to rule on
5 those. Please don't think, because I rule for one side
6 and against another, that I have a preference or a biased
7 one way or the other. I truly don't. When there are two
8 sides and there is an issue to be decided I am going to
9 decide against one or the other, that doesn't mean I have
10 a preference one way or the other or a biased. Don't
11 think that from anything I say or do here in the entire
12 trial that I have an opinion about what the facts are in
13 this case because that is your job. Don't think that
14 anything that I do or say in this trial that I have an
15 opinion about what your ultimate decision will be. I
16 truly don't have any concern about what your ultimate
17 decision is, it is your decision and it is solely and
18 exclusively your decision and don't take from anything
19 that I say that I have an opinion one way or the other
20 about that. Now, ladies and gentlemen, the way we will
21 start this case is after I give you just this roadmap then
22 I give the attorneys the opportunity to give opening
23 statements. Now, opening statements are generally brief
24 and it is the opportunity for both sides to introduce
25 themselves and to introduce their theories of the case.

1 As I said, they are generally short. Understand that
2 opening statements are not evidence. That is simply the
3 attorneys speaking to you and introducing themselves and
4 their case, not evidence yet.. After both attorneys have
5 had the opportunity to make opening statements then the
6 State will have the opportunity to begin presenting
7 evidence. The State goes first because as I have already
8 told you, the State has the burden of proof. The State
9 has the burden of proving each and every element of the
10 offense beyond a reasonable doubt. And because they have
11 the burden of proof they go first. Ordinarily the way
12 that happens is the State will call a witness to the
13 stand, the witness will come and take the oath of the
14 witness and then the State will examine that witness or
15 ask that witness questions. After the State has asked all
16 the questions that it needs to ask the Defense will then
17 have the opportunity to ask questions in
18 cross-examination. After both sides have exhausted all of
19 their questions then that witness will step down and/or be
20 excused and the next witness will be called. And the
21 State will continue in that fashion until it has exhausted
22 all of its witnesses and all of its evidence. The State
23 at that point will rest and then the Defense has the
24 opportunity to do the very same thing. The State, excuse
25 me, the Defense doesn't have anything to prove, so the

1 Defense doesn't have to put any evidence into the record.
2 So, I will give the Defense the opportunity to present
3 witnesses if they elect to, but again, they don't have to
4 because they don't have a burden of proof in the case.
5 But if the Defense elects to present evidence then they
6 will call witnesses, witnesses will take oaths, the
7 Defense will examine the witness, the State will
8 cross-examine the witness. After all of those questions
9 have been exhausted that witness will step down. After
10 the Defense has put all of its evidence into the record
11 then the Defense will rest. Under certain circumstances,
12 if it is appropriate the State may request to present
13 reply testimony. That doesn't happen often but it does
14 every once in a while but ordinarily it is very short and
15 it is calculated just to address something specifically if
16 the Defense is brought out in this case. It may or may
17 not happen in this case. If it does you will know because
18 I will tell you. After all of the evidence that has been
19 presented, that is everybody has called all of the
20 witnesses that they intend to call, introduce all the
21 documents and all the pictures, anything they intend to
22 introduce in this case, then each attorney will have the
23 opportunity to present closing arguments. Now, just like
24 opening statements, closing arguments are not evidence.
25 At that point we will have heard all of the evidence that

1 will be presented in the case. The attorneys at that
2 point will each be advocating their respective positions
3 in an attempt to persuade you to their side. Not evidence,
4 that is advocacy. After you have heard from each attorney
5 in closing arguments and then I will give you a final
6 charge on the law, after you have heard all the evidence.
7 Then I will tell you to retire to your jury room for
8 deliberations. Now, please don't begin any deliberations
9 or any discussions about the case or the evidence until
10 the very end of the case when I give you very clear
11 instructions to begin your deliberations. And I know you
12 know why that is important. But at the risk of insulting
13 your intelligence I am going to tell you anyway, okay.
14 You know that in your life, in your life you have never
15 been able to make an intelligent and informed decision
16 about anything unless and until you have heard everything
17 that matters to the decision to be decided. That is you
18 have to hear everything before you can make an intelligent
19 decision. A trial is the same way, it is important that
20 you get all of the evidence before you start deliberating,
21 before you start making up your mind. Probably have had
22 an experience in your personal life where a child or a
23 brother or a sister or somebody, colleague at work has
24 walked up to you and told you a story and you are
25 convinced of it, you heard the other side and just put it

1 in a completely different complexion. Well, a trial is
2 the same way. So wait until the very end so you can begin
3 your deliberations. So, when I say don't begin
4 discussions or deliberations, don't go back during the
5 break and start talking about the witness and his
6 credibility or believability, his body language, what he
7 said, what it means, just don't talk about it yet. You
8 will get the opportunity to talk about as much as you
9 want, I promise you, as much as you want. We are going to
10 take breaks during this trial. I don't intend to keep you
11 hostage in that jury box. I personally like to take a
12 break every hour to an hour and a half because I find that
13 is about the length of time where anybody can really pay
14 close attention to anything important. So I like to take
15 breaks. When we are taking breaks, again, don't discuss
16 the case. When we break for lunch or we break for the
17 evening, don't take your computer or your smart phone and
18 try to do research and find out something about this case.
19 I don't think you would be able to, I don't think anything
20 on the Clerk of Court's website will give you any
21 information. And I don't think the media has reported
22 anything about this. But just note this, if you do go out
23 and do self-help, homework, try to find out something
24 about the case that is inappropriate. Because the only
25 thing that is relevant to your decision in this case is

1 the evidence which is presented under the law and under
2 the rules of court here in the trial. Don't go out and
3 try to find anything about the case. Also don't discuss
4 it with anyone outside of the jury. I know when you go
5 home tonight, when you go to lunch you may have a
6 conversation with your wife or husband, boyfriend or
7 girlfriend, something. And that seems innocent enough.
8 But what is going to happen is, if your spouse is like my
9 spouse, they are going to ask you a question and you are
10 going to give a fairly innocent answer. But he or she is
11 not going to be satisfied with one simple answer. It is
12 going to invite another question. And before you know it
13 you are having a discussion, a dialogue with somebody
14 about the case and what you have seen. And that amounts
15 to a deliberation with someone outside of the jury. So,
16 just tell them, he, the Judge said I can't discuss the
17 case. But after it is over with we can discuss it as much
18 as you want to. But during the conduct of the case I
19 can't discuss it. Also, ladies and gentlemen, know that
20 during the course of the case if you need to take a break
21 for whatever reason let me know. You are the 14 most
22 important people in the courtroom. And it is important
23 that y'all are paying attention to the evidence that is
24 being presented. So if y'all need to take a break just
25 let me know because I would rather you be alert and paying

1 attention and not thinking when are we going to take
2 another break. Just tell me and we will take a break.
3 So, ladies and gentlemen, right now we are going to take a
4 lunch. And I am going to let the attorneys begin the
5 conduct of the trial, being opening statements at 1:00
6 o'clock. That is so that they can, I have gone kind of
7 quick this morning and I have rushed them a little bit,
8 that is my fault. They can have a little time to get
9 their witnesses here, have their witnesses ready so that
10 they can go more efficiently. So, what we are going to do
11 is we are going to take a lunch break, come back at five
12 minutes to 1:00 and we will start as promptly at 1:00 as
13 we can. Please be on time, not out of consideration for
14 me or for the parties but out of consideration for each
15 other because if one of you is not there then the other 13
16 have to wait. And in that event you are just wasting each
17 other's time and I would ask you to avoid that if you can,
18 please. So, follow the bailiff, he will take you and tell
19 you where your jury room is and show you how to get in and
20 out of the courtroom. Have a great lunch, please don't
21 discuss the case.

22 (Whereupon, the jury was excused from open court for
23 a lunch break.)

24 THE COURT: All right, Counsel, any matters, any
25 evidentiary matters, in-limine matters we need to take up

1 before we begin?

2 MR. WISE: I think we can sit down and mark the
3 pictures. They sent them to me a couple of months ago. I
4 have had a lot of opportunity to look at them with my
5 client and we have no objection to just marking those.

6 MR. SCOTT: That would be easier to take care of. I
7 noticed Your Honor didn't note some of the witnesses being
8 probation agents..

9 THE COURT: Yes. And the only reason I didn't do
10 that because I didn't know what that meant in the grand
11 scheme of the case.

12 MR. SCOTT: That leaves me with this issue, he is on
13 probation and that is what led to officers being at his
14 home.

15 MR. WISE: Without a search warrant. And I don't
16 think there is any way in the world to avoid that fact.
17 We could do it.

18 THE COURT: I am perfectly willing for y'all to make a
19 stipulation outside of the jury that there was, that it
20 was a reasonable and constitutional search.

21 MR. WISE: We are not raising that issue.

22 MR. SCOTT: And I hadn't planned on getting any
23 detail of why he was being supervised or anything. But I
24 just wanted to cover that on the front-end.

25 THE COURT: So, y'all just tread lightly around that.

1 They ask a specific question about it then we will tailor
2 an answer.

3 MR. WISE: All right.

4 THE COURT: Anything else we need to take up before
5 we get started?

6 MR. WISE: Not that I can think of.

7 THE COURT: Any statements or anything, Jackson v.
8 Denno?

9 MR. WISE: No, sir.

10 THE COURT: Okay. I will see y'all back at 1:00. If
11 y'all need me between now and then just let me know.

12 MR. WISE: Okay.

13 (Whereupon, a lunch break was taken.)

14 THE COURT: Are y'all ready to proceed?

15 MR. WISE: Yes, sir.

16 MR. SCOTT: Yes, Your Honor.

17 THE COURT: All right. Will you bring the jury in,
18 please, sir.

19 (Whereupon, the jury came into open court at
20 approximately 1:03 p.m.)

21 THE COURT: All right. Ladies and gentlemen, welcome
22 back. I hope you had a good lunch. We thank you for
23 being on time. I appreciate it. Before we get started,
24 I'm going to ask the Clerk of Court to swear you in. You
25 took an oath already to tell the truth. This is a

1 different oath. This is an oath to try the case in
2 accordance with the law and in accordance with the
3 evidence.

4 (WHEREUPON, the jury was sworn at approximately 1:05
5 p.m.)

6 THE COURT: Okay. Ladies and gentlemen, we're going
7 to proceed to opening statements. The State will go
8 first, and then the Defense will go. Again, this is not
9 evidence to be considered by you. It's simply
10 introductions from the attorneys. And let me state for
11 everybody before we get started, if I stand up and walk
12 around a little bit, it's only because my hamstrings are
13 tight and I need to get up and walk around a little bit.
14 So don't take that as any kind of sign that I'm trying to
15 rush you or I'm being impatient. Okay. Just ignore me.
16 Ignore the guy in the dress. Okay. All right. Mr.
17 Scott, your argument, sir.

18 MR. SCOTT: Thank you, Your Honor, if it please the
19 Court. As you heard, this case is about manufacturing
20 methamphetamine. That's what the indictment says; that's
21 what the case is about and that happens to be a curse in
22 your community, the manufacture of methamphetamine. I
23 don't know why, but Laurens County more so than a lot of
24 other counties across the State, across the nation, seems
25 to struggle with this problem, and it really is a problem.

1 You know, I first started prosecuting cases, I've seen
2 manufacturing methamphetamine cases involve these big labs
3 or take over a room in the house. It didn't produce large
4 amounts of methamphetamine, but it's evolved over the
5 years where people like Roy Ellis Smith can make it in
6 their home, basically, using stuff you find at Wal-Mart.
7 You can go this afternoon and, basically, buy everything
8 you need to make methamphetamine illegally in your house
9 from Wal-Mart. Instead of taking out big rooms that
10 typically consist of nothing more than a couple Coke
11 bottles, some aquarium tubing, some liquid Drano, a liquid
12 fire type solution, some cold packs, and most importantly,
13 Sudafed, the kind of stuff you buy for your allergies.
14 Y'all ever wonder why you have to go behind the counter to
15 get it now. We try to take certain steps to combat the
16 ease in which these people make methamphetamine. That's
17 one of the things we've done is try to just make it harder
18 to get your hands on Sudafed because that's the main
19 component in making this methamphetamine. It really
20 hasn't worked all that great, because what people like Roy
21 Smith will do is get some of their friends, and their
22 users, and say, hey, you go buy me some Sudafed and help
23 me make this meth, I'll give you some dope. That's what
24 we see a lot of times and that's what the State's probably
25 going to allege is happening in this case. It really is

1 bad, I call it a curse. It is, it is a poison, it
2 destroys lives.

3 MR. WISE: And, Your Honor, I would hate to interject
4 in an opening, but whether or not methamphetamine is a
5 curse, not a curse, a problem, not a problem, is really
6 not relevant to this case and it improperly distracts the
7 jury from focusing on this case with these facts with this
8 Defendant.

9 THE COURT: Okay. Thank you, Mr. Wise. I appreciate
10 that. Understand, that I am going to grant both of you
11 some latitude with regard to arguments. I'm instructing
12 the jury that this isn't evidence, that it's an
13 introduction, it is not to be considered evidence.
14 Therefore, I will respectfully overrule the objection.
15 Mr. Scott, you may continue, sir.

16 MR. SCOTT: And some people don't like to hear that,
17 it is a curse. People don't like to hear that it destroys
18 lives, like I was saying, it tears families apart. It
19 degrades communities like Laurens. When they dump it out
20 when they are done manufacturing it, the byproduct, the,
21 waste product poisons your groundwater. It's terrible
22 stuff. But what we're all here for is and that's May 6th,
23 2015, incident location, Smiths Village Road. That's
24 Mr. Roy Smith's address. I'm sorry?

25 MS. SMITH: That's my address, it is not his.

1 MR. SCOTT: That's his mother. So he lives in a
2 camper outside of her home, and you're going to see it.
3 That's where this all takes place. He has a camper on his
4 mother's property and he lists this as his address, and
5 it's full of his items. And I understand that he is not
6 going to contest that that is his camper. At any rate,
7 about 1:00 p.m. on that date in May, officers with the
8 Probation Department here in Laurens respond to that
9 location and there's a tip, somebody's making meth in that
10 camper. They show up. They find a woman, who you will
11 hear from, her name is Lauren Ginn. She's in the doorway
12 of that trailer or camper, whatever you call it. We got a
13 picture of the camper, Walter? She's in the doorway of
14 this camper and they bring her out. They go inside and
15 Mr. Smith is in the bedroom area of that camper. Okay.
16 He's got a hidden step, and, Walter, if you have 4. He's
17 got a step, can you blow it up. As you're walking into
18 his bedroom, there is a step, I guess, with a hidden tread
19 on or a tread that lifts up revealing a hidden
20 compartment, and number 5; Walter. When officers go and
21 open that compartment, they find something that maybe you
22 and I wouldn't necessarily think was all that relevant at
23 first glance. But what you see in there is one pot,
24 again, it's a Coke bottle or a Pepsi bottle is all it is
25 with liquid fire beside it. The probation agent suspects

1 it is a one pot and we're going to explain all this.
2 We're going to teach how to make meth in this trial. I
3 hope you don't put it to use later. But a one pot is a
4 main component of a meth lab. The probation agent
5 suspects that's what it is. He calls Matt Veal, right
6 here, who's with the Narcotics Unit in the Sheriff's
7 Department. He takes a picture and he sends it to them.
8 Matt Veal says immediately, get out of that house. You
9 know why? Because this stuff is highly combustible. It's
10 dangerous stuff. The chemicals when they all are mixed
11 together, it puts out poisonous gases, and it is
12 combustible as well. So he tells him to get out until he
13 can get there. He's trained in cleaning up these things.
14 When he arrives, he confirms that is a one pot. It's a
15 component of a meth lab, and then, of course, that is
16 Liquid Fire which, again, I can tell you the part of the
17 process in making meth. He further searches the house.
18 Finds other items used to produce the methamphetamine.
19 You're going to see some of these pictures of Pepsi
20 bottles that have tubes coming out the top. You got
21 number 17, Walter? Had a lot of those. I don't know if
22 you have anything like that in your house, but there is
23 really only one reason you would have that. That is
24 called an HCL generator, another main component in a
25 methamphetamine lab. That coupled with that one pot that

1 we showed you earlier, combined with these chemicals,
2 we're going to describe is what produces the finished
3 product, methamphetamine. And so what do we see, three of
4 those in there in the trash can beside Mr. Smith's bed
5 that's in the camper. They find that. They search some
6 more. They find coffee filters with white powder in it to
7 test as a base. Narcotics agent is going to describe that
8 being a kind of a byproduct in the manufacture of meth.
9 That's what's left over after they cook the meth and boil
10 it out of the solution. They go to a small refrigerator
11 that's in the camper and, Walter, you got number 15. They
12 find three syringes in the refrigerator and send it off to
13 SLED, and those test positive. We submit they going to
14 test positive for methamphetamine. There is a boy walking
15 around the yard. He is with the female that's there. His
16 name is Tristen Wells. He, along with Lauren Ginn and Roy
17 Smith are arrested all for manufacturing methamphetamine.
18 And as you probably well understand, it is against the law
19 to manufacture methamphetamine. It means to do it exactly
20 what I'm telling you Mr. Smith has done and that's take
21 all these components, put them together and through a
22 chemical process create methamphetamine, that stuff I was
23 telling you about earlier. You'll see a lot of this
24 byproduct. I showed you that coffee filter with that
25 white base in it, and you going to see that one pot that

1 still got some of that meth oil in it. When that stuff
2 leaks out and when it's left and not disposed of properly,
3 it does, it seeps down in the groundwater and it is
4 poison. That's what it is. I'm going to call it what it
5 is. So he's been charged with two crimes, the manufacture
6 of that methamphetamine. We got the lab. You going to
7 hear from Lauren Ginn who was there that day. And you
8 going to hear from Kenneth, who tested those syringes and
9 found that there was methamphetamine finished product in
10 the syringes. And he's also charged with the disposal,
11 because all of that stuff that they found there had not
12 been properly disposed of and it's just being left out to,
13 kind of left on its own. I've got to prove this case
14 beyond a reasonable doubt and that does not mean beyond
15 all doubt. The allegations are that Mr. Roy Smith, who
16 owned that camper was cooking meth in it. I think all of
17 the evidence is pretty conclusively pointing to the fact
18 that he was, indeed, manufacturing methamphetamine and
19 that it had not been disposed of properly. But I got to
20 do it beyond a reasonable doubt and that means I'm going
21 to leave you firmly convinced and if I haven't, you got to
22 find him not guilty. Firmly convinced to me, the best way
23 to describe my stand is the burden of proof and that is
24 beyond a reasonable doubt. But the easiest way for me to
25 explain it is as long as you are firmly convinced after

1 hearing this that he has done, that what I'm telling you
2 he's done, manufacturing methamphetamine, then you must
3 convict him. I thank you for your attentiveness. I know
4 that, you know, the Judge said it'd be pretty quick, and I
5 think it will. I've got six witnesses. I'm going to try
6 not to belabor any points. But I do want to take time
7 that you understand what this evidence that we're
8 presenting to you. But I do want to make clear what the
9 State's alleging. And at the end of this trial I'm going
10 to ask you to find him guilty of these two crimes, that's
11 manufacturing methamphetamine and the illegal disposal of
12 methamphetamine waste. Thank you.

13 MR. WISE: Ladies and gentlemen of the jury, a lawyer
14 friend of mine has said that the purpose of a trial is to
15 determine whether or not the State has proven the case and
16 that is what the Judge means when he tells you you are to
17 find the facts, all of the facts sufficient to prove the
18 case and that is the sole function. It is not here to
19 pass judgment on whether or not methamphetamine is a
20 problem. That is a distraction from your sole purpose
21 here which is to determine whether or not the State can
22 prove the case against Roy Smith. And when you look at
23 all this evidence when it, well, remember the Judge will
24 charge you at the end also. You're not only looking at
25 the evidence that was introduced, you're looking at

1 evidence that maybe wasn't introduced. It's the evidence
2 or lack of evidence that makes you, helps you decide a
3 case. Now, you're going to find out in this case that
4 there really is no evidence of Roy Smith manufacturing
5 methamphetamine. What you're going to find in the
6 testimony of this case is, is that's Mr. Smith's trailer
7 located very, very close to his mother's house. For about
8 three weeks or so before this, he had been, basically,
9 staying with his brother who had had some surgery and did
10 not have the use of his hands because of that. And Roy
11 had to go up there and take care of him and just tend to
12 him. And he knows Tristen Wells is charged with this and,
13 I think, Lauren, I forgot her last name, she was charged
14 also. So they kind of knew each other and but Roy Smith
15 was primarily over at his brother's house. On the 6th of
16 May, he and Tristen Wells are going to go fishing. Well,
17 they get down to Roy's trailer to get the fishing poles.
18 Well, that's when the police come. Roy, well, actually,
19 before the police get there, Roy went over to his mother's
20 house before he even went in the trailer. He spent about
21 an hour with his mother and neighbor who's here, at which
22 time, there was some access to the trailer by the other
23 two. Roy comes back to the trailer and the police arrive
24 and they search it. All right. They find the stuff and
25 you're going to hear the testimony. Mr. Veal finds the

1 stuff inside the trailer and says, whose is it. And then
2 everybody denied it was theirs. And he says, well,
3 somebody's got to claim it. Whose is it? I'm going to
4 give y'all time to think about it. And he walks off.
5 When he comes back, whose is it? Everybody denies it's
6 theirs. So he arrests everybody, because he didn't know
7 which one it was. Well, you're not going to know which
8 one it is either after this trial is over, because that's
9 all the evidence there is. You know that Mr. Smith hadn't
10 been living there on a regular basis at all before this,
11 other people had access to this trailer. And then you
12 have to determine whose it is when all three have been
13 charged. I think when you get through with this testimony
14 in this case, the State has not met it's burden of proving
15 beyond a reasonable doubt that Roy Smith manufactured
16 methamphetamine. You won't be able to prove Roy Smith
17 disposed of methamphetamine. The only thing you can find
18 is that there's some methamphetamine waste in a trash can.
19 It hadn't been disposed of. It was still in the trailer,
20 and they got to carry it somewhere and throw it away to be
21 disposed of. So, I think, to be disposed of. So I think
22 we can look at all the evidence in this case, we find it
23 wasn't Roy Smith's stuff and there's no disposal of
24 evidence and the proper verdict would be not guilty.
25 Thank you.

1 THE COURT: The State?

2 MR. SCOTT: Your Honor, The State calls Jim Black.

3 JIM BLACK, being
4 first duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 By Mr. Scott:

7 Q Okay. Officer Black, you are currently with the
8 Lander Campus Police, is that right?

9 A That's correct.

10 Q Back in 2015, where were you working?

11 A I was with the South Carolina Department of
12 Probation, Parole, and Pardon Services.

13 Q Okay. At that point, how long had you been in law
14 enforcement?

15 A Eighteen years.

16 Q Okay. Did you have an occasion to go up to
17 Smiths Village Road on that date, May 6th?

18 A Yes, I did.

19 Q Is that in Laurens County?

20 A That is in Laurens County.

21 Q Okay. That's in Waterloo?

22 A Yes, sir.

23 Q Okay. What brought you out there? Why'd you go out
24 there that day?

25 A Received a---

1 MR. WISE: Objection, Your Honor, he can't go into
2 anything where he received a tip. He can only testify
3 what he did.

4 THE COURT: Okay. Y'all, come up real quick. I just
5 want to ask you a question.

6 (Whereupon, a bench conference was held in the
7 presence of the jury but out of the hearing of the
8 jury.)

9 Q May 6th, 2016, you were with probation?

10 A Yes, sir.

11 Q Okay. And Roy Smith, how did you know Roy Smith?

12 A I was Roy Smith's supervising agent.

13 Q Okay. And as supervising agent, did you have a right
14 to go check at his residence on him from time-to-time?

15 A Yes, I did.

16 Q Okay. So about, was 1:00 o'clock p.m., May 6th, you
17 went over to that residence?

18 A Yes, sir.

19 Q Okay. And when you arrived there, tell me where you
20 proceeded?

21 A Proceeded to walk toward the camper. Had other
22 agents with me. One agent did see the male subject
23 outside of the camper.

24 Q Which subject is that?

25 A Tristen---

1 Q Wells, is that--

2 A -- Wells.

3 Q Okay. He was outside of the camper?

4 A Outside of the camper. Made contact with him. I
5 came around from the other side of the camper and saw Ms.
6 Ginn standing in the doorway. At that time, I asked her
7 if Mr. Smith was in the camper. She said, yes. I asked
8 her to step outside with Mr. Wells and another agent. At
9 that time, Mr. Smith came into the doorway.

10 Q Do you remember which direction he came from?

11 A I believe he came from the bedroom area, which will
12 be in the nose of the camper.

13 Q Okay. Let me show you State's number 1. Is that the
14 camper?

15 A That's the camper.

16 Q And that property, do you recall his mother's home
17 being on that property, as well?

18 A Yes, sir.

19 Q This is State's number 3, can you see where her home
20 is and where the camper is in that picture?

21 A Yes, sir.

22 Q Okay.

23 A The home is to the left bottom side, bottom four on
24 there. That's the home.

25 Q Of his mother?

1 A Yes.

2 Q Okay.

3 A And then go to the right of that, that would be the
4 camper.

5 Q These are the campers. And this is what, Lake
6 Greenwood out here?

7 A Yes, sir.

8 Q Okay. So this is the mother's home, but it's the
9 same parcel, it's the same property. But the camper is
10 just, how many yards would you say that is from her house?

11 A A hundred, 120.

12 Q Okay. All right. So the, that last picture we saw
13 of the door, would that be facing the lake or facing out
14 towards Smiths Village Road here?

15 A That would be facing the lake.

16 Q Okay. So the door that we saw, go back to State's 1.
17 Okay. So that's the view you would have if you had your
18 back to the lake looking up at the trailer?

19 A That's correct.

20 Q Okay.

21 MR. SCOTT: And go back to 4 then or 1, whatever it
22 was. I think that's 1 so the record is clear.

23 THE COURT: That's 1.

24 MR. SCOTT: Yeah. State's 1. Okay.

25 Q All right. So tell me where you proceeded. You said

1 the woman was, you went around to the back immediately.

2 Did you have sirens going or anything like that?

3 A No, sir.

4 Q Okay.

5 A No.

6 Q Was the door open or closed?

7 A I was coming around, from the position of the camper
8 there, I was coming around from the right-hand side; yes.

9 Q Okay. Okay. Okay. So you said that Ginn was in the
10 doorway. Was the door open at the time?

11 A The door was open.

12 Q Okay. So it looked something like State's number 2?

13 A That's correct.

14 Q And where was the bedroom, too? If you walk in that
15 door, was it to the left or to the right?

16 A To the right.

17 Q Okay. And you, that was your testimony that that's
18 the direction Mr. Smith came from?

19 A That's correct.

20 Q And what did you tell him to do, did you make them
21 all go outside?

22 A I asked him to step outside with everybody else, and
23 then explained why we were there.

24 Q Okay. And where did you go next?

25 A Went inside the camper.

1 Q Okay. If I take a left going through that door,
2 what's that way?

3 A Sitting area/kitchen area.

4 Q And did you go into the kitchen?

5 A Not at first, no.

6 Q Okay. Did you go to the bedroom?

7 A I went into the bedroom area.

8 Q What did you do once you went to the bedroom area?

9 A Look around. Anything that I could see in plain
10 view. Took pictures of what I found. There were two
11 other agents that were with me. They were in the kitchen
12 area or sitting area. They had also found some items in
13 there. Once all the items, once items were located, I
14 took pictures of what we found and that's when I sent for
15 Detective Veal.

16 Q Let me show you State's number 5. What is that; what
17 are we looking at there?

18 A That is underneath the hidden tread when you're going
19 up into the bedroom area. That was the bottom tread.

20 Q Okay. Do you see---

21 A -- that tread is lifted up.

22 Q And do you see that tread in State's number 4?

23 A I do.

24 Q Okay.

25 A It's right there at the bottom of the very center of

1 the picture.

2 Q Okay. This is looking up into the bedroom. These
3 one, two, three steps, and then what is it, a bed up
4 there?

5 A A bed.

6 Q Okay. So you talking about this tread up here?

7 A Actually, I think that's the second tread.

8 Q Okay. One of those steps of treads come off the top?

9 A One of those steps of tread come up.

10 Q Okay. So you took that tread off?

11 A Took the tread off and that's when we found this.

12 Q Okay. And what is that or what did you think it was?

13 A Well, from training and classes that I've had,
14 clandestine labs and things like that, I knew it was some
15 kind of meth lab. I wasn't sure of the correct
16 terminology, but I did know that we had an active lab
17 going.

18 Q Okay. And did you, who did you report it to?

19 A Reported it to Narcotics officers, Bridges and Veal
20 at the Laurens County Sheriffs Office.

21 Q All right. What do you see in that particular
22 picture under the tread?

23 A I see the one pot. You can definitely see the liquid
24 and the black flecks floating around and also the bottle
25 of drain opener.

1 Q Drain opener was in there?

2 A Yes, sir.

3 Q And State's number 20, what is that?

4 A That is what we found under the treads.

5 Q Okay. Okay. And it had that liquid and those black
6 flakes in it when you took it out?

7 A Yes, sir.

8 Q Okay. And then State's number 21?

9 A That is the bottle of drain opener.

10 Q All right. So those two things were pulled out from
11 the inside of that step with the hidden compartment?

12 A That's correct.

13 Q All right. State's number 10, what is this; did you
14 see this?

15 A I did see those. Those are the generators that were
16 found in the trash can. You can't really see it in the
17 picture good, but right there to the right of it is the
18 small bathroom. If you go up on that step, you see the
19 bathroom to the right. But that was found on the step
20 there in the camper going up to the bedroom.

21 Q Okay. Where is the bedroom in relation to---

22 A -- to the left.

23 Q It's up that way?

24 A Yes, sir.

25 Q Is that the steps we are looking at?

1 A That's the step we're looking at.

2 Q Okay. In that trash can you found, is it three of
3 the HCL generators?

4 A There were three to be in there, yes sir.

5 Q Here's number 7, what is that?

6 A That's another view of the generators and in the
7 center of that picture to the left, you have coffee
8 filters.

9 Q Why is that significant?

10 A Which I thought it was kind of significant, because
11 there is no coffee maker in there.

12 Q State's number 8, did you observe that?

13 A Yes, sir.

14 Q All right. Coffee filter with a white powder
15 substance in it or something and no coffee maker in the
16 house you said?

17 A Correct.

18 Q State's number 13, what is this?

19 A That is a view of a little refrigerator that when we
20 go into the camper would have been to the left of the
21 doorway, a syringe under the Pepsi bottle, and then next
22 to the bottle with a red substance was another syringe
23 that was found containing another red substance.

24 Q Okay. And then State's number 15, is this, and so
25 you picked the Pepsi bottle up?

1 A Yes, sir.

2 Q Okay. So how many syringes were in here total?

3 A I don't remember the total number. I believe there
4 was one other syringe in there that had a red substance in
5 it.

6 Q Okay. And that --

7 A -- yeah. I mean---

8 Q And I'm seeing it looks like three syringes --

9 A Yeah.

10 Q -- right here in this picture?

11 A Three there, yes sir.

12 Q Okay. What is this?

13 A I can't read what that is. That could be a travel
14 pill bottle, but I can't really tell what that is from
15 there.

16 Q Okay. Did you find any batteries in the place?

17 A Yes, sir. We did find some rechargeable nickel and
18 cadmium batteries.

19 Q Okay. And what does nickel cad mean; is that
20 different than lithium?

21 A I'm not real sure.

22 Q Was this your report?

23 A That is my report.

24 Q Did you list what you found?

25 A I believe so.

1 Q If you don't, read it, and see if that can refresh
2 your memory of what you found there. Don't read it out
3 loud.

4 A I don't see it listed on it.

5 Q Okay. But this is your report?

6 A That is my report.

7 Q Okay. So lithium batteries you found?

8 A That's what I reported; yes, sir.

9 Q Okay. Any cold packs or anything like that?

10 A Cold packets were found.

11 Q Okay.

12 A Also, a bag containing empty syringes.

13 Q Okay. So you found a bag and some empty syringes?

14 A Yes, sir.

15 Q Okay. And then those other ones had some kind of
16 fluid in them in the refrigerator?

17 A Yes, sir. Those were in the refrigerator.

18 Q Okay. And then you called in the Narcotics Team and
19 the Sheriff's Department, is that right?

20 A That's correct.

21 Q Okay. Did you have any other involvement after they
22 got there?

23 A When I sent the pictures to Veal, we were expected to
24 get out, as you've already stated. At that time, we got
25 out of the residence and the supervisor and I did do

1 another search, just a plain-view search of the property,
2 to see if there was anything else that could be found. We
3 didn't find anything else anywhere on the property.

4 Q Okay. Just real quick, I was going to, let me ask
5 you this, I've got the State's 23. I don't know if you
6 can ID that. Is that consistent with what you found in
7 the refrigerator?

8 A Yes, sir.

9 Q But you didn't collect it?

10 A No, sir. We didn't collect anything.

11 Q Okay. As far as the layout, this is State's 22. I
12 understand it's not to scale. Does that, generally,
13 depict the inside of the trailer?

14 A Yes, sir.

15 Q And that's what you testified to. The bed and
16 everything is to the right?

17 A Yes, sir.

18 Q And then the kitchen kind of sitting there as to the
19 left once you walk in?

20 A That's correct.

21 Q Okay. And three steps that walk up into that bed
22 there?

23 A Yes, sir.

24 Q And then just under one of them is where you found
25 the one pot and liquid fire?

1 A Yes, sir.

2 Q Cg60 right. Answer any questions Mr. Wise has for
3 you.

4 A Yes, sir.

5 CROSS-EXAMINATION

6 By Mr. Wise:

7 Q I think you said you saw a red substance in one of
8 the syringes?

9 A That's correct.

10 Q Appeared to be blood?

11 A It looked like it; yes, sir.

12 Q And you told Agent Veal that, I assume, when he came?

13 A That's correct.

14 Q All right. Now, you testified earlier you thought
15 these batteries were nickel what?

16 A Nickel cadmium.

17 Q Cadmium?

18 A Rechargeable batteries.

19 Q Yeah. And what do you really recall they were or do
20 you really remember?

21 A No, sir. I don't remember.

22 Q All right. Well, better yet, why don't you, can you,
23 we have pictures. Yeah. Can you find us the picture you
24 took of those batteries? That'll help clear it up because
25 you said in your report you took pictures of the

1 batteries.

2 A I believe number 6 --

3 Q -- let's see.

4 A It's not big enough for me to see.

5 Q You can't see what that is in number 6?

6 A -- I can see --

7 Q -- something?

8 A I can see a blister pack for batteries, but I can't
9 really see any details, no sir.

10 Q You can't see if there's any batteries or anything?

11 A That's right.

12 Q So you didn't take a real good picture of that?

13 A Not even, no sir.

14 Q Okay. What about the cold packs? Where are the cold
15 packs, the pictures of the cold packs you took?

16 A I did not take pictures of the cold packs.

17 Q Excuse me?

18 A I did not take pictures of the cold packs.

19 Q Could you look at your statement?

20 A I don't have it.

21 Q You don't have it. Look at the last sentence on that
22 page of your statement and read that to the jury.

23 A In other parts of the camper, Agents Washburn and
24 Bridges located cold packs, more syringes, two syringes in
25 the refrigerator containing blood and pictures were also

1 taken of these items.

2 Q And the last sentence?

3 A Pictures were also taken of these items.

4 REPORTER: Hey, wait a minute, Judge.

5 THE COURT: Yeah. I was looking at you because you
6 can't take that down.

7 REPORTER: You know, when you're, when you're
8 reading--

9 MR. WISE: Read it slower.

10 REPORTER: And push that microphone toward you.

11 THE COURT: Just slow down. You're blowing her mind.

12 MR. BLACK: Okay.

13 REPORTER: Yeah. Very slow.

14 MR. WISE: You're faster than she is.

15 A In other parts of the camper, Agents Washburn and
16 Richards located cold packs, more syringes, and two
17 syringes in the refrigerator containing blood. Pictures
18 were also taken of these items.

19 Q All right. So where is the picture of the cold pack?

20 A I don't have it in this stack.

21 Q You didn't take a picture of the cold pack or?

22 A Either I didn't take any or I didn't send them along
23 to develop.

24 Q Okay. So they may be where, on your cell phone?

25 A They could be on my old cell phone.

1 Q All right. Now, you had a right to go visit Mr.
2 Ellis's house at any time?

3 A Yes, sir.

4 Q Without a warrant or anything?

5 A Yes, sir.

6 Q If you wanted to do it at 1:00 o'clock in the
7 morning, you had a right at 1:00 o'clock in the morning?

8 A That's correct.

9 Q 2:00 o'clock in the afternoon?

10 A Yes, sir.

11 Q With no notice?

12 A Right.

13 Q And he was aware of that?

14 A Yes, sir.

15 Q Okay. And all people on probation are aware of that?

16 A That's correct.

17 MR. WISE: Thank you very much.

18 THE COURT: Any redirect?

19 MR. SCOTT: No, Your Honor.

20 THE COURT: Okay. Good enough. All right, sir.

21 Thank you. I appreciate it. Step down. You may call
22 your next witness, sir.

23 MR. SCOTT: Well, Officer Lauren Ginn. Now, I want
24 to release this witness, too.

25 THE COURT: Okay.

1 LAUREN GINN, being
2 first duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 By Mr. Scott:

5 Q All right. Lauren, how old are you?

6 A 38 today.

7 Q Today's your birthday?

8 A Yeah.

9 Q Okay. And where are you from?

10 A Ware Shoals.

11 Q Okay.

12 A South Carolina.

13 Q Okay. Did you go to high school there?

14 A Yeah.

15 Q Did you graduate?

16 A Yeah.

17 Q Okay. We just met earlier today, didn't we?

18 A Mm-hmm.

19 Q Okay. And you --

20 REPORTER: Wait. Was that a yes or a no?

21 A Yes.

22 Q After you graduated Ware Shoals, where did you go to
23 work?

24 A Burton Center.

25 Q Okay. How long were you there?

1 A Ten years.

2 Q After that?

3 A Perry Correctional.

4 Q Okay. You were a correctional officer there?

5 A Yes.

6 Q How long were you there?

7 A Six months.

8 Q Okay. And then where'd you go to work?

9 A Nursing home --

10 Q Okay.

11 A -- in Due West.

12 Q Okay. What happened? Did you keep that job?

13 A I left, because I was pregnant with my third child.

14 Q Okay. But at some point, were you introduced to
15 methamphetamine during that time?

16 A Yes.

17 Q Okay. And how did you come to be introduced to
18 methamphetamine?

19 A Just hanging around the wrong people.

20 Q Okay. How would you take it?

21 A Smoked it.

22 Q Okay. Did you take it any other way than that?

23 A Or snorted it.

24 Q Okay. Did you become addicted to it?

25 A Yes.

1 Q Okay. Tell me what effect that methamphetamine had
2 on your life?

3 A It caused me to lose my eight-year relationship with
4 my boyfriend and my two youngest daughters.

5 Q Okay. How did you lose your relationship with your
6 daughters?

7 A He took custody of them.

8 Q Okay. Well, did you, were you arrested for
9 methamphetamine?

10 A Yes.

11 Q And then you lost custody of the children?

12 A Yes.

13 Q Okay. Were you able to maintain a home? Were you
14 able to keep a place to live?

15 A No.

16 Q Okay. And you lost your job you said?

17 A Yes.

18 Q Anything good ever happen out of methamphetamine with
19 you?

20 A No.

21 Q Okay. Do you remember Roy Smith?

22 A Yes.

23 Q Okay. And you remember Tristen Wells?

24 A Yes.

25 Q Okay. May of 2015, were you living with Tristen

1 Wells?

2 A Yes.

3 Q Okay. And where did you all live?

4 A We were staying at his mother's house.

5 Q Okay. Where was that?

6 A In Waterloo.

7 Q Okay. How far away was it from Mr. Roy Smith's
8 house?

9 A Not very far.

10 Q Could you walk there?

11 A No.

12 Q Tristen Wells was related somehow to Mr. Smith, is
13 that right?

14 A I think he's a nephew.

15 Q Okay. So your boyfriend Tristen Wells, at the time,
16 was some relation, maybe a nephew of Mr. Smith's was your
17 understanding?

18 A Yes.

19 Q Okay. And did you hang around Mr. Roy Smith very
20 often?

21 A Yes.

22 Q Okay. Did he come see you at your home?

23 A Yes. He would come over there.

24 Q Okay. And did you go see him at his home?

25 A Yes.

1 Q Okay. Smiths Village Road, do you remember that
2 address?
3 A No.
4 Q Okay. Do you know his mother?
5 A Yeah.
6 Q You do. Have you ever been to her house?
7 A Tristen's mama?
8 Q No, no, no, no. Roy Smith's mother?
9 A Yes.
10 Q Have you been to her house?
11 A Yeah, the camper.
12 Q Would you go into her house, you know, her home --
13 A No.
14 Q -- to speak with Mr. Smith? Where would you go?
15 A To the camper.
16 Q Okay. Is that State's number 1?
17 A Yes.
18 Q Okay. What kind of stuff would go on in the camper?
19 A Cooking dope.
20 Q Okay. What kind of dope were you cooking?
21 A Methamphetamine.
22 MR. SCOTT: Go to 1.
23 Q Like I said, that's the camper. Do you know where
24 his mother lived?
25 A Behind it.

1 Q Okay. But y'all never went to the mother's home?

2 A I didn't.

3 Q Okay. Do you know where Roy Smith was living at this
4 time?

5 A I think at his mama's.

6 Q Okay. But whenever you would go see him, he would
7 take you to the camper?

8 A Yeah. We were always in the camper.

9 Q Okay. Why would you go to that camper?

10 A To do drugs.

11 Q Okay. What kind of drugs?

12 A Meth.

13 Q Okay. And how would you get the drugs?

14 A Buy boxes.

15 Q What, well, we don't know what that means, buy boxes.

16 A Of Sudafed.

17 Q Okay. Well, who would you buy boxes of Sudafed for?

18 A Him.

19 Q Who's him?

20 A Roy.

21 Q Okay. What was the tradeoff? You would buy boxes of
22 Sudafed. What would he give you?

23 A The dope.

24 Q Okay. Would you do it there or did you take it with
25 you or how did that work?

1 A He'd bring it to us.

2 Q Okay. At Tristen's mother's house?

3 A Yes.

4 Q And did you ever go to the camper to smoke it?

5 A Yes.

6 Q Okay. Do you remember this day? I keep forgetting
7 the date. May 6th, 2015, do you remember that date?

8 A Yeah.

9 Q Tell me what was going on that day? Why were you
10 over at the camper?

11 A We had been there, because Tristen and his mama were
12 fussing and so we left.

13 Q Okay. But were you also maybe wanting to get some
14 dope?

15 A Yes.

16 Q Do you remember about how long you were there before
17 probation came?

18 A We had been there maybe seven to eight hours --

19 Q Okay.

20 A -- through the night.

21 Q Would you disagree that probation got there about
22 1:00 p.m., does that sound right?

23 A Yeah.

24 Q Okay. So 1:00 in the afternoon. So did you get
25 there early that morning, is that what you're saying?

1 A Yeah, sometime during the night.

2 Q Okay. Did you sleep there?

3 A No.

4 Q All right. Well, tell me what you remember as far as
5 when probation showed up?

6 A I was just sitting in there texting on my phone and I
7 heard the, we heard doors shut, and Tristen went outside
8 and they were out there.

9 Q Who, probation?

10 A Yes.

11 Q Okay. And do you remember them coming into the
12 camper?

13 A Yes.

14 Q What is this, State's number 5?

15 A A meth lab.

16 Q Okay. Where is that?

17 A In the camper.

18 Q Where in the camper is that?

19 A In a spot under some steps.

20 Q Okay. Did you know about that hiding spot?

21 A No.

22 Q Okay. Did you see probation lift the treads up and
23 take that out?

24 A No. They had us outside.

25 Q Okay. Well, how do you know where that is then?

1 A How do I know?

2 Q Yeah. How'd you know that was inside of the tread of

3 a stairwell? Had you been told anything about that step?

4 A Yeah. That there was a hiding spot.

5 Q And who told you about that hiding spot?

6 A Roy.

7 Q What is that in the, do you recognize that, the Pepsi

8 bottle here? Had you seen that before?

9 A Yeah. That was an old bottle that had been there for

10 days, I think.

11 Q For a couple of days, is that what you said?

12 A Yeah and reworked.

13 Q Okay. That was something you had seen him reworking?

14 A Yeah.

15 Q What does that mean?

16 A Pulling back dope out of it.

17 Q Okay. State's number 20, do you recognize that?

18 A Yeah, that's the bottle.

19 Q Okay. Have you ever made meth?

20 A No.

21 Q You ever seen it made?

22 A Yes.

23 Q Okay. Well, what are, do you know what we're looking

24 at here? What is this stuff in the bottom?

25 A It looks like lithium.

1 Q Okay. Where does the lithium come from?

2 A Batteries.

3 Q Okay. And that's part of the process you've seen
4 when they make dope?

5 A Yes.

6 Q And you've said, had you seen anybody, who was
7 reworking the bottle with the lithium and the liquid in
8 it?

9 A Roy.

10 Q Okay. Had you seen him make meth before in that
11 camper?

12 A Yes.

13 Q Okay. And had you smoked or snorted any of the dope
14 he made in the camper?

15 A Yes.

16 Q Okay. What are these, Laura? This is State's number
17 7.

18 A Smoke bottles.

19 Q Okay. Have you seen those before?

20 A Yes.

21 Q Okay. And what are they?

22 A They're used to smoke, smoke off dope.

23 Q Smoke off dope. Okay. What do you do with the other
24 end of that tube? You're not saying you smoked out of the
25 bottle, are you?

1 A No.

2 Q Okay. Do you know how it works, where that tube
3 goes?

4 A I can't really remember, to be honest they are smoke
5 bottles.

6 Q Okay. And that's part of making meth --

7 A Yeah.

8 Q -- that you've observed? What's State's number 10?

9 A It looks like more smoke bottles.

10 Q And do you recognize where that picture was taken?

11 A In the camper.

12 Q Okay. There's a drain opener that was in that step?
13 Have you ever seen that being used before?

14 A Well, yeah. It's used to make the meth with.

15 Q Okay. Well, I mean, have you seen it being made,
16 other items you would use. Tell me is, this one, 8, is
17 this significant to you in any way? It's a coffee filter
18 with some stuff in it.

19 A Yes.

20 Q Okay. What is that?

21 A When we smoke it off, you pour it through the coffee
22 filter somehow and that's how you get the dope.

23 Q Okay. But that's not the dope, is it? That's what's
24 left over, is what you're saying, when you filter it
25 through?

1 A I think that's the dope.

2 Q Did you see that in the trailer, in the camper?

3 A Yeah.

4 Q Okay. State's number 15, what is that?

5 A Needles.

6 Q Okay. And who in that camper have you ever seen use
7 needles to take meth?

8 A Roy.

9 Q Okay. Is that something you would, would you ever
10 take meth through your veins?

11 A I have, but I couldn't do it myself, so I didn't.

12 Q Okay. There's been some talk about red liquid being
13 in there. Do you have an explanation for that or
14 something that looks like blood is what the testimony has
15 been?

16 A In the needles, blood?

17 Q Is that significant to you in that camper?

18 A Yeah.

19 Q Why is that?

20 A I guess, he was putting them in the refrigerator
21 saving it.

22 Q But have you seen him do that before?

23 A Yeah.

24 Q Okay. Well, tell me how blood would come to be in a
25 syringe like that?

1 A When you put it in your arm, it draws back blood.

2 Q Okay. Had you seen him reuse needles, though?

3 A Yeah.

4 Q You were arrested this day with Mr. Smith, weren't
5 you?

6 A Yes.

7 Q And Tristen Wells was arrested?

8 A Yes.

9 Q Okay. And what happened when the officers asked
10 whose it was; did anybody admit to it?

11 A No.

12 Q Okay. You've since done drug court, is that right?

13 A Yes.

14 Q Tell the jury what drug court is?

15 A It's a 18-month program that you go through, and you
16 have to be drug-tested and go to classes.

17 Q And how often are you drug-tested?

18 A Once a week.

19 Q Okay. And how many classes do you have to go to?

20 A Twice a week --

21 Q Okay.

22 A -- and drug court every two weeks.

23 Q Tell us about the drug court. What is that, you go
24 in front of a Judge like this?

25 A Yes.

1 Q And then what does he do?

2 A They tell your progress every two weeks.

3 Q Okay. Did you graduate the drug court program?

4 A Yes.

5 Q Okay. Did you have any violations as far as testing
6 positive for drugs or anything?

7 A One time in the beginning.

8 Q Okay. But then after that, you were able to
9 successfully graduate?

10 A Yes.

11 Q Are you clean today?

12 A Yes.

13 Q Tell us about those kids. Where are they now?

14 A My kids?

15 Q Uh-huh.

16 A Oh, I got them back.

17 Q DSS has given you custody back?

18 A My ex had them, and I've got, I get them every other
19 weekend.

20 Q Okay. So joint custody?

21 A Yes.

22 Q Your appearance now compared to 2015, any difference
23 between the way you look now and then?

24 A Yes.

25 Q And tell us about that.

1 A I just looked horrible.

2 Q How is that?

3 A My face was sunk in --

4 Q Okay.

5 A -- and I'd lost so much weight.

6 Q All right. Did you on May 16 or May 6th, 2015, did

7 you take that coffee filter in there with powder in it?

8 Did you take that over there to his camper and put it

9 there?

10 A I did have a coffee filter --

11 Q Okay.

12 A -- but I don't know if that's the one.

13 Q Okay. With the white powder in it, did you take that

14 over there?

15 A I didn't have all that dope.

16 Q Okay. What about the three HCL generators with the

17 tubes coming out, did you take those over there?

18 A No.

19 Q What about the one pot that was found under the

20 steps, did you take that over there?

21 A No.

22 Q Did you take any lithium batteries over there that

23 day?

24 A No.

25 Q Did you take those three syringes of methamphetamine

1 in there that day?

2 A No.

3 Q Okay. What about the one pot that was found under
4 the steps, did you take that over to his camper?

5 A No.

6 Q Okay. All right. So who was, who was it that was
7 cooking meth there that day or the last few days before?

8 A Roy.

9 Q Okay. And you helped him, though, didn't you?

10 A Helped him?

11 Q With the ingredients. You brought the Sudafed for
12 him?

13 A Yes.

14 Q But it was him that was cooking?

15 A Yes.

16 Q All right. I want you to answer any questions Mr.
17 Wise has for you, but do you see Roy Smith here right now?

18 A Yes.

19 Q Okay. Where is he?

20 A Right there.

21 Q Does he look a little bit different now than the last
22 time you saw him?

23 A Yes.

24 Q Okay. How does he look different?

25 A I mean, he looks better.

1 Q He looks like he's doing better now?

2 A Yeah.

3 Q Okay. Thank you.

4 CROSS-EXAMINATION

5 By Mr. Wise:

6 Q Ms. Ginn, you were staying with Tristen Wells and
7 who?

8 A His mother, Tonda Burdette.

9 Q All right. And where were y'all staying?

10 A At the mother's house, and I'm not sure of the
11 address.

12 Q His mother's house?

13 A Yes.

14 Q And that was located where, again?

15 A In Waterloo.

16 Q In Waterloo. All right. Was Roy Smith's brother
17 there?

18 A Yes.

19 Q All right. And he stayed there, too?

20 A Yes.

21 Q And Roy had been up there a good bit helping his
22 brother out, because his brother was recovering from
23 surgery?

24 A Yes.

25 Q All right. And you're saying that on the 6th, the

1 day that y'all got arrested, y'all went down to this
2 camper?

3 A Yes.

4 Q Correct?

5 A Yes.

6 Q And y'all had been there six, seven or eight hours,
7 according to your testimony, before the officer got there?

8 A Yes.

9 Q So y'all went down there at like 5:00 in the morning
10 or so, 6:00 in the morning?

11 A Yes.

12 Q And nobody had, I believe your testimony was nobody
13 had done any cooking that day?

14 A He was reworking a bottle.

15 Q Nobody was doing any cooking that day?

16 A I can't remember.

17 Q You can't remember. All right. Tristen Wells was
18 there?

19 A Yes.

20 Q And y'all were in and out of the mobile home, in and
21 out of the camper?

22 A Yes.

23 Q All right. You'd be in there sometime and out
24 sometime, correct?

25 A Yes.

1 Q All right. You have a cell phone in that camper?

2 A Yes.

3 MR. WISE: Pull up number 6.

4 Q On the right side of that, do you recognize that?

5 MR. WISE: Can you zoom in a little bit?

6 Q Up in this area right here, you recognize what that
7 is?

8 A Batteries.

9 Q Excuse me?

10 A Batteries.

11 Q And this portion right here with the little pink
12 thing, do you recognize that?

13 A No.

14 Q All right. Isn't that something that's used for ear
15 piercings or do you recognize that?

16 A I don't recognize that.

17 MR. WISE: Okay. Let me see the pictures up here.

18 MR. BENTLEY: It's --

19 MR. WISE: Hold on one second. Excuse me one second,
20 Your Honor.

21 THE COURT: Sure.

22 MR. WISE: And jpeg number 3343. Well, that's a
23 different number than the one I got. Bring that one up.
24 Have y'all got that one? I would like to introduce it and
25 find the copy of it.

1 Q You recognize that picture?

2 A Yes.

3 Q That's your bag?

4 A Yes.

5 Q And your items in it?

6 A Yes.

7 Q In the trailer?

8 A Yes.

9 Q All right. And that's kind of a, I believe this is
10 your purse here, correct?

11 A Yes.

12 Q And this is a bag that belonged to you?

13 A Yes.

14 Q All right.

15 MR. WISE: You got the original picture?

16 Q And that's State's Exhibit 11 you recognize as your
17 personal property in that camper?

18 A Yes.

19 Q And you brought it down there with you?

20 A Yes.

21 Q And you put it in the camper?

22 A Yes.

23 Q Right?

24 A I had it with me.

25 Q Excuse me?

1 A I had it with me.

2 Q You had it with you. All right. And Tristen Wells,
3 what was he doing?

4 A Nothing. We were just --

5 Q -- so y'all went down there and you're saying about
6 5:00 or 6:00 o'clock in the morning and just to hang out?

7 A Yeah.

8 Q That correct?

9 A Yeah.

10 Q And you didn't do anything down there that day,
11 correct?

12 A We were doing drugs.

13 Q Excuse me?

14 A Yes. We had been doing drugs.

15 Q Had been doing drugs, but you didn't make any drugs
16 that day?

17 A I don't --

18 Q -- correct?

19 A They were made that night.

20 Q They were made the night before?

21 A He was reworking a bottle to pull more drugs out of.

22 Q You've been around enough meth being made to know
23 that these bottles have been used a lot; they were old,
24 correct?

25 A Yeah.

1 Q I mean, they were days old --

2 A Yes.

3 Q -- correct?

4 A Yeah.

5 Q All right. What about Tristen Wells, does he make
6 meth?

7 A No.

8 Q No? Now, when you are down there that day with Matt
9 Veal, he asked you whose it was, didn't he?

10 A (No audible response.)

11 Q Didn't he?

12 A Yeah.

13 Q And you said it wasn't yours?

14 A Yeah.

15 Q You didn't tell Matt Veal that day it was Roy
16 Smith's, correct?

17 A Tristen begged Roy to tell him that it was his, but
18 he wouldn't.

19 Q Excuse me?

20 A Tristen begged them, him to tell them that it was
21 his, but he wouldn't.

22 Q And you didn't say it was Roy Smith's, correct?

23 A Correct.

24 Q He asked you who, he asked you whose it was and you
25 said you didn't know?

1 A Correct.

2 Q And you asked, and he asked Tristen and Tristen said,
3 I don't know, correct?

4 A Yes.

5 Q And that was your testimony on that day, correct?

6 A Yes.

7 Q But your personal belongings were in the trailer,
8 correct?

9 A Yes.

10 Q All right. And you were charged in this case with
11 manufacturing methamphetamine?

12 A Yes.

13 Q And improper disposal of methamphetamine?

14 A Yes.

15 Q All right. And you first started using
16 methamphetamine when?

17 A About eight years ago.

18 Q About eight years ago?

19 A Mm-hmm.

20 Q Before you met Mr. Wells?

21 A Yes.

22 Q Okay. And you also had charges pending of obtaining
23 Sudafed improperly?

24 A I had some possession charges pending.

25 Q Possession of methamphetamine charges?

1 A Yes.

2 Q Out of what county?

3 A Greenwood.

4 Q Greenwood County. That's the same circuit that
5 Laurens County is in --

6 A Yes.

7 Q -- correct?

8 A Yes.

9 Q And what happened to those charges?

10 A They were run into drug court.

11 Q They all went into drug court.

12 A Yes.

13 Q All right. And you went to drug court with a
14 manufacturing charge and a possession charge, correct?

15 A Yes.

16 Q Okay. All right. Thank you.

17 REDIRECT EXAMINATION

18 By Mr. Scott:

19 Q How old was Tristen at the time, Tristen Wells?

20 A I think he was 18.

21 Q Okay. He was an 18-year-old boy at the time?

22 A Yes.

23 Q And this bottle number 20 --

24 A Okay.

25 Q -- the defense attorney was just asking you about the

1 manufacturing of the meth and you said he was reworking
2 the bottle. Explain, I don't know if you fully explained.
3 What does that mean? Had you seen him rework --

4 A -- it means that you put something in it to activate
5 it again, and then you smoke it off to get more dope out
6 of it.

7 Q Okay. Have you seen Roy Smith do that before?

8 A Yes.

9 Q Okay. So he could rework the oil and pull meth out
10 of it?

11 A Yes.

12 Q Okay. And you can use these, 17, you can use these
13 HCL's more than once, can't you?

14 A Yes.

15 Q Okay. But it's your testimony that he was reworking
16 that bottle; he was trying to render methamphetamine out
17 of the bottle just the night before?

18 MR. WISE: Your Honor, objection. Your Honor, he's
19 leading the witness.

20 A Yes.

21 THE COURT: All right. Okay. I'll overrule. You
22 can proceed.

23 Q Is that what your testimony is that just before
24 probation had got there the night prior, he had been
25 working that bottle, reworking it trying to get the meth

1 out?

2 A Yes.

3 Q All right. Thank you.

4 MR. SCOTT: That's all.

5 THE COURT: Anything else on redirect?

6 RE CROSS-EXAMINATION

7 By Mr. Wise:

8 MR. WISE: Bring up Exhibit 11. You still got up
9 Exhibit 11? Zoom in on that, please.

10 Q Those are your belongings?

11 A Yes.

12 Q And this is, what is this package right here in your,
13 in your belongings?

14 A It's needles. I kept clean needles for people.

15 Q It's clean needles that you kept --

16 A Yes.

17 Q -- in your personal belongings --

18 A Yes.

19 Q -- correct?

20 A Yes.

21 Q But you never shot up any methamphetamine?

22 A I have before, but I couldn't shoot myself up.

23 Q But you had shot up methamphetamine before?

24 A Yes.

25 Q Correct?

1 A Yes.

2 Q You previously testified you only smoked it or snort
3 it, correct?

4 A Somebody has shot me up with it one time.

5 Q But somebody, but you've also shot up?

6 A I couldn't do myself.

7 Q But you carry needles around with you just as a good
8 Samaritan?

9 A No. I mainly had them for other people.

10 Q So that they would have a clean needle, because
11 you're a good Samaritan?

12 A Yes.

13 Q But that was in your belongings and you purchased it?

14 A They were my uncle's diabetic needles.

15 Q You stole them from your uncle?

16 A I had took them.

17 Q You stole them from your uncle?

18 A Yeah. Well, he knew I had them.

19 Q And you kept them in your belongings?

20 A Yes.

21 Q Thank you.

22 THE COURT: All right. All right, ma'am. You may
23 step down. I appreciate you being here. Solicitor, or
24 any of y'all need to take a break, anybody? Everybody's
25 good? Okay. All right. Mr. Scott, you can call your

1 next witness, sir.

2 MR. SCOTT: Your Honor, the State calls Matt Veal.

3 MATT VEAL, being

4 first duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 By Mr. Scott:

7 Q Okay. Sergeant Veal, you're employed with the
8 Laurens Sheriff's Department?

9 A Yes, sir; I am.

10 Q And what unit do you primarily work in?

11 A I am the sergeant in the Narcotics Division.

12 Q Okay. How long have you been in that division?

13 A Approximately nine and a half years.

14 Q And what does that mean to work for the Narcotics
15 Unit of the Sheriff's Department?

16 A I'm sorry?

17 Q What does that mean to work in the Narcotics Unit of
18 the Sheriff's Department?

19 A I think it's an honor to work in the Narcotics
20 Division, and I help with the day to day operation, I
21 guess, of conducting undercover buys. We dismantle meth
22 labs.

23 Q And primarily dealing with illegal drugs?

24 A Illegal drugs, yes.

25 Q That's what I'm asking.

1 A Yes.

2 Q Okay. And you just mentioned you helped by taking
3 down meth labs.

4 A Yeah.

5 Q Why don't you tell us about that?

6 A Well, back in 2010 I became certified and to
7 recognize, and recognize the components of a meth lab. I
8 was also certified in dismantling or rendering it safe so
9 that it could be transported away.

10 Q Okay. So you're certified seven years ago in that?

11 A Correct.

12 Q And what kind of training do you have to undergo to
13 do that?

14 A I went to a clandestine lab investigation class,
15 which it shows you the components, what you need to look
16 for, how to investigate, how to get to a point of, we use
17 a system called MPLEX which is like when you go purchase
18 your pseudoephedrine, you have to show your ID and it logs
19 it into a system. It helps you recognize like when you
20 need your Coleman fuels, your ammonium nitrates which is
21 your cold packs. It shows you the ingredients that you
22 need to use to manufacture meth.

23 Q How many classes or how many trainings have you gone
24 through?

25 A I've been to the 48-hour clandestine lab

1 investigations. I went to a 48-hour basic narcotics
2 investigations class. And I also took a 52-hour, it's
3 what they call clandestine labs and weapons of mass
4 destruction identification dismantle course.

5 Q Okay. So you have to have special training to
6 dismantle these things?

7 A Correct.

8 Q Why is that?

9 A Because of the hazardous materials that are used.
10 Lithium is an extremely flammable material. During it
11 being with your solvents such as Coleman fuels and
12 everything, which is an ignitable liquid, it's just a
13 volatile situation in that you have to be able to handle
14 these ingredients properly or it could blow up on you.

15 Q Okay. So there is a set way to properly dispose of
16 this meth waste, is that correct?

17 A Correct.

18 Q And when you go into a meth lab, are you wearing a
19 suit and tie like that?

20 A No. If the active, if there is a full active lab due
21 to the smoke and things, we usually have what we call the,
22 it's a Tyvek. It's a yellow suit. It's a one-piece suit
23 with a hood on it. We usually, an APR, which is a
24 personal respiratory mask that filters any type of gasses
25 or any type that's in the normal area that we're breathing

1 and it renders that oxygen safe for myself.

2 Q Okay. Because it is poisonous sometimes if you
3 breathe that in?

4 A Very.

5 Q Okay. Have you testified in General Sessions Court,
6 big court like this as an expert before?

7 A Yes sir; I have.

8 Q Okay. And it was in the recognition of clandestine
9 methamphetamine labs?

10 A Correct.

11 Q Okay. And how many times, do you remember?

12 A Seven times before today.

13 Q Okay. And do you remember off the top of your head
14 how many active methamphetamine labs have you responded
15 to?

16 A I don't know an exact number, but it would be safe to
17 say between a 150-200 labs.

18 Q Okay.

19 A And that'd be on the low end.

20 MR. SCOTT: Your Honor, the State would offer
21 Sergeant Veal as an expert in the recognition and
22 identification of clandestine meth labs.

23 THE COURT: Any exceptions to that qualification or
24 voir dire?

25 MR. WISE: No objection, Your Honor.

1 THE COURT: Okay. Ladies and gentlemen, when someone
2 offers a party or, excuse me, a witness as an expert
3 witness, they do so because of his or her specialized
4 skill, training, education, and expertise in a given
5 field. The reason why somebody might offer someone as an
6 expert witness is, because an expert witness can give
7 opinion testimony that a regular witness can't give
8 because of his or her specialized training. Understand
9 that when someone is qualified as an expert witness, it
10 doesn't mean that their testimony has any greater value.
11 It just means that they can testify to opinion evidence.
12 You take the testimony of an expert witness just like you
13 take any other piece of evidence that's introduced in the
14 trial of a case. That is, you determine whether it's
15 credible and you determine what value it has. It doesn't
16 have any preferred value over the testimony of a lay
17 witness. All right. Mr. Scott, you may proceed, sir.

18 MR. SCOTT: Thank you, Your Honor.

19 Q May 6th, 2015, did you have an occasion to go out to
20 Smiths Village Road in Waterloo?

21 A Yes, sir; I did.

22 Q Okay. And what was that in regards to?

23 A I was contacted by Agent Black with the South
24 Carolina Department of Probation and Pardon Services. He
25 advised me that he thought that he had an active meth lab

1 down on Smiths Village Road. I asked him to send me a
2 picture of what he thought was an active, you know, the
3 active lab, and he sent me a picture of the, a clear
4 bottle with a blue top that appeared to have lithium
5 specs, along with some type of liquid and some type of
6 filler in the bottom of it. That's the picture he sent to
7 me.

8 Q Okay. And upon looking at the picture, what did you
9 advise him to do?

10 A I advised him that that looked like an active one
11 pot, one pot being the canister that you would control
12 this meth lab in and that he needed to get out of the
13 residence due to not knowing what else was around him in
14 this picture. And that I would be in route to him,
15 because I was coming from Laurens.

16 Q Okay. Well, when you got there, what did you do?

17 A Once we arrived on scene and spoke with Mr. Black, he
18 was just telling me, you know, why he was there, which --

19 Q -- that's the probation agent?

20 A -- the probation agent. And that he had, you know,
21 went in the house and started looking around as his, as a
22 home visit and that he had found this bottle up under one
23 of the steps leading into the bedroom, I guess, into the
24 under portion of the camper.

25 Q Okay. Did you conduct further searching of the

1 residence?

2 A Myself and, I believe, Lieutenant Bridges was there,
3 and I want to say there were five or six probation agents
4 there.

5 Q Okay. Did you observe any HCL generators?

6 A I did. They were, there was a trash can when you
7 walk in the camper on the right. If you walk in and go to
8 the right-hand side, I believe, there is a trash can there
9 kind of like in the bathroom going towards the bedroom
10 with several bottles in it. I believe there was three HCL
11 generators, which is a hydrochloric gas generator used in
12 the production of methamphetamine.

13 Q Okay. This is State's number 10. Do you see the HCL
14 generators in this picture?

15 A They're in the bluish-gray trash can in the center of
16 the screen up under the orange box there. There should be
17 three with two blue caps, one red cap and all have tubing
18 coming out the top.

19 Q Okay. Was that something you immediately recognized?

20 A Yes, sir.

21 Q And how many times have you seen an HCL generator?

22 A Just about every lab you go to.

23 Q This is State's number 7. What else do you see in
24 that picture?

25 A There is a coffee filter probably more towards, I

1 guess, you would say upper, kind of up in the upper middle
2 of the picture beside the vent neck --

3 Q Oh, the white thing, right? This thing?

4 A Yes. There you go.

5 Q Okay.

6 A And it had some, what I believe to be a filler agent,
7 I guess, like from the breakdown of like the Sudafed. The
8 Sudafed pill itself, there's a very small portion of
9 ephedrine in the pill itself. Most of the time it's a
10 binding agent that keeps it in a caplet form, a tablet
11 form and once it goes through the production of
12 methamphetamine, it just breaks down and it's not
13 compacted together anymore once the ephedrine comes out.

14 Q Okay. And that stuff, have you seen anything like
15 that before when you --

16 A -- oh, yeah. Yes, sir.

17 Q Is that finished product or what is that?

18 A It's, just, like I said, it's the filler off of it.
19 It's the, it's just a part of the process in the one pot.
20 During the one pot production, you don't want any of the
21 dividing agents or the ammonium nitrate or the lye that is
22 part of the chemicals that you make the meth with. All
23 they're looking for is the liquid off of, off the one pot.

24 Q Okay.

25 A And they use those coffee filters to, you know, kind

1 of like coffee, when you're making coffee and you keep
2 the, you don't want the coffee grounds in your coffee when
3 you drink it, you just want the liquid off of it.

4 Q State's number 19. Do you remember seeing funnels at
5 the scene?

6 A Yes, sir.

7 Q Is that something you've seen before at meth labs?

8 A From time to time; yes, sir.

9 Q Okay. I see the drain opener that was under the step
10 that you talked about earlier?

11 A Yes, sir.

12 Q Is that something that is significant to you?

13 A The drain opener is an acid, and it's part of the HCL
14 generators, the hydrochloric acid generators. It's one of
15 the two components that they use; the other component
16 being sodium hydroxide which is salt, table salt. You mix
17 those two together and you get the gas from, if you mix
18 the acid and the salt together, it gives off a gas and
19 that's what they're trying to get that which converts the
20 liquid from the one pot back into its, from a liquid state
21 back into a solid state.

22 Q Okay. I heard some testimony about gassing off
23 earlier.

24 A Yes.

25 Q Have you ever heard that term?

1 A I have.

2 Q What does that mean?

3 A Basically, they're creating a gas, a smoke to steep
4 back into the liquid from the one pot which turns, it's a
5 chemical reaction that turns the fluid from a one pot back
6 into a solid state, not a liquid state.

7 Q And, by the way, there's nothing illegal about having
8 drain opener, is there?

9 A No, sir.

10 Q Or coffee filters?

11 A No, sir.

12 Q And nothing illegal about having empty syringes, is
13 there?

14 A No, sir.

15 Q What about Sudafed as long as you're within your
16 limits?

17 A Long as you within your limits and you're buying it
18 for its intended use.

19 Q Okay. And nothing illegal about having Pepsi
20 bottles, is there?

21 A No, sir.

22 Q With tubes coming out?

23 A No, sir.

24 Q Okay. But is there something, what is it when you
25 see all of these things together, you're saying in your

1 expert opinion, what is going on?

2 A They're manufacturing methamphetamine.

3 Q Okay. Have you seen meth being made before in any of
4 your trainings?

5 A Yes, sir.

6 Q Okay. Would you be able to kind of demonstrate, with
7 the Judge's permission, just kind of, I know we're talking
8 a lot about different HCL bottles and one pot bottles and
9 this and that, would you be willing to kind of demonstrate
10 for us --

11 A Yes, sir.

12 Q -- how it would work --

13 A Yes, sir.

14 Q -- and how you'd use some of the things?

15 A Yes, sir.

16 Q Because, let me ask you this, what do you do with
17 some of this stuff? When you confiscate items like this
18 from a methamphetamine lab, what does your department do
19 with all that stuff?

20 A Once we determine that it's hazardous, we contact the
21 State Law Enforcement Division, commonly known as SLED.
22 They have a clean-up crew that comes out that is a
23 contract clean up, and they break it down into individual
24 components and render it safe for transport. And it is
25 incinerated by a third-party company to make sure that

1 it's properly disposed of.

2 Q Okay. So we no longer have the one pot with the
3 lithium and the liquid bottom, do we?

4 A We wouldn't be able to sit in this courtroom if we
5 brought that in here.

6 Q And we don't have the HCL generators anymore, but we
7 have the pictures of them?

8 A We have pictures, yes.

9 Q All right. So just to demonstrate, I've got a box of
10 what is general items and these are things we bought at
11 Wal-Mart last week.

12 MR. SCOTT: Your Honor, may we have permission for
13 Sergeant Veal to step down and just for demonstrative
14 purposes show us kind of what we're talking about here?

15 THE COURT: Sure.

16 MR. VEAL: Just take a normal 20-ounce Pepsi bottle
17 and what they'll do is take your Sudafed, grind it up,
18 break it up, however. You know, both of them will use
19 like a coffee grinder or some type of way of breaking down
20 the pill. And what it does, the solvent, which is your
21 Coleman fuel put in the standard lantern, you put it in
22 here, as well, and what that does is it starts breaking it
23 down and it extracts the, it's a chemical reaction that
24 extracts the ephedrine from the binders and the other
25 ingredients in the pill. Then, they'll take a standard

1 cold pack and inside the cold pack here is ammonium
2 nitrate which is like fertilizer. They need that.
3 Basically, what these cold packs are is fertilizer and
4 when you wet it, it gets real cold and if you need to
5 stick it on a sore leg, sore arm or something like that.
6 They just need the pills out of it. They also grind it up
7 and pour it in here. Household lye, like drain opener, in
8 a powder form. You get that, as well. You take that and
9 you put a little bit in the same bottle. You'll take a
10 lithium battery, everybody's familiar with lithium
11 batteries. What you do is you take it up and when you cut
12 that battery open, there's strips inside of it, and
13 whether the battery has any power or not, there's still a
14 lithium strip in it that's always good. What they'll do
15 is they'll break that down and put all that down inside
16 this bottle here and the reason why they use plastic,
17 because when they start shaking this bottle, it creates a
18 chemical reaction and it'll start swelling. So what they
19 can do is they can just, what they call burping, and
20 relieving the pressure off the top. Put it back in there
21 and let it, shake it up, set it down, do whatever they
22 need to do.

23 Q Okay. So what you got so far in there was crushed
24 ephedrine, you add to the contents of a cold compress
25 pack. Does this go in yet, the drain opener?

1 A That doesn't go in yet.

2 Q Okay. But you put the Sudafed and the cold compress
3 in there. What else did you have in there, Coleman fuel?

4 A Coleman fuel, some type of solvent. Some of them use
5 toluene. Coleman, Coleman fuel or just whatever type of
6 solvent that's readily available to them.

7 Q Okay. And then they're shaking it to mix everything?

8 A What they do is they'll shake it up. Like I said,
9 they'll just shake and the process goes from anywhere from
10 an hour to two hours, just depending on, you know, the
11 cook itself is, they believe it's ready.

12 Q Okay. And that is called what?

13 A This is called a one pot.

14 Q Okay. And then the State's, State's number 20, is
15 that what you're calling a one pot?

16 A Yes, sir.

17 Q And then you talked about, what are the black things
18 in this picture we're seeing?

19 A The black specks there are the lithium strip where
20 they've taken it off and just, and broken it down and
21 throw it inside the bottle.

22 Q Just from a lithium bottle that you can --

23 A -- that you can find the lithium in double-A,
24 triple-A battery.

25 Q Okay. All right. So you shake all that up. You got

1 all that stuff mixed. An hour's gone by. What do you do
2 next?

3 A What they want is, like I said, to get the liquid off
4 of it. They'll take the liquid and, usually, they'll take
5 some coffee filters, pour it through, but the liquid will
6 go straight through. Make sure they didn't get any of the
7 binders of the lye or the lithium or anything like that.
8 And they'll take another bottle and they'll drill a hole,
9 basically, and get some kind of air tubing like from a
10 fish aquarium or something like that. And what they'll do
11 is they'll drill a hole in there, and they'll put their
12 salt and the sulphuric acid, which is another drain
13 opener, and they'll mix it together. Once they mix it
14 together, they don't want the acid itself or they don't
15 want the salt. They want the gas that's coming off of it.
16 They'll have the liquid in some other type of container
17 and just have the liquid there. And what they'll do is
18 when they start, when it starts gassing off, that gas will
19 come through this tube and they'll stick a tube down in
20 that liquid and what it does is another chemical reaction
21 starts, and it'll turn it back from a liquid state into a
22 solid state.

23 Q Okay. So after you've sort of, like in this picture
24 here, you've filtered out the, I guess, binder is what
25 you're calling it?

1 A Yes.

2 Q You're left with some meth oil or something and --

3 A -- and just, and meth oil; yes, sir.

4 Q And you're trying to extract the solid out of the
5 liquid that's in here?

6 A What you're doing is you're turning that liquid back
7 into a solid state. The chemical reaction from the gas
8 turns it back into a solid state, like a powder or a
9 paste, and they'll dry it out and that's how they, and
10 they'll use it.

11 Q Okay. But what you're saying is you take this and
12 the reaction this is creating is producing --

13 A A gas.

14 Q -- a gas that's going in the liquid and creating a
15 solid out of that liquid?

16 A Correct.

17 Q Okay. All right. And then from there, you take the
18 solid that's left in that container and you dry it out,
19 then you have what?

20 A You have methamphetamine.

21 Q Okay. Okay. I think, is that pretty much the --

22 A Yes, sir.

23 Q -- way it works? What is smurfing? Have you ever
24 heard that term?

25 A Smurfing is a term that's used for individuals that

1 go and buy excessive amounts of pseudoephedrine or buy the
2 pseudoephedrine for the intended purpose of manufacturing
3 meth, not someone with a standard cold that needs the
4 ephedrine, you know, to help with their sinus problem.

5 Q Okay. But I understood it to be buying it for
6 somebody else. Is that not the case?

7 A You can. I mean, that's what I'm saying. You buying
8 it for the purpose, then turning around and selling it to
9 someone else.

10 Q Okay. Is that something you've seen in your
11 investigations where they're trading dope for
12 pseudoephedrine?

13 A I've seen it traded for dope. I've seen them pay in
14 excess of \$50 a box for Sudafed. Seen things traded out
15 for them, and we've heard all kinds of stories.

16 Q Okay. So but what if the limit's not, like how much
17 Sudafed can I buy this month?

18 A You can buy nine grams in a 30-day period or, I want
19 to make sure I'm telling you right, three grams in a
20 24-hour period, but no more than nine grams in a 30-day
21 period.

22 Q Okay. And because if I go --

23 A -- I think it's 3.6, I'm sorry, 3.6 grams.

24 Q Okay. Between three and four grams of Sudafed?

25 A Correct.

1 Q And if I meet that limit and I've bought my limit for
2 that month, what happens when I go to CVS and try to buy
3 Sudafed?

4 A They'll tell you that you've reached your limit and
5 they will not sell you anymore.

6 Q And in your professional opinion, what you observed
7 May 6th, 2015, at Smiths Village Road, in your
8 professional opinion, all these items taken together and
9 everything you saw, by the way, did you see the syringes
10 in the refrigerator?

11 A I did.

12 Q Okay. With all this taken together, did you form an
13 opinion on what was going on there?

14 A Yes, sir; I did. I believe that they were
15 manufacturing methamphetamine.

16 Q Okay. And did you know whose residence it was?

17 A Yes, I did.

18 Q Whose was it?

19 A Roy Ellis Smith.

20 Q Okay. And that address I've already asked
21 somebody. Smiths Village Road in Waterloo, is that in
22 Laurens County?

23 A That's in Laurens County on the Laurens County side
24 of Lake Greenwood.

25 Q All right.

1 MR. SCOTT: Sergeant Veal, answer any questions Mr.
2 Wise has.

3 MR. VEAL: Yes, sir.

4 CROSS-EXAMINATION

5 By Mr. Wise:

6 Q Sergeant Veal, when you had Lauren Ginn out there,
7 you asked her whose it was, and she said she didn't know?

8 A I believe so; yes, sir.

9 Q All right. And when you asked Tristen Wells whose it
10 was, he said he didn't know?

11 A Correct.

12 Q And when you asked Roy Smith whose it was, he said he
13 didn't know?

14 A That's correct. That's why all three were charged,
15 charged with it.

16 Q Right, because you didn't know?

17 A Yes, sir.

18 Q All right. And, as a result, actually, you kind of
19 left them alone for a while and said, I'm going to come
20 back later?

21 A I did. I try to give every opportunity to
22 individuals that come across to, because I advised them
23 that if no one, they are in constructive possession of
24 these items. And if no one takes claim of those items,
25 then all, everyone at the residence would be charged.

1 Q Because you didn't know which one really had it?

2 A That's correct.

3 Q Okay. Now, show me, if you would, in the exhibits,
4 now, you allege, let me ask you another question first.

5 You said that if you brought the bottles in here that
6 looked somewhat like this, you used for demonstration the
7 bottle with the tube in, that we wouldn't be able to stay
8 in this courtroom.

9 A Well, if you had the active lithium strips inside the
10 Coleman fuel, if you had it inside that bottle, I
11 wouldn't, under my professional opinion, I wouldn't want
12 to be in this courtroom around the jury and yourself.

13 Q Because it's tight, and it could explode?

14 A That's correct. That's very --

15 Q That's the only reason?

16 A -- very possible.

17 Q But the bottles, let me show them here.

18 A There's some pictures right here.

19 Q Well, I don't think, those aren't it. All right.

20 But the bottles --

21 MR. WISE: Put up there Exhibit 10. 10, 10, excuse
22 me. Here we go. No. Now, don't use 10, use 17. It's a
23 better picture.

24 Q All right. Now, those bottles are similar to what
25 you have here with the tube in it?

1 A Yes, sir.

2 Q Now, those don't have anything to exploding?

3 A No, sir.

4 Q All right.

5 A They just give off a gas that's --

6 Q Right.

7 A -- unhealthy.

8 Q But you could, right. But you could have dumped them
9 out and brought them in here?

10 A No, sir; I wouldn't.

11 Q You could bring them in here?

12 A No, sir; I wouldn't.

13 Q I understand you wouldn't.

14 A Yes, sir.

15 Q They don't --

16 A I wouldn't bring those in here because of the gas
17 that they give off, I would not bring them in here. It
18 would not be --

19 Q If they were totally --

20 A -- ethical.

21 Q If they were empty would you bring them in there?

22 A No, sir; I wouldn't.

23 Q All right. But those are the ones you're talking
24 about?

25 A Yes, sir.

1 Q All right. Now, those run through, coming out of
2 that tube is some smoke you say --

3 A Yes, sir.

4 Q -- that you run into another container?

5 A Yes, sir.

6 Q All right. Where is the other container they ran
7 into?

8 A I don't know. I didn't find one --

9 Q You didn't find one?

10 A -- with any type of residue. No, sir; I didn't.

11 Q So you didn't find something equivalent of this small
12 cup that would do like this?

13 A No, sir.

14 Q And that would have a lot of residue in it?

15 A I would believe so.

16 Q More than likely?

17 A Yes, sir.

18 Q I mean, unless they rinsed it out for some reason,
19 right?

20 A Or try to--

21 Q -- but you found nothing, excuse me, that had this,
22 the container that it would be put into?

23 A I don't have that container; no, sir.

24 Q And one of the ingredients you need for this was
25 Coleman fuel, too, isn't it?

1 A I say Coleman fuel, but some type of solvent.

2 Q Correct.

3 A Yes, sir.

4 Q Some sort of solvent that's a lighter fluid; Coleman
5 fuel, something like that?

6 A Yes, sir.

7 Q All right. And show us the picture of the Coleman
8 fuel or the other lighter fluid that was in that trailer?

9 A There was not any. That actual container still was
10 not located.

11 Q All right. And lye is an important ingredient?

12 A It's one of the ingredients; yes, sir.

13 Q Could you show us the picture of the lye that was in
14 that trailer?

15 A I didn't see one.

16 Q You didn't see any. Okay. Also lithium batteries
17 are important?

18 A Yes, sir.

19 Q All right. Would you show us a picture of the
20 lithium batteries?

21 A It's inside the one pot.

22 Q It's in the --

23 A The lithium strips, there's no other type of battery
24 that you can use that will make the chemical reaction in
25 that one pot. That is a lithium battery.

- 1 Q Did you find any remnants of lithium batteries in
2 that trailer?
- 3 A No, sir; I didn't.
- 4 Q Okay. Now, lithium is very volatile?
- 5 A Correct.
- 6 Q Extremely volatile?
- 7 A It's water-reactive.
- 8 Q Have you ever taken a lithium battery apart?
- 9 A Yes, sir.
- 10 Q And played with it?
- 11 A No, I wouldn't say I have played with it.
- 12 Q Well, experimented with it, then?
- 13 A I've seen it done; yes, sir.
- 14 Q And as soon as that lithium is taken out of that
15 battery touches water, it flames --
- 16 A It'll flame up.
- 17 Q Correct?
- 18 A Correct. Yes, sir.
- 19 Q And nothing's left?
- 20 A Yes, sir.
- 21 Q Correct?
- 22 A Yes, sir.
- 23 Q And I mean, it is something to watch, really, isn't
24 it? It's pretty impressive?
- 25 A Yes, sir.

1 Q All right. So when you take the lithium out and you
2 put it into the liquid, and what liquid do you put the
3 lithium in?

4 A That would be some type of solvent, the Coleman fuel,
5 lighter fluid.

6 Q You'd put lithium in Coleman fuel?

7 A Yes, sir.

8 Q Okay. And if you got lithium and water together,
9 you've got a problem?

10 A Yes, sir.

11 Q Okay. Now --

12 A Coleman fuel is not water.

13 Q I understand that. But if lithium touches water near
14 Coleman fuel, you got a problem?

15 A It'll intensify; yes, sir.

16 Q Okay. Now, the other, the real thing you need is, of
17 course, Sudafed?

18 A Correct.

19 Q All right.

20 A It is a precursor.

21 Q All right. And the picture of the cold pack is where
22 in these pictures?

23 A I didn't see any.)

24 Q You didn't see any. So you've got a lot of major
25 ingredients that aren't in that small trailer, don't you?

1 A They're inside the, they're inside that one pot.

2 Q Did you analyze that one pot?

3 A No, sir. But in my expert opinion, that is an active
4 one pot.

5 Q Did a chemist analyze that one pot?

6 A No, sir.

7 Q So we don't know what's in that one pot, correct?

8 A I know what's in it under my --

9 Q You think you know what's in it?

10 A Yes, sir.

11 Q You have the ability to tell us what's in that one
12 pot without doing any sort of chemical analysis?

13 A No, sir. Under my expert opinion, I believe that's
14 what it is.

15 Q You have an opinion as to what it is?

16 A Correct.

17 Q You could have taken it to a chemist?

18 A We can't, actually, SLED does not accept the entire
19 one pot itself. They will not accept it.

20 Q You could have taken a sample from it?

21 A Correct.

22 Q And you could have taken that to a chemist?

23 A That's correct.

24 Q And a chemist could have come in here and said,
25 what's in it?

1 A Correct.

2 Q Positively?

3 A Which that is what we do now. But at the time, a
4 sample was not taken.

5 Q So the procedure is better today than it was back
6 then?

7 A We've learned.

8 Q And I'll agree it's better.

9 A Yes, sir.

10 Q Because you have good reliability?

11 A Correct.

12 Q And you don't know how long that liquid had been in
13 the bottle either, do you?

14 A Well, due to it being a solvent, in my prior
15 experiences, usually, the chemicals in these bottles will
16 eventually deteriorate the bottle itself. And usually you
17 find some of them in pieces where those are intact. So,
18 in my opinion, that is, it hasn't been in there I would
19 say, you know, no more than a couple of days, if that.

20 Q A couple of days?

21 A Maybe.

22 Q All right. But, basically, as far as the 6th of May
23 is concerned, you really don't have all the ingredients
24 on, in the trailer on that date to manufacture
25 methamphetamine, do you?

- 1 A My opinion that they're all inside that one pot.
- 2 Q But, you don't have any remnants of lye in that bowl,
3 that trailer?
- 4 A I don't have any containers.
- 5 Q Right.
- 6 A That doesn't mean they wasn't disposed of before we
7 got there.
- 8 Q Right. You don't have any remnants of lithium
9 batteries?
- 10 A Yes, sir. I have the lithium batteries inside that
11 one pot.
- 12 Q You don't have any blister packs with lithium?
- 13 A No. I don't have any blister pack; no, sir.
- 14 Q You don't have any peeled-apart lithium batteries?
- 15 A No, sir.
- 16 Q Okay. You don't have any Coleman fuel?
- 17 A Other than what's in that one pot.
- 18 Q What you believe is Coleman fuel?
- 19 A Yes, sir.
- 20 Q You don't have any Coleman fuel?
- 21 A No container of Coleman fuel.
- 22 Q And you don't have any pseudoephedrine?
- 23 A Other than what was in that one pot.
- 24 Q And how much pseudoephedrine is in that one pot?
- 25 A Usually, they put an entire box, and then they just

1 --

2 Q -I am not talking about what they did. I'm talking
3 about that particular pot.

4 A I don't know exactly how much is in that one. But on
5 a standard one pot, it's usually one box.

6 Q But you don't know if there is any in that, correct?

7 A In my opinion, I believe there is.

8 Q But you don't, you never sent it off to find out?

9 A No, sir.

10 Q Which is one of the problems with doing it the way
11 y'all did it then instead of the way you do it now?

12 A Yes, sir.

13 Q But you remove all doubt when you do it today, don't
14 you, correct?

15 A Yes, sir.

16 Q And your burden, of course, is to prove it beyond a
17 reasonable doubt, correct?

18 A Yes, sir.

19 Q And that's why you do it better now?

20 A Yes, sir.

21 Q All right. Now, you noticed the needles in the
22 refrigerator that Agent Black called you about?

23 A Yes, sir.

24 Q And you noticed what appeared to be blood in there?

25 A A red substance. Yes, sir. I believe it was blood.

1 Q Right. And did you send that to SLED to have that
2 blood tested for DNA?

3 A I don't believe we sent it for DNA. No.

4 Q You didn't?

5 A No, sir. Their caseload, it would probably still be
6 pending if we asked for a DNA match. I mean, it would be,
7 there's still actually some homicides that have not been--

8 Q Well, obviously, the only way that blood can get into
9 a needle is if it's stuck in somebody's arm?

10 A Yes, sir.

11 Q And that's pretty good proof as to who used the
12 needle?

13 A Yes, sir.

14 Q But you didn't send it off for DNA?

15 A No, sir.

16 Q Did you request it?

17 A No, sir.

18 Q Did you fingerprint any of this stuff?

19 A No, sir.

20 Q Did you request it?

21 A No, sir.

22 Q Did you ask that any of these containers be swabbed
23 for possible DNA analysis?

24 A No, sir. We don't do DNA due to what I just, I
25 advised you.

1 Q But you don't, you don't do it?

2 A We don't do DNA; no, sir.

3 Q It wasn't important for you to know exactly whose
4 blood was in that needle then?

5 A I'm not going to say it's not important, but, then
6 again, it was in their possession, so we charged with the
7 possession of it; yes, sir.

8 Q It was in all three persons possession?

9 A Yes, sir.

10 Q It was in a refrigerator?

11 A It was in their constructive possession.

12 Q It was in no one's real possession, correct?

13 A I'll say it's in their constructive possession.

14 Q But it was in the refrigerator?

15 A Yes, sir.

16 Q All right. Now, just one second.

17 MR. WISE: Thank you very much.

18 MR. VEAL: Yes, sir.

19 THE COURT: Redirect.

20 MR. SCOTT: Yes, sir; Your Honor.

21 REDIRECT EXAMINATION

22 By Mr. Scott:

23 Q You can have three people all --

24 MR. WISE: Objection, Your Honor. He's leading the
25 witness.

1 THE COURT: Well, I hadn't heard the question yet,
2 but try to refrain from leading, if you will, Mr. Scott.

3 MR. WISE: It started out that way. Let's put it
4 that way.

5 MR. SCOTT: I'll rephrase it.

6 Q How many people, is there a limit to how many people
7 can be charged with manufacturing meth?

8 A No, sir.

9 Q Okay. How many people were charged with
10 manufacturing meth in this case?

11 A It was three.

12 Q And so, you know, a scenario where one person
13 provides all the Coleman fuel and the lye and the drain
14 opener; another person chips in with Sudafed, and then a
15 third person shakes the bottle and vents it off, how many
16 people are guilty of manufacturing meth?

17 A Three.

18 Q Okay. And whose home was this?

19 A This was Roy Ellis Smith.

20 Q Okay. Well, did, I don't know if he'll let me ask
21 this but, theoretically, would you have made an arrest if
22 all you found was this?

23 A If it had the, just the bottle?

24 Q All you found is this?

25 A The bottle itself?

1 Q Right.

2 A No.

3 Q Okay. But when you couple it with all this other
4 stuff and you find syringes with methamphetamine in it and
5 you find that lithium strips in the bottom of the one pot
6 and you, you find the base powder that's in the filter.
7 In your expert opinion, when you take all that together,
8 I'm not talking about just one thing here or one thing
9 there, you take all that together, what is your expert
10 opinion on what's going on there?

11 A They were manufacturing methamphetamine.

12 Q And as a result, you charged how many people with
13 manufacturing methamphetamine?

14 A All three --

15 Q Okay.

16 A -- that were located there when Agent Black arrived
17 on scene.

18 Q Okay. And is it common that you find every, I'm
19 talking about labeled container where somebody has it
20 contained or sitting and it says lye, or you have one
21 that's sitting there and it says, lithium strips? Is it
22 common when you go to these methamphetamine scenes to find
23 really pretty equate bottles that have the labels to what
24 the product is?

25 A It's not common at all.

1 Q Okay. Is it common to find junkyards kind of like
2 where Mr. Ellis was living in with just stuff scattered
3 everywhere?

4 A Correct.

5 MR. SCOTT: Thank you, Sergeant Veal.

6 RE CROSS-EXAMINATION

7 By Mr. Wise:

8 Q It's possible that just two people made the
9 methamphetamine, didn't they?

10 A Correct.

11 Q It's possible that just one did, correct?

12 A Yes, sir.

13 Q And it's possible that somebody brought those four
14 bottles into that camper?

15 A It was there when Agent Black got there.

16 Q Right. And it's possible that someone brought it in
17 from the outside?

18 A And I would think that Mr. Smith would know what was
19 being brought into his residence.

20 Q If he was there?

21 A He was there.

22 Q If he was there when it was brought in?

23 A I know what's in my residence.

24 Q Thank you. You live in a camper?

25 A No, sir.

1 Q With a bad door?

2 A No, sir.

3 MR. WISE: Thank you.

4 THE COURT: Okay. Thank you, Officer. I appreciate
5 it. You may step down.

6 MR. VEAL: Thank you.

7 THE COURT: All right. Mr. Scott, if my math is
8 right, you got about three more witnesses you anticipate?

9 MR. SCOTT: No, I think we have two more.

10 THE COURT: Okay.

11 MR. SCOTT: That's the good news.

12 THE COURT: Okay.

13 MR. SCOTT: The bad news is we are really ahead of
14 schedule. Our next one has the flu. He's out for the
15 day.

16 THE COURT: Yeah. My daughter does, too, I'm afraid.

17 MR. SCOTT: Our last one is a SLED analysis, the SLED
18 scientist and she is subpoenaed in Lexington today. So we
19 had told her just, we really rocked through this thing.
20 We told her tomorrow morning to be here.

21 THE COURT: Okay.

22 MR. SCOTT: And I hate to do this. I hate to tell
23 the jury to adjourn early today, but we've run out of
24 witnesses for today, but the good news is I only got two
25 more left.

1 REPORTER: I had, I think Walter had pulled some out
2 before I even started marking them..

3 MR. WISE: Okay.

4 MR. SCOTT: All right. So 1 through 23?

5 MR. WISE: Yeah.

6 REPORTER: 22 is the chart.

7 MR. WISE: Chart, yeah. And the chart.

8 MR. SCOTT: 23 didn't come in yet.

9 MR. WISE: Where's 23?

10 MR. SCOTT: Okay. You ready?

11 REPORTER: Yeah.

12 MR. SCOTT: All right. Your Honor, this, and this is
13 the formal stipulation that is that State's 1, photographs
14 1 through 21, that there was a stipulation that those be
15 admitted into evidence. 22 is a chart. Further
16 stipulated that that has come in and already has been
17 published into evidence. 23, at this point, is ID only.

18 MR. WISE: Right.

19 THE COURT: Okay. That's great. All right.
20 Anything else today, gentlemen?

21 (Whereupon, State's Exhibits 1 through 22 were
22 admitted into evidence.)

23 (Whereupon, State's Exhibit 23 was marked for
24 identification only.)

25 MR. SCOTT: That's all, Your Honor.

1 THE COURT: Okay. And if y'all need me between now
2 and, you send me an email and I'll monitor that online.
3 So if y'all need me before 9:30, and what I would prefer
4 is if we need to take something up outside of the jury,
5 then let me know so we can do it at 9:00, so when they get
6 here, we can go ahead and move forward.

7 MR. WISE: I can't think of anything at this point.

8 THE COURT: Yeah. I know, just in case y'all get in
9 a fight in the next couple of hours, y'all let me know.
10 Okay? We'll see you tomorrow morning.

11 (Whereupon, the trial will resume the next morning at
12 9:30 a.m.)

13 February 22, 2017.

14 THE COURT: Are we ready?

15 MR. SCOTT: Yes, sir.

16 MR. WISE: Yes, Your Honor.

17 THE COURT: Let's bring the jury in.

18 (Whereupon, the jury came into open court at
19 approximately 9:46 a.m.)

20 THE COURT: All right. Good morning, everybody. I
21 hope you had a good evening. Let's get started. Mr.
22 Scott, you may call your next witness.

23 MR. SCOTT: Thank you, Your Honor. Briefly, I need
24 to recall Sergeant Matt Veal to the stand.

25 THE COURT: Okay. I'll remind you, you are still

1 under oath, sir.

2 MR. VEAL: Yes, sir.

3 RECALL-DIRECT EXAMINATION

4 By Ms. Scott:

5 Q All right. Sergeant Veal, you testified yesterday
6 and we talked a lot about State's number 5 --

7 A Yes, sir.

8 Q -- and you testified that those were some items you
9 found under a step?

10 A Yes, sir. A one pot and a bottle of drain opener.

11 Q And then the one pot, that was the bottom that you
12 found the lithium or what you thought were lithium strips
13 in the bottom of the pot?

14 A That's correct.

15 Q What is that that you're looking at right there, the
16 paper you brought with you?

17 A This is a copy of our evidence status sheet. When we
18 enter evidence into our system at the Sheriff's Office, we
19 list everything individually like drugs and such that we
20 seize or send to keep as evidentiary purposes.

21 Q Okay. Some questions were asked yesterday about
22 whether you took any sample from the bottle, the one pot
23 bottle?

24 A Yes, sir.

25 Q Okay. And have you had a chance to review your

1 evidence intake form?

2 A After yesterday, I started thinking, you know, I've
3 done so many of these meth labs, I made a mistake. We
4 actually did sample the one pot that was taken from Mr.
5 Smith's residence on that date, and it was listed in the
6 Best Kit, along with the needles that were taken.

7 Q Okay. And you're talking about Best Kit. Is that
8 what State's number 23 is?

9 A Yes.

10 Q Have you had a chance to look in that bag? It hadn't
11 been opened, but can you look through the bag?

12 A In one container, the syringes that were taken and in
13 the other one is where I took a sample of the liquid off
14 the one pot, taken there. It's shown in that picture and
15 it was signed by me.

16 Q Okay. So when you collected the syringes from the
17 refrigerator and collected the oil from the one pot, what
18 did you do with State's number 23 next?

19 A We sent it to SLED for analysis.

20 Q Okay. Well, did you drive directly from Waterloo to
21 SLED?

22 A No. What we do is I took it in my possession. We
23 entered it into evidence. It was given to our evidence
24 custodian. At the time, would have been Deputy David
25 Craig, at the time. What he does is he'll log it in and

1 keep it until it's taken to SLED, and it's kept in his
2 custody until then, until they call him and tell him that
3 it's ready to be picked up.

4 Q Okay. Well, just to be clear, one were the samples
5 you collected from the scene at Waterloo that were sent to
6 SLED?

7 A The sample was from the one pot. It's just a liquid
8 off of the top layer of liquid off of that one pot. We
9 take approximately anywhere from 5 to 6 cc's, I guess, is
10 what it is. It's just the one small vial --

11 Q Okay.

12 A -- clear liquid.

13 Q So a solution from the one pot, but also the syringes
14 you sent to SLED?

15 A Correct.

16 Q Thank you. That's all the questions I have.

17 CROSS-EXAMINATION

18 By Mr. Wise:

19 Q So the thing with two rubbers, the one pot came in
20 the smaller tube?

21 A Yes, sir.

22 Q And when you testified yesterday, it wasn't sent to
23 SLED, you were just mistaken on that?

24 A I was mistaken; yes, sir.

25 Q Your memory wasn't quite as good as you thought it

1 was?

2 A Yes, sir. And during that time it was when we had
3 started doing the testing of the one pots.

4 Q Your memory wasn't as good as you thought it was?

5 A Yes, sir.

6 MR. WISE: Thank you.

7 THE COURT: Redirect?

8 MR. SCOTT: None, Your Honor.

9 THE COURT: Okay. All right. Thank you, sir. You
10 may step down.

11 MR. VEAL: Thank you.

12 MR. SCOTT: Your Honor, the State calls David Craig.

13 DAVID CRAIG, being
14 first duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 By Mr. Scott:

17 Q Good morning, Mr. Craig?

18 A Hey, Dale.

19 Q Where are you working now?

20 A Lander University Police Department --

21 Q Okay.

22 A -- in Greenwood.

23 Q All right. And what do you do, just what are you
24 doing with the Police Department at Lander?

25 A Just a police officer there.

- 1 Q Okay. You ever run into Jim Black?
- 2 A Yeah.
- 3 Q You heard from him?
- 4 A Yes, sir.
- 5 Q He works over there with you now, I think?
- 6 A Yeah.
- 7 Q But back in May 6th, 2015, you were with the
- 8 Sheriff's Department?
- 9 A That's correct.
- 10 Q Okay. And what were your duties there?
- 11 A I was there as custodian for the Sheriff's Office.
- 12 Q Okay. For the jurors who may not know, what does an
- 13 evidence custodian do?
- 14 A Basically, what we do is secure all the evidence that
- 15 comes into the Evidence Department. Basically secure all
- 16 of the evidence that comes in from the deputies, what they
- 17 have seized, whatever it may be, whether it's money or
- 18 drugs. And, basically, it's secured there at the
- 19 Sheriff's Office behind locked doors. And then if it has
- 20 to go to SLED, I transferred it to SLED.
- 21 Q So you actually transported it --
- 22 A Yes, sir.
- 23 Q -- from Laurens? You drive, get in the car and drive
- 24 the evidence over to SLED?
- 25 A That's correct.

1 Q But and how many times did you make the trip from
2 Laurens to Broad River Road in Columbia?

3 A One time a week.

4 Q Okay. So in the meantime, in between those
5 deliveries, the evidence, the drug evidence or money
6 evidence or guns or whatever the evidence seized, it's
7 kept under your care and control?

8 A That's correct.

9 Q And how is that done?

10 A Well, what you do, we have a computer system that's
11 called Law Tracks and Law Tracks allows us to log it in.
12 And it tracks everything that we do from the time that
13 evidence is seized until the time it's delivered to SLED,
14 brought back. If it comes to court, if anybody views it,
15 it's all there. Everything is documented, so there's a,
16 what we call a chain-of-custody.

17 Q Okay. Who all has access to the evidence room in the
18 Sheriff's Department when you were there?

19 A No one but myself.

20 Q Okay. Well, this one, it looks like that this case
21 happened during the daytime. But let's say a deputy
22 seizes some evidence 2 or 3 a.m. at night. Would you be
23 at the office then?

24 A No. What we have is a temporary storage locker and
25 the evidence would be located in the temporary storage

1 locker behind a lock-and-key. In the morning, I would
2 come in and remove it from the locker, confirm it was what
3 it said it was, and then prepare it to go to SLED. And
4 that's what occurred with this evidence.

5 Q Okay. The evidence custodian, aside from
6 transporting evidence to be analyzed by SLED, you're
7 charged with the maintaining and the safekeeping of the
8 evidence?

9 A Yes, sir.

10 Q State's number 23, do you recognize what this is?

11 A Yes, sir; I do. This is the evidence in the, the
12 evidence in the case.

13 Q Okay. And that would have been packaged by who; does
14 it say on the kit there?

15 A Yeah. Give me just a second. Yes. This was
16 packaged by Matt Veal, and he prepared what's called an
17 iLAB which is a SLED, it's how we transfer evidence to
18 SLED and that's how they would receive it. So he did the
19 iLAB. On 5/6/2015, it was sealed and, of course, I never
20 touched the drugs. It was sealed in a bag by Matt, and I
21 only delivered it to SLED, and then they receive it there.

22 Q Okay. You would have taken that to SLED. Do you
23 know when you took it to SLED?

24 A Usually, I will take it within the week. If it came
25 in, I would go to SLED normally on a Tuesday. If it came

1 in on Wednesday afternoon, it would be the Tuesday
2 following that I would take it.

3 Q Okay. What is this?

4 A This would be the evidence log for the said drugs.

5 MR. SCOTT: I beg the Court's indulgence.

6 THE COURT: Sure.

7 Q Okay. So in the date that that came in, that was
8 taken and delivered to the evidence room would have been
9 when?

10 A Let's see. It was delivered to the evidence room on,
11 let me see, 5/6/2015.

12 Q May 6th. Okay.

13 A Uh-huh.

14 Q And then so your testimony is you would have taken it
15 when?

16 A I would have taken it within a week, usually on the
17 Tuesday following, so whenever that would have been.

18 MR. SCOTT: Okay. And answer any questions Mr. Wise
19 has for you, please.

20 MR. CRAIG: Okay.

21 CROSS-EXAMINATION

22 By Mr. Wise:

23 Q And you have documentation for all this, too, don't
24 you?

25 A Yes, sir.

1 Q And do you have those documents with you?

2 A No, sir. I do not have them with me.

3 Q You don't, the State has them?

4 A They should be. The iLAB is transferred through SLED
5 and they usually procure all of that. The iLAB, the
6 chain-of-custody and everything, they should be there
7 together.

8 Q All right. Now, that's just the report. You sign
9 documents every time these drugs are touched, don't you?

10 A Yes, sir. That's correct.

11 Q And you say Matt Veal dropped them off to you --

12 A Yeah.

13 Q -- according to your records on the 6th of May?

14 A Yes, sir.

15 Q And you didn't give them back to Matt Veal?

16 A Sir?

17 Q You didn't give them back to him later?

18 A No, sir.

19 Q All right. Well, let me ask you this. Here is
20 something that's provided to me by the State. Do you
21 recognize that? It's not signed, I understand.

22 A Yes, sir.

23 Q You recognize that?

24 A Yes, sir. That's the evidence log.

25 Q All right. What does that say at the top, the one

1 I've just handed you? Who does it say to?

2 A It says, to, Sergeant Matt Veal.

3 Q And what's the date of it?

4 A The date says, date in on 5/6/2015.

5 Q All right. What's the date of that document, though?

6 A The date of this document?

7 Q Let me see the document back a second, and I'll show
8 you.

9 A Okay.

10 Q All right. What have you got in front of you?

11 A I've got the same document that you have.

12 Q Okay. All right. Look at the right-hand side, no,
13 excuse me, the left-hand side. And it says, to, Matt
14 Veal, correct?

15 A Mm-hmm.

16 Q Is that correct?

17 A That's what it says.

18 Q And then it says, from, evidence custodian.

19 A Mm-hmm.

20 Q And that would be you?

21 A I'm not sure why it's like that. It should actually
22 say from Matt Veal to evidence custodian.

23 Q I'm just asking you what's on it.

24 A Yes, sir.

25 Q All right. That's correct?

1 A That is what it says.

2 Q And then the date is 5/20.

3 A Mm-hmm.

4 Q Some two weeks later.

5 A Mm-hmm.

6 REPORTER: Wait. I need a yes or no.

7 A Yes, sir. That's what it says.

8 Q All right. So that document in front of you --

9 MR. WISE: And I'd like to introduce this as a
10 Defendant's exhibit since he's been referring to it.

11 REPORTER: And that'd be Defendant's 1.

12 MR. WISE: Mm-hmm.

13 THE COURT: Any objection to that, sir?

14 MR. SCOTT: I think it's what I was trying to get him
15 to refer to.

16 MR. WISE: Well, yeah.

17 MR. SCOTT: I don't have any objection.

18 THE COURT: All right. Without objection, the same
19 is admitted as Defendant's 1.

20 (Whereupon, Defendant's Exhibit number 1 was admitted
21 into evidence.)

22 Q So, I'm handing you Defendant's Exhibit 1, which is,
23 you admit is what you've been looking at?

24 A Yes, sir.

25 Q And that document, while not signed and it has been

1 used by you to refresh your memory, says that Matt Veal
2 got those drugs from the evidence custodian on the 20th of
3 May?

4 A No, sir. That's not correct.

5 Q But that's what it says?

6 A According to this, that's what it says.

7 Q All right.

8 A But that's now how it worked.

9 Q I understand. I understand. So that document is
10 wrong?

11 A It would be the computer system, the way it says, to
12 Matt Veal from the evidence custodian.

13 Q Uh-huh.

14 A That's not correct. It's actually from --

15 Q -- who generates that computer information?

16 A It's done, Matt Veal would have entered this
17 evidence, so he would have actually generated this.

18 Q So Matt Veal would have generated that on May 20th?

19 A He generated, he said he generated it on 5/6/2015.

20 Q Who generated it on May 20th, because that's the
21 other date on it?

22 A I'm not real sure what that date is.

23 Q So you don't have any signed documents where the
24 drugs were given to you by Matt Veal, then, do you, if
25 that's all you have?

1 A This is all we have. This is how we kept evidence in
2 the computer.

3 Q All right. And the proper chain-of-custody is
4 supposed to reflect that when you get the drugs from
5 someone, you sign receipt of it and they sign they gave it
6 to you?

7 A All right. There is a chain-of-custody, but it would
8 be, it's on the iLAB and the chain-of-custody is actually
9 attached to the iLAB and it was delivered to SLED.

10 Q All right.

11 A When they received it, they have the
12 chain-of-custody.

13 Q You don't know how --

14 A I don't have it in my possession --

15 Q I understand.

16 A -- but they're in the chain-of-custody.

17 Q All right. And you don't have a copy of it and the
18 files would be at the Laurens Sheriff's Department?

19 A There would be one there and also one on file at
20 SLED.

21 Q All right. So there should be a document on file in
22 the Sheriff's Department showing Matt Veal delivering the
23 drugs to you?

24 A That's correct.

25 Q All right. And you don't know how that got generated

1 on the 20th of May showing you, giving the drugs to Matt
2 Veal?

3 A Well, if I had that in front of me, I could testify
4 to that, but I do not have it in front of me right now.

5 Q Okay.

6 MR. WISE: Thank you.

7 MR. CRAIG: Yes, sir.

8 REDIRECT EXAMINATION

9 By Mr. Scott:

10 Q But it is your testimony that after this was
11 collected on May 6th, it was given to you---

12 MR. WISE: Your Honor, he's leading the witness.
13 When he says it is your testimony, that's a leading
14 question.

15 THE COURT: I'll sustain. You can ask the question.

16 MR. SCOTT: Thank you.

17 Q Do you know when this evidence was collected?

18 A Matt Veal, I'm looking at the Best Kit bag. It's
19 date sealed on 5/6/15 and that's when Matt sealed the
20 drugs.

21 Q Okay. Do you know when you delivered it to SLED?

22 A I do not know the exact date without looking at the
23 receipt.

24 Q Do you know what this is?

25 A Yes. This is a drug analysis sheet.

1 Q Without reading aloud what it says, can you look on
2 there and tell me when you would have delivered it to
3 SLED?

4 A Yes. It says on May the 26th, 2015, items was
5 received, it was the Best Kit from me to, let's see.
6 Yeah. That's correct.

7 Q Okay. On May 6th, it was collected and May 26th, you
8 delivered it to SLED; that's your testimony?

9 A Yes. That's what this is saying, that it was
10 delivered on the 26th. And, normally, I would deliver
11 every week.

12 Q Okay.

13 A So I'm not sure.

14 Q Okay. Well, no, I'm just asking you. It was picked
15 up on the 6th, delivered on the 26th.

16 A Okay.

17 Q Who would have been charged with the care and custody
18 of that, those drugs between May 6th, when it was
19 collected, and May 26th when it was delivered to SLED?

20 A It would have been locked in the evidence vault.

21 Q Okay. Under whose care and custody?

22 A It's mine.

23 Q Okay. And so it's your testimony today that it was
24 under your care and custody during that time?

25 MR. WISE: Objection, Your Honor. Leading the

1 witness.

2 A Yes, sir.

3 THE COURT: Overruled.

4 MR. SCOTT: Thank you. Nothing further.

5 RE CROSS-EXAMINATION

6 By Mr. Wise:

7 Q Do you have any clue what happened to that evidence
8 on May the 20th to generate that document?

9 A To generate this document?

10 Q The document that's dated May 20th. Do you have any
11 clue what happened on May 20th to cause that document to
12 be generated or created, however you want to look at it?

13 A This document was actually created on the 6th.

14 Q All right. Hand me Defendant's 1. All right.
15 Defendant's 1 has got the date on it, on the left-hand
16 side of May 20th, 2015, correct?

17 A Mm-hmm.

18 Q All right. So it was generated, according to your
19 testimony on May 6th and the date of May 20th was just put
20 on there?

21 A I'm not sure where the May 20th came from, but the
22 date in 5/6 is what it has on the bag here --

23 Q I understand.

24 A -- on the Best Kit bag.

25 Q And the date May 6th is the date in, correct?

1 A That's what it says.

2 Q That's, the May 6th date on there says, date in. So
3 that would be the date the drugs went into you, correct?

4 A That's correct.

5 Q So you don't know what happened on May 20th to cause
6 the document to be generated that says the drugs went away
7 from you?

8 A Not with what I have; I don't.

9 MR. WISE: Okay. Thank you.

10 MR. SCOTT: And nothing further, Your Honor.

11 THE COURT: Okay. All right. Thank you, sir. You
12 may step down.

13 MR. CRAIG: Okay. Thank you.

14 MR. SCOTT: Your Honor, the State calls Maribeth
15 McCormack.

16 MARIBETH MCCORMACK, being
17 first duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 By Mr. Scott:

20 Q Ms. McCormack, where are you employed?

21 A At the South Carolina Law Enforcement Division,
22 commonly known as SLED.

23 Q Okay. What unit or what department are you in at
24 SLED?

25 A Drug Analysis Department.

1 Q And what is your title?

2 A Forensic Scientist.

3 Q Okay. How long have you been with SLED and working
4 as a forensic scientist?

5 A Almost nine years.

6 Q You test all kinds of illegal drugs, legal and
7 illegal, I guess?

8 A Yes.

9 Q I'm looking at your, it says you went to, I guess,
10 what was your degree in at USC?

11 A I have a Bachelor of Science in Chemistry and a
12 Masters in teaching secondary science.

13 Q Okay. And what kind of training have you undergone
14 at SLED?

15 A I received in-house training at SLED in Drug ID
16 Department/Drug Analysis.

17 Q Okay. What about at the Criminal Justice Academy?

18 A I went to the Criminal Justice Academy for the
19 two-week legal training class.

20 Q You got any forensic chemist seminars?

21 A Yes. I attended the DEA Forensic Chemist Seminar.

22 Q Okay. And nine years working in the Forensic
23 Department, do you have any clue how many drug samples
24 you've been asked to test or analyze?

25 A Thousands. I've worked over 6,000 cases.

1 Q Okay. So you ever testified in General Sessions
2 Court?

3 A Yes, 29 times.

4 Q Okay. Have you been declared an expert any of those
5 times?

6 A Yes, all of them.

7 Q And what was your, were you declared an expert in?

8 A In drug analysis.

9 Q Okay.

10 MR. SCOTT: Your Honor, the State would offer Ms.
11 McCormack as an expert in drug analysis and
12 identification.

13 MR. WISE: No objection, Your Honor.

14 THE COURT: All right. Ladies and gentlemen, I told
15 you yesterday when someone is offered and admitted as an
16 expert witness, that doesn't make their testimony
17 preferred over any other testimony. You take it just like
18 you take any other bit of evidence. You decide whether
19 it's credible and what weight it has. I will accept the
20 qualification. Mr. Scott, you may proceed.

21 MR. SCOTT: Thank you.

22 Q Ms. McCormack, on September 8th, 2015, did you have
23 an occasion to analyze a sample associated with SLED Lab
24 number L1506832?

25 A May I refer to my notes?

1 Q Yeah.

2 A Yes.

3 Q Okay. And what was the incident date listed on your
4 report?

5 A The incident date was May 6th, 2015.

6 Q Okay. And suspects?

7 A There are three suspects listed. Would you like me
8 to name them?

9 Q Yeah.

10 A Roy Smith, Tristen Wells, Lauren Ginn or Ginn.

11 Q Okay. It looks like you, your analysis began four
12 months after the incident date. Is that uncommon in SLED?

13 A No. We have a large backlog.

14 Q Okay. Who would have delivered the sample to you and
15 on what date?

16 A Based on the chain-of-custody, David Craig delivered
17 it to SLED on 5/26/15.

18 Q Okay. And then you would have tested it in
19 September?

20 A Yes. I received the evidence from our Evidence
21 Log-in Department from Doris Yarborough on July 6th, 2015.

22 Q Okay. Let me show you State's number 23. Do you
23 recognize this?

24 A Yes.

25 Q And how are you able to recognize it?

1 A I see my initials in three different places on the
2 bag.

3 Q Okay. Are your initials anywhere noteworthy on the
4 bag?

5 A Well, when I first look at the evidence, it is in a
6 tamper evident package and I inspect the bag to see if it
7 is sealed. And if it is sealed, I write okay, the date,
8 and my initials. So that would be the first place my
9 initials would have been.

10 Q Okay. Tamper evident bag, what does that mean?

11 A That means there is a strip on the top and if, and it
12 is sealed by the officer. And it's pretty clear if
13 someone has tried to open it. It would be distorted. The
14 colors and lines will be distorted.

15 Q Okay. Can you tell when the bag, the tamper-evident
16 bag was sealed?. Does it have a date on it?

17 A It does have a date. It is May 6th, 2015, by Matt
18 Veal.

19 Q Okay. So according to the tamper-evident bag, it was
20 sealed May 6th, 2015 by Matt Veal?

21 A Yes, sir.

22 Q All right. And when you received it, was the seal
23 intact?

24 A Yes.

25 Q Okay. Let me ask you. If you receive some drug

1 evidence and the tamper-evident bag had been broken or the
2 seal had been broken or there was, it was clear somebody
3 had tampered with it. What is your policy as far as
4 testing the drug or the content?

5 A The evidence would be photographed. I will notify my
6 supervisor. We would test the evidence but, on our
7 report, we would make it clear that the evidence was not
8 sealed.

9 Q Okay. Do you have any notes on this case that the
10 evidence had been tampered with at all?

11 A No. And I know that, because I wrote, okay, on the
12 bag.

13 Q Okay. Tell me what you received that was requested
14 you analyze?

15 A I received a sharps tube, sharps container and that
16 contained four different syringes that had a liquid
17 substance. And I also received another plastic tube that
18 had a vial containing liquid substance.

19 Q Okay. What was the request you had for analysis?
20 What were they, what were the contents they were
21 requesting you to analyze?

22 A The request form listed four syringes with substance
23 and sample from one pot.

24 Q A sample from a one pot?

25 A Yes.

1 Q Do you know what a one pot is?

2 A Yes. It's a meth production procedure.

3 Q Okay. And did you test all of the items located in
4 State's, is it, 20, 23, State's 23?

5 A Yes.

6 Q Okay.. And did you form an opinion as to the contents
7 of the syringes?

8 A Yes.

9 Q What was your expert opinion as to what the syringes
10 contained?

11 A All four syringes contained methamphetamine.

12 Q Okay. Did you form an expert opinion as to what the
13 sample that came from the one pot contained?

14 A Yes. That sample contained methamphetamine.

15 Q Okay. So the sample from the one pot contained
16 methamphetamine and all the samples from the syringes
17 contained methamphetamine?

18 A Yes.

19 MR. SCOTT: Your Honor, the State offers 23 for
20 admission into evidence.

21 MR. WISE: I do have a matter for the Court.

22 THE COURT: Okay. All right. Ladies and gentlemen,
23 we're going to take up a matter out of, regarding the
24 evidence outside of your presence.. The reason we do it
25 outside your presence, because we may have some

1 discussions that aren't admissible evidence or they just
2 don't relate to the decision that you need to make. When
3 I send you out, though, I'm going to give you a little
4 homework, okay, so that you aren't just waiting for us and
5 spinning your wheels. Somebody needs to serve as the
6 foreperson of the jury. Now, a foreperson of a jury is
7 tasked with ensuring that during deliberations everyone
8 has a voice during the deliberations. That is that
9 everyone has the opportunity to offer their opinions
10 during your deliberation, and you have twelve people
11 who've never met with each other before sit down in a room
12 and be tasked with deciding something important. You know
13 that some people are going to be more vocal than others;
14 some people are going to be more reserved than others. A
15 jury foreman, again, is charged with the responsibility of
16 making sure that everyone has a voice in your jury
17 deliberations. Beyond that, I can't tell you exactly how
18 to conduct your deliberations when it's time for you to do
19 it. I've never served on a jury and I'm not allowed to go
20 into your jury room and listen to you or observe. I think
21 that each jury does it a little bit differently and
22 settles in on their own method, settles in on their own
23 format. But when you go back into your jury room, elect,
24 if you would, please, a foreman of the jury. Okay? Thank
25 you very much. I appreciate it. Please don't discuss the

1 case yet.

2 (Whereupon, the jury was excused from open court.)

3 THE COURT: All right, Mr. Wise.

4 MR. WISE: In the discovery in this case, the Court,
5 the State produced for me a document, which I've took to
6 be an honest document, that said that the drugs were given
7 to Matt Veal on the 20th of May. That has been basically
8 denied. I think there's such a question as to the
9 chain-of-custody in view of that. I mean, that I think
10 it's not admissible. I mean, there is an obvious break in
11 this chain-of-custody on the 20th of May that no one has
12 explained or dealt with other than to say that's what it
13 says. And that was a document that the State gave me as
14 part of discovery and for them to say that it was given to
15 Matt Veal on the 20th of May and then come in here today
16 and say, well, that might not have happened, we don't
17 know. I think the chain-of-custody is just flawed at that
18 point.

19 THE COURT: Mr. Scott?

20 MR. SCOTT: I think the testimony was that that
21 document was generated May 6th. It was a clerical error.
22 It was some kind of error with the computer system.
23 However, it in no way affects the chain-of-custody. And I
24 don't know if Your Honor has access to it. It's
25 Defendant's number 1. And what he refers to is date to

1 Matt Veal from the evidence custodian May 20th. It's
2 generated May 6th is what the testimony was. As far as
3 effect on chain-of-custody, State v. Hatcher is very
4 clear. I think we've established it to every person as
5 far as practical, the identity of everyone in the chain
6 has been established. The bags were sealed on the 6th and
7 the testimony has gone, and she has testified that they
8 had not been tampered with at the time she tested it. And
9 I don't see how in the world a misprint on a computer
10 printout should have any effect on the admission of drug
11 evidence.

12 THE COURT: Okay.

13 MR. WISE: Two things. First, that was the only
14 chain-of-custody evidence produced to me in discovery.
15 That's it. Now, I'm hearing testimony that there is
16 another one that may be in the Sheriff's Department, it
17 may be down at SLED or one copy should be at SLED and a
18 copy be at the Sheriff's Department. We hadn't seen that
19 even. I think they've got some big flaws here that leaves
20 a serious, serious question as to what happened, so
21 serious that I question whether it's admissible. I mean,
22 it could be cleared up. So I'll, well, let me rephrase
23 that. It could be somewhat cleared up if we had the
24 document that they said they have in the Sheriff's Office.
25 And, normally, the chain-of-custody isn't a problem, I

1 agree. But this, all of the sudden, is a problem.

2 THE COURT: Okay. All right. You got any response
3 to that, Mr. Scott?

4 MR. SCOTT: No. I think the testimony that under
5 oath, sworn oath is that it was collected by Matt Veal.
6 He took it to the evidence room. From there on, it was
7 under the constant care and custody of David Craig between
8 May 6th to May 26th, I think, is when he dropped it off
9 with Ms. McCormack at SLED. So as far as practical, the
10 evidence is accounted for, the safekeeping of the evidence
11 is accounted for during the entire time it's with the
12 Sheriff's Department.

13 THE COURT: All right. I'm looking at the document
14 and it's clear that it was, that there is what appears to
15 be either an entry or a Scrivener error with, to, and
16 from. I do find that the testimony that was elicited on
17 the stand under oath clarifies that and makes sense to me.
18 I don't find that there is a substantial and significant
19 error in the chain-of-custody which would warrant the
20 inadmissibility of the evidence, the chemical evidence
21 that intends to be offered. And for that reason, I'll
22 deny the motion.

23 MR. WISE: Thank you. Note the objection but---

24 THE COURT: And just say, and I'll just say to you, I
25 would rather have the sworn statement from the Sheriff's

1 Department or SLED that has everything from essentially
2 the chain-of-custody from start to finish. I think that
3 that's certainly preferable.

4 MR. WISE: I assume your ruling is then it goes to
5 the weight and not the admissibility?

6 THE COURT: That's exactly right. I think that you
7 have sufficiently raised that issue to the jury, and
8 you'll be able to argue that there was not a sufficient
9 chain-of-custody upon which they should rely and upon
10 which they should determine that beyond a reasonable doubt
11 that it is what they say it is.

12 MR. WISE: I haven't got it now, but I'll have to get
13 it and email it to you. But I'm going to request a jury
14 charge on the chain-of-custody issue, too.

15 THE COURT: Okay.

16 MR. WISE: Okay.

17 THE COURT: All right. And we'll talk about that at
18 the appropriate time.

19 MR. WISE: All right.

20 THE COURT: Okay. All right. Anything further we
21 need to take up now?

22 MR. SCOTT: Nothing from the State, Your Honor.

23 THE COURT: All right. Do any of y'all need to take
24 a break before we bring the jury back in?

25 MR. WISE: I'm fine.

1 THE COURT: Okay. Return the jury in.

2 (Whereupon, the jury came into open court at
3 approximately 10:23 a.m.)

4 THE COURT: Okay. So did that give you enough time
5 to elect a foreperson?

6 JUROR: Yes.

7 THE COURT: Okay. Who is that?

8 MS. CUNININGHAM: Ayana Cunningham.

9 THE COURT: What is your jury number?

10 MS. CUNININGHAM: I am not sure.

11 THE COURT: Okay. All right. 54. That's right.
12 Okay. Ms. Cottingham. You can put that on your resume.

13 MS. COTTINGHAM: Okay.

14 THE COURT: I'll attest to it to any potential
15 employer in the future. Okay. All right. Mr. Scott, you
16 may proceed.

17 MR. SCOTT: Your Honor, I think I left off while I
18 was introducing State's 23 for admission and if it has
19 been admitted.

20 THE COURT: I think that there was a formal objection
21 posed by the Defense, and we've ruled on that. I will,
22 over objection, allow it's admission.

23 MR. SCOTT: Thank you, Your Honor. Ms. McCormack,
24 answer any questions Mr. Wise has for you, please.

25 (Whereupon, State's Exhibit 23 was admitted into

1 evidence.)

2 CROSS-EXAMINATION

3 By Mr. Wise:

4 Q Ms. McCormack, did you get a chain-of-custody form
5 from Laurens County Sheriff's Department with your
6 documents?

7 A No, sir.

8 Q So all it is is somebody just brought it in?

9 A I have a chain-of-custody from SLED.

10 Q From SLED?

11 A Yes, sir.

12 Q Let me see your chain-of-custody from SLED.

13 A (Witness complies.)

14 Q Thank you. That chain-of-custody from SLED starts on
15 May 26th of 2015, correct?

16 A I don't, sorry.

17 Q Okay. I'm sorry. It starts on May 26th?

18 A Yes, sir.

19 Q And it basically lists everybody that touches those
20 drugs, correct?

21 A Yes, sir.

22 Q The time they got them --

23 A Yes.

24 Q -- and the date they got them?

25 A Yes, sir.

1 Q And then there is a signature when somebody passes it
2 on to somebody else, correct?

3 A Yes.

4 Q Let me see that a second.

5 MR. WISE: I'd like to introduce this as Defendant's
6 2.

7 THE COURT: Any objections?

8 MR. SCOTT: No, Your Honor. I have no objection.

9 THE COURT: All right. If you'll mark the same, I'll
10 allow it into evidence as Defendant's 2.

11 (Whereupon, Defendant's Exhibit number 2 was admitted
12 into evidence.)

13 Q And do you need a copy of that for your records?

14 A Just if I need to reference it today.

15 Q Well, no, no. You can have it all --

16 A Okay.

17 Q You can keep it today and in your possession. And I
18 notice in there also that when the drugs, after being
19 analyzed, were sent back to the Sheriff's Department.
20 That's documented, too, in your report?

21 A Yes, sir.

22 Q With the date and the time and so forth, correct?

23 A Yes, sir.

24 Q All right. Now, do you recall what number it was
25 with the one pot?

1 A What number?

2 Q What number was analyzed? When you get these items,
3 the needles and so forth, you number each one of them
4 separately?

5 A Yes, sir.

6 Q All right. Do you remember what the number was for
7 the, for the smaller two?

8 A Item 1.2.

9 Q 1.2. All right. Have you got your report in front
10 of you for 1.2?

11 A Yes.

12 Q I may have got these a little out of order,
13 unfortunately, but we can deal with it. Let me ask you if
14 you recognize these?

15 A Yes, sir.

16 Q All right. You've got a copy of the, now, these are
17 the mass spec grafts for that, right?

18 A Yes, sir.

19 Q All right. Look at 1.2. All right. And 1.2, let me
20 get mine back organized. 1.2 runs for some 20-something
21 pages?

22 A Yes, sir.

23 Q That correct? I believe some 20--

24 A 27.

25 Q 27. All right. 27, I got 25. But it runs for some

1 25 or 27 pages?

2 A Yes, sir.

3 Q And that's because a lot of substances were analyzed?

4 A Well, it was the sample from the process.

5 Q Right. And there were a lot of different substances
6 in there?

7 A Yes, sir.

8 Q Most of which were not illegal?

9 A Yes.

10 Q Correct?

11 A Yes.

12 Q All right. Did you find any lithium in there?

13 A No, sir. That's not something we look for.

14 Q All right. But you didn't look for it and you
15 didn't, well, it didn't show up either? You don't analyze
16 for it?

17 A No, sir.

18 Q Well, you've got a lot of them, when you do a mass
19 spec, you get, explain to us how that basically works?

20 A Our instrument that we use is a gas chromatograph,
21 mass spectrometer. And, basically, we have a liquid
22 sample and that liquid sample is vaporized, heated,
23 vaporized, and it moves through a column. And as it moves
24 through the column with the carrier gas helium, it
25 separates the substance into the different compounds in

1 that substance and those are, they create peaks.

2 Q Okay. A lot of those reports on that list, no hits
3 found. Correct? And no hits found mean what?

4 A So it was not a substance of interest.

5 Q So you don't know what it is or you didn't test to
6 see what it was?

7 A Well, looking, it does show the spectrum --

8 Q Right.

9 A -- for each of those. In looking at them, the way
10 that they're broken down, I see that they were
11 hydrocarbons which are, you know, consistently found in
12 liquid meth samples.

13 Q Right. I mean, hydrocarbons are not that uncommon
14 either?

15 A Right.

16 Q Okay. So in the, which one and can you pull out your
17 sheet of, let's see, can you pull out your sheet where
18 meth is detected in the 2, 1.2?

19 A Yes, sir.

20 Q All right. Let me see it. Okay. All right. And
21 this is the sheet that has little spikes and so forth with
22 it that are consistent with meth. Are you able to
23 quantify the amount of meth in this one?

24 A No, sir. Our lab is not quantified.

25 Q All right. So you don't know whether it was a trace

1 amount or a substantial amount?

2 A No, sir.

3 Q And you just know it was enough for the machine to
4 detect?

5 A Yes.

6 Q And do you know how much it takes for the machine to
7 detect?

8 A A small amount.

9 Q A miniscule, correct?

10 A Yes, sir.

11 Q All right. So you have no way of knowing whether
12 what you tested was fifty percent meth or .0003 percent
13 meth?

14 A Our lab does not quantitate.

15 Q That?

16 A Yes, sir.

17 Q All you can say is it's that. So you don't know
18 whether that was meth in there to, quote, be made then, do
19 you?

20 A Methamphetamine was found. The amount, I cannot--

21 Q -- right. But you don't know if that was enough meth
22 in there to even determine if meth was being made?

23 A All I can determine it's, that meth was found.

24 Q Is that some, all you --

25 MR. SCOTT: And, Your Honor, I'd ask for him not to

1 interrupt the witness --

2 MR. WISE: All right.

3 MR. SCOTT: -- when she's trying to explain her
4 answer.

5 MR. WISE: Excuse me. Go ahead.

6 THE COURT: Yeah, don't talk over each other.

7 Q Go ahead.

8 A All I can testify to is that methamphetamine was
9 found in that liquid sample. We do not quantitate the
10 results; therefore, I cannot tell how much of the sample
11 was meth..

12 Q And you have no clue whether that was meth residue
13 left in that jar from some other event?

14 A I can't testify to that.

15 Q You can't testify. All right. What about
16 pseudoephedrine; did you find any pseudoephedrine in
17 there?

18 A No, sir.

19 Q Okay. And you didn't test the lithium, correct?

20 A No, sir.

21 Q Did you find any lye in there?

22 A No, sir.

23 Q All right. Did you find, you did find hydrocarbon,
24 correct?

25 A Yes, sir.

1 Q Okay. Let me see your chain-of-custody back again.
2 Okay. I don't want you to leave the table with it. So
3 you're not able to testify in here today whether or not
4 what you sampled was capable of producing any amount of
5 methamphetamine?

6 A There was methamphetamine found in the sample.

7 Q I understand that. We agree to that. Okay?

8 A Yes, sir.

9 Q But you weren't able, you're not able to testify
10 today that that was any real methamphetamine being made
11 that could be used in that sample you tested?

12 A I can't testify to that.

13 MR. WISE: All right. Thank you.

14 REDIRECT EXAMINATION

15 By Mr. Scott:

16 Q How many items did you test?

17 A Five items.

18 Q How many tested positive for methamphetamine?

19 A Five.

20 MR. SCOTT: Nothing further.

21 THE COURT: Any recross based on that?

22 MR. WISE: No, sir.

23 THE COURT: Okay. All right. Thank you, ma'am. You
24 may step down.

25 MR. SCOTT: Your Honor, the State rests.

1 THE COURT: Okay. All right. Ladies and gentlemen,
2 I'm going to ask you to take a brief recess. When the
3 State rests, at that point in the trial and it's necessary
4 we take up some legal matters, some motions between the
5 parties and what that does is it allows us to go forward
6 more efficiently. I'm required to do that, under the
7 rules, outside of the presence of the jury. So if y'all
8 would please, and I hate to make you come in and come out
9 and come in and come out, but if y'all will return to your
10 jury room, please, we'll resolve the issues, and then
11 we'll resume. Thank you very much.

12 (Whereupon, the jury was excused from open court.)

13 THE COURT: All right. Yes, sir.

14 MR. WISE: Your Honor, at this time, I would move for
15 a directed verdict on both charges, and I'd like to take
16 them in a little reverse order, if I may?

17 THE COURT: Sure.

18 MR. WISE: First of all, on the charge of unlawful
19 disposal of meth waste. There's been absolutely no
20 evidence whatsoever that would lead the jury to conclude
21 that there is substantial circumstantial evidence to
22 conclude that Mr. Smith unlawfully disposed of meth waste.
23 The meth waste, as such, was in the trailer. It had not
24 been disposed of and, you know, what was going to happen
25 to it, heaven only knows, but that's speculation. But the

1 charge here is that he actually went out and disposed of
2 meth waste and there's simply no proof of that whatsoever.

3 THE COURT: Okay. Mr. Scott, do you want to address
4 that before we move onto the others.

5 MR. SCOTT: Just knowingly cause to be disposed any
6 waste from the production of methamphetamine is the law.
7 We had testimony from Sergeant Veal that there is, they
8 actually have to call SLED to come in and there is a
9 protocol they use to clean this up and it's highly
10 hazardous. They put on the HAZMAT suits and everything.
11 The pictures illustrated, the testimony illustrated it
12 from the officers, as well as, at least Ms. Ginn. You see
13 the implements used in the production of methamphetamine,
14 what the State's alleging are implements used in
15 production of methamphetamine. At least three other HCL
16 generators were found in a trash can. You have the one
17 pot that's in a stored or a, under a step. Your Honor, we
18 would say that it is the unlawful storage and disposal of
19 methamphetamine. I think that would be something that
20 would properly be for the jury to determine.

21 THE COURT: Okay. And so as part of that statute,
22 it's your position that unlawful storage and disposal?

23 MR. SCOTT: Just the disposal. I said, storage. But
24 when you're disposing of it, there's a proper way to do
25 it, Your Honor, and that would be through SLED and that

1 would be through, they have to do chemical breakdowns in
2 order to stabilize this thing. And so anytime you've got
3 bottles laying around uncovered as the HCL generators
4 were. We had the base byproduct and coffee filter that
5 was sitting beside his bed. All these items were strewn
6 about this camper. And so that could be the State's
7 allegation of the illegal disposal.

8 THE COURT: Okay. Yes, sir?

9 MR. WISE: Your Honor, he was treating it like it's
10 unlawful to possess meth waste. It requires an affirmative
11 act when you talk, you say that you unlawfully disposed of
12 it, it requires an affirmative act. If the Legislature
13 had chosen to make possession of meth waste illegal, they
14 could have passed a law that said that. That's not what
15 it says, though, and there's no affirmative act in this
16 case to indicate he's trying to dispose anything.

17 THE COURT: Okay. All right. You can move onto your
18 next argument, sir.

19 MR. WISE: Excuse me?

20 THE COURT: You can move onto your next argument.

21 MR. WISE: Okay. Secondly, on the manufacturing
22 charge. There's simply no testimony any meth was being
23 manufactured. They didn't have all the ingredients to
24 manufacture meth. They have a syrupy solution that has
25 some meth in it. How much, we have no clue. There has

1 been no expert testimony that that syrupy solution could
2 have ever been turned into meth, and we can't deal with
3 speculation as the recent South Carolina Supreme Court
4 talks about in these cases. There were missing, in that
5 camper, they were missing the ingredients of lithium
6 batteries. They were missing the ingredients of Coleman
7 fuel. They were missing the ingredients of cold packs.
8 They were missing, as they illustrated so happily
9 yesterday, the little container that's the most crucial
10 part where you bubble the gas through it and it creates
11 the meth. You almost could argue you're manufacturing
12 meth if you had that and nothing else. But to have what
13 at, may have at one time been used to generate some meth
14 and conclude from that, that as a basis for manufacturing
15 meth, I don't think it's there. If the statute had said
16 it's unlawful to possess items that could be used to
17 manufacture meth, maybe in some of those tubes, bottles
18 with the tubes in it would satisfy it. But there was
19 absolutely no testimony in this case that that
20 notwithstanding Mr. Veal's expert testimony, that meth was
21 really being manufactured that day. Even he conceded that
22 virtually over half the ingredients necessary for
23 manufacturing meth could not be found in that camper.

24 THE COURT: Yes, sir.

25 MR. SCOTT: I don't recall him conceding that, but

1 the Coleman fuel was one thing that we didn't find a
2 container of. We didn't find any lithium battery strips
3 laying on the floor. The testimony was they're in the
4 bottom of that one pot, and you can very clearly see them
5 in the State's evidence. It is not a requirement of the
6 State that we produce every implement. That's almost like
7 if I have a pointing and presenting charge and my
8 defendant goes and throws the gun in the river, that's
9 almost to say that I can't ever charge him with that,
10 because we never recovered the gun. Well, the fact is
11 most of these items were used up in the production of the
12 methamphetamine. We had a direct witness who testified
13 that she watched him manufacture and she talked about him
14 reworking that one pot trying to render more of the
15 methamphetamine out. We just heard, finally, from our
16 expert witness who testified that there was finished
17 product in those implements. Furthermore, and I know
18 Rauch does not like inference charges. I understand that.
19 But the law in the State under Subsection (d) of
20 44-53-375, Possession of equipment or paraphernalia used
21 in the manufacture of methamphetamine is prima facie
22 evidence of intent to manufacture. So, Your Honor, I
23 think this would properly be submitted to the jury as a
24 manufacturing methamphetamine.

25 THE COURT: Mr. Wise, you got any response? You

1 don't have to, but you may.

2 MR. WISE: Well, first of all, prima facie is
3 unconstitutional provision of the statute, so that goes
4 out the window. Prima facie has been declared
5 unconstitutional for decades. I don't know why, then, the
6 State keeps using it. But, again, still, you got to have
7 something to back up the prima facia, and it's simply not
8 there.

9 THE COURT: Okay. With respect to the manufacturing
10 methamphetamine, I'll respectfully deny the motion. I
11 think there is sufficient circumstantial evidence by way
12 of materials that were there. I don't think that there is
13 any requirement under the law that each and every element
14 of the production need be provided. That will be a matter
15 of evidence to be determined by the jury to determine
16 whether, in fact, that's substantial to prove beyond a
17 reasonable doubt whether he was manufacturing
18 methamphetamine. You also have a witness who took the
19 stand and although the Defense intended to put her
20 testimony in, deal with credibility and may or may not
21 have been successful in that regard, the evidence exists.
22 And, of course, it's incumbent upon the Court to look into
23 and see the existence of evidence and not the sufficiency
24 or weight of the same. And under that basis, I'll deny
25 the motion. With respect to the disposal, my Internet's

1 not working. I can't pull up that statute. I've been
2 trying to for the last 10 minutes. So what we're going to
3 do, we're going to take a break anyway, and I'll look at
4 it during that period of time.

5 MR. WISE: I was going to suggest that, because I've
6 got to talk to my client. We've been talking about
7 testifying, not testifying, and we've got to come to a
8 final decision and that's going to take a few minutes too.

9 THE COURT: Okay. Do you want me to go through a
10 colloquy with your client on the record?

11 MR. WISE: Well, let's wait till we get through
12 talking. I think it'd be more appropriate then.

13 THE COURT: Okay. All right. Good enough. All
14 right. All right. Well, we'll take about a 10-minute
15 break.

16 MR. WISE: I've got the statute, if you want me to
17 email it to me.

18 THE COURT: I'll be able to get it.

19 MR. WISE: Well---

20 THE COURT: I just need to get on the Internet.

21 MR. WISE: Well, if you can't get to the Internet,
22 you can't.

23 THE COURT: I'm just saying I'll probably be able to
24 get it back there and plus I have the benefit of the
25 actual hard-copy statutes back there.

1 MR. WISE: Oh.

2 THE COURT: Imagine that. Okay. We'll be in recess.

3 (Whereupon, a break was taken.)

4 THE COURT: Okay. Gentlemen, Mr. Wise, do you intend
5 to put any evidence into the record, sir?

6 MR. WISE: We do, Your Honor.

7 THE COURT: Okay. Good enough. All right. With
8 regard to the outstanding issue of disposal of
9 methamphetamine waste, what did the evidence show, Mr.
10 Scott, that was disposed of in the waste container?

11 MR. SCOTT: The waste container had the three HCL
12 generators. That would be this item that, the testimony
13 was this is dipped into the meth oil. The gases that are
14 in this container create a --

15 THE COURT: Right.

16 MR. SCOTT: -- I guess effect on the liquid that
17 extracts the solid. Those were in the waste container.
18 The coffee filters that contained the byproduct. The base
19 was sitting next to it kind of on a nightstand, my
20 recollection from the pictures. The meth oil in the one
21 pot was laying on its side in a hidden step in the, in the
22 camper. All those, Your Honor, in the State's view, that
23 would be the illegal disposal of this waste. There is a
24 proper way to do it. Just as you don't dump oil out in
25 your house or whatever from an oil change or anything like

1 that. There's a proper way to do it. SLED has a way to
2 clean up this thing, and the Sheriff's Department has to
3 contract with SLED to do it. They have trained
4 individuals who, again, they got to put HAZMAT suits on
5 and everything to handle some of these materials. So I
6 don't think the requirement is that you catch somebody
7 dumping the one pot out in their grass to be illegal
8 disposal. I don't think that's the requirement. I think
9 the State's allegation here is that the, of course, HCL
10 generators in the trash can would be evidence that it
11 would be disposed of. But, ultimately, all the rest of
12 this waste had not been disposed of properly when it was
13 found.

14 THE COURT: All right. Mr. Wise, do you care to take
15 exception to that recitation.

16 MR. WISE: Just briefly. First of all, there's been
17 no testimony, because none of the items were analyzed,
18 that they were actually meth waste. And, secondly,
19 putting it in your trash can, at best, at best, is a
20 possible intent to dispose of it down the road, but it's
21 not an actual disposal of it. If you continue to carry it
22 out of your house, as you're well aware, the U.S. Supreme
23 Court says you've got an expectation of privacy in even
24 your trash. So there's no real, simply because it's in a
25 trash can doesn't mean you're going to dispose of it

1 improperly, because it hadn't been disposed of at all.

2 THE COURT: Okay. This is what I'm going to do, I'm
3 going to take it under advisement. Is it going to affect
4 the way you try your case, sir?

5 MR. WISE: Huh?

6 THE COURT: Is it going to affect the way you put
7 your evidence into the record?

8 MR. WISE: That is one piece of testimony that could
9 impact it.

10 THE COURT: Okay. All right.

11 MR. WISE: I don't know how much in your mind it
12 would impact it, but, I mean, I can see a potential.

13 THE COURT: Okay. All right. I'm going to
14 respectfully deny the motion to dismiss it on directed
15 verdict. The problem is we don't have a good definition
16 of what the Legislature's intent was with regard to
17 disposal. The specific language of the statute is, it is
18 unlawful for a person to knowingly cause to be disposed
19 any waste from the production of methamphetamine or
20 knowingly assist, solicit, or conspire with another to
21 dispose of methamphetamine waste. It's incumbent upon the
22 Court, without any further direction, to look at the plain
23 meaning of the statute. The plain meaning of the statute
24 is, disposed. Generally, in our common vernacular and our
25 precise definitions, the disposal of an item is the

1 disposition of the same or the placement of the same in a
2 receptacle of trash or a receptacle intended for that
3 purpose. Clearly, in this case, there is evidence that
4 there were items which could be construed and could be
5 determined to be items used in the production of
6 methamphetamine that were placed in a disposal receptacle.
7 Given the plain meaning of the statute and the ordinary
8 meaning of the words, I am going to find that there is
9 evidence in the record upon which the jury could determine
10 that the State has met its burden of proof beyond a
11 reasonable doubt. And on that basis, I'll deny the
12 motion. Okay? Good enough. How many witnesses are you
13 going to call.

14 MR. WISE: We need to address his testifying.

15 THE COURT: Yeah. Do you want me to go ahead?

16 MR. WISE: Yeah. Go ahead and do that now.

17 THE COURT: All right.

18 MR. WISE: It'll make things --

19 THE COURT: Good enough.

20 MR. WISE: -- run a little smoother.

21 THE COURT: Mr. Smith, if you would please stand up.
22 Will you raise your right hand?

23 ROY ELLIS SMITH, being
24 first duly sworn, testified as follows:

25 THE COURT: Sir, you recognize that you have a right

1 to remain silent. In this trial, you have a right against
2 self-incrimination, which means that you don't have to do
3 or say or prove anything. The State has the burden of
4 proving each and every element of the offense, of each
5 offense, beyond a reasonable doubt. It's not incumbent
6 upon you to say or do or prove anything. However, you do
7 understand that you have a right to testify, if you want
8 to, and that is your decision. You may discuss the matter
9 with Mr. Wise. You can discuss it with your family
10 members. You can discuss it with anyone you want. But
11 you understand that, ultimately, that decision is yours
12 and yours alone. If you elect to testify, then you have
13 the opportunity to take the stand and tell the jury your
14 side of the story. But you understand that when you do
15 that, you also assume certain risks meaning that the State
16 can cross-examine you and in cross-examining you, they can
17 ask you questions with the intent of questioning and
18 throwing your credibility in the question. And if you
19 have prior records that are admissible, they can ask you
20 about any prior convictions that you may have on your
21 record. The risk in not testifying is you won't be able
22 to tell your side of the store.

23 MR. SMITH: Mm-hmm.

24 THE COURT: So, again, you have the right to remain
25 silent. You have the right to testify. The choice is

1 entirely yours. Have you made up your mind what you'd
2 like to do, sir?

3 MR. SMITH: I'm going to testify.

4 THE COURT: Okay. And you've had the opportunity to
5 discuss it with your attorney as much as you needed to,
6 sir?

7 MR. SMITH: Yes, sir.

8 THE COURT: Okay. And you feel like you're making an
9 intelligent decision based on all available information?

10 MR. SMITH: Yes, sir.

11 THE COURT: Okay. Good enough. Thank you. I
12 appreciate it.

13 MR. WISE: Your Honor, there's probably one thing we
14 need to address also at this point. Obviously, he's on
15 probation.

16 THE COURT: Yes, sir.

17 MR. WISE: I mean, that's going to come out and,
18 actually, what he's on probation for is going to come out.
19 It's kind of stupid not to mention it, but he couldn't
20 legally hide it. I don't think he can be impeached on his
21 credibility on any other charge under State vs. Green.
22 Now, if he has some other drug convictions from years ago,
23 and, frankly, I don't know how far back they go. But I
24 think under Green vs. State, they couldn't cross-examine
25 him for his credibility based upon those other drug

1 charges.

2 THE COURT: Maybe, maybe not. Mr. Scott, what you
3 have?

4 MR. WISE: Well, I think State vs. Green is very
5 clear on it when they said that---

6 THE COURT: Well, I mean, Mr. Wise, you're arguing in
7 a vacuum. Mr. Scott hasn't told me whether he intends to
8 --

9 MR. WISE: Oh, okay.

10 THE COURT: -- introduce.

11 MR. WISE: That's true. That's true.

12 THE COURT: I couldn't disagree with you. I'm not
13 armed with sufficient information to disagree with you.

14 MR. SCOTT: Your Honor, it's a prior drug conspiracy
15 in '09. I had not planned on eliciting that. Now, but as
16 you said, that could be determined later. But, I don't
17 know, if he opens the door for it. I certainly will not
18 elicit it myself. But that happened in Laurens County and
19 the incident date was 2009. It's alleged that he
20 distributed some imitation controlled substance and he did
21 plead guilty to it in September of 2009. So I had not
22 intended on eliciting anything regarding that but that
23 would be yet to be seen.

24 THE COURT: Okay. All right. So I think for the
25 immediate time being that resolves that issue.

1 MR. WISE: I understand in opening the door.

2 THE COURT: Okay. All right. Good enough. All
3 right. Anything else we need to take up before we bring
4 them back in? Mr. Wise, do you have two witnesses or just
5 one?

6 MR. WISE: Three.

7 THE COURT: Three?

8 MR. WISE: No, four. But they're not all long.

9 THE COURT: Okay. All right.

10 MR. WISE: I just need to use the restroom one
11 moment.

12 THE COURT: Sure.

13 MR. WISE: All right?

14 THE COURT: Sure.

15 (Whereupon, a short break was taken.)

16 THE COURT: Okay. All right. Can you bring them in
17 please, sir?

18 (Whereupon, the jury came into open court at
19 approximately 11:14 a.m.)

20 THE COURT: All right. Good enough. All right. Mr.
21 Wise, you may proceed, sir.

22 MR. WISE: I'd like to call Roy Ellis Smith.

23 ROY ELLIS SMITH, being
24 first duly sworn, testified as follows: ;

25 DIRECT EXAMINATION

- 1 By Mr. Wise:
- 2 Q Please give us your full name?
- 3 A Roy Ellis Smith.
- 4 Q And where do you live, Mr. Smith?
- 5 A Smiths Village Road.
- 6 Q And, now, is that the camper we've seen pictures of?
- 7 A Yes, sir.
- 8 Q And whose property is that located on?
- 9 A My mother's.
- 10 Q And how long have you been living there?
- 11 A Ten years, I think.
- 12 Q Where were you born?
- 13 A I was born in Greenwood.
- 14 Q Okay. And when'd you move to Laurens County?
- 15 A 1979, I think.
- 16 Q And where were you, how old were you back then?
- 17 A Thirteen.
- 18 Q You presently employed?
- 19 A No, sir. I'm disabled.
- 20 Q And you're disabled from what?
- 21 A I worked with Vulcan Materials and had a accident.
- 22 Q You worked with Vulcan Materials?
- 23 A Uh-huh.
- 24 Q How long did you work with them?
- 25 A Fifteen years.

1 Q All right. And what happened to you at Vulcan
2 Materials?

3 A I had, fell off a pay loader and messed my knees and
4 back up.

5 Q All right. And, I assume, you had a Workers
6 Compensation settlement?

7 A Yes, sir.

8 Q And after that, did you start Social Security
9 disability?

10 A Yes, sir.

11 Q Now, I'm, Mr. Muller here on the front row and your
12 brother?

13 A Yes, sir.

14 Q Okay. Let's get one other thing out, too. Testimony
15 was you're on probation?

16 A Yes, sir.

17 Q And you're on probation for what?

18 A Manufacturing.

19 Q And when was that charge?

20 A 2011, I believe.

21 Q And out of what county, out of what, where was it?

22 A In Tennessee.

23 Q All right. And you had your probation transferred
24 down here?

25 A Yes, sir.

1 Q And you've been reporting?

2 A Yes, sir.

3 Q As part of your probation, do you go to any drug
4 rehabilitation program?

5 A I went through the drug rehab four different times.

6 Q All right. And to complete drug rehab, what do you
7 have to do?

8 A You got to take drug tests and pass three consecutive
9 times.

10 Q Three consecutive. And did you complete the program?

11 A Yes, sir.

12 Q About when did you complete it?

13 A I want to say February of '15.

14 Q About three or four months before this, two/three
15 months?

16 A Something like that.

17 Q All right. And were you aware that, tell us what you
18 knew about the right of a probation officer to come to
19 your house?

20 A I knew that he could come to my house at any time and
21 drug test me or whatever if he feels like I needed to be
22 drug tested or whatever. I know that they could do that
23 at any time.

24 Q What about drug tests through probation?

25 A Yes, sir. I knew that.

1 Q You knew----

2 A Yeah, I passed it.

3 Q You passed it?

4 A Yeah. I passed it.

5 Q Now, sometime in mid-to-late April of 2015, where did
6 you go to live?

7 A Oh, I went to my brother's to stay to help him out.

8 Q And why did you go, have to go there?

9 A He had surgery on his left hand, his right, he can't
10 use it and they did surgery on his left hand so he had no
11 use of it so I helped him out.

12 Q And so you helped him out?

13 A Yeah.

14 Q All right. And where does he live?

15 A He lives on Arnold Lane.

16 Q And where is that?

17 A It's about seven miles from where I lived at.

18 Q All right. And so you stayed there with him?

19 A Yes, sir.

20 Q Was anyone else living there?

21 A Yes, sir.

22 Q Who?

23 A His girlfriend and her son.

24 Q All right. And who's her son?

25 A Tristen Wells.

- 1 Q Kristen?
- 2 A Tristen.
- 3 Q Tristen Wells?
- 4 A Yes, sir.
- 5 Q All right. And how old is Tristen Wells?
- 6 A I think at that time he was 19.
- 7 Q All right. And, do you also know a Lauren Ginn
- 8 through that?
- 9 A Yeah. I had met her through him.
- 10 Q Through, who?
- 11 A Tristen.
- 12 Q Tristen. All right. Had she been, what was her
- 13 relation, what was her, let me back up. A bad question.
- 14 Where was she residing during, let's say, April and May?
- 15 A She was staying up there with him at one point, and
- 16 then she had left.
- 17 Q She had left?
- 18 A Mm-hmm.
- 19 Q All right. You recall when you were arrested on May
- 20 6th?
- 21 A Yes, sir; I do.
- 22 Q Let's go back the day before May 6th. Where were you
- 23 spending that night?
- 24 A At my brother's.
- 25 Q All right. And did something happen with Lauren Ginn

1 at your brother's house that night?

2 A Yeah. Her and Tristen were arguing or whatever and
3 Tristen's mama got into it, so they run her off. But they
4 was arguing about her, I believe.

5 Q So she left?

6 A Uh-huh.

7 Q Did she drive off herself or how did she leave?

8 A No. Somebody had picked her up.

9 Q Do you remember what kind of vehicle they were in?

10 A It was a truck.

11 Q All right. So the night of May 5th of 2015, who was
12 at your brother's house?

13 A Me, my brother, Tristen, and my brother's girlfriend.

14 Q Okay. What did you do the next day?

15 A I got up early that morning and went to town. I had
16 some stuff to take care of.

17 Q Mm-hmm.

18 A And then when I come back, me and Tristen got
19 together and wanted to go fishing.

20 Q All right.

21 A So we went to the camper.

22 Q All right. Did anybody show up at the camper?

23 A Yeah. Shortly after we got there, somebody had come
24 down there in a red truck and dropped Lauren off there.

25 Q Had done what?

1 A Dropped Lauren off.

2 Q Dropped Lauren off at your camper?

3 A Yeah.

4 Q Did you call her in any way?

5 A I didn't, no.

6 Q Okay. Now, what happened when you got to the camper?

7 A I noticed the camper door was already opened, so I

8 went up to my mother's.

9 Q Let me back up a second. Would that be unusual?

10 A Yeah. That'd be kind of unusual, because I lock it

11 when I leave.

12 Q But you always lock it with a key?

13 A Yeah. You have to have a key to lock it.

14 Q All right. But can you open it without a key?

15 A No, you can't.

16 Q All right. How do you, can you open it with a

17 screwdriver?

18 A Oh, definitely.

19 Q Okay. So do you need a key to open it if you got a

20 screwdriver?

21 A No, you don't.

22 Q Okay. So you saw the door open?

23 A Yes, sir.

24 Q All right. What'd you do then?

25 A I had opened it up and glanced inside to see if I

1 could tell anything, and I couldn't. So I went to my
2 mother's. I told Tristen and Lauren, I was going to go up
3 there, I wanted to talk to my mama.

4 Q Is there any particular reason you went to your
5 mother's other than to talk to your mother?

6 A No, it's usual. I always make a point to see her.

7 Q How long did you spend up at your mother's?

8 A A hour or a little more.

9 Q Excuse me?

10 A About an hour or maybe a little bit more.

11 Q A little bit more. All right. And was anybody else
12 at your mother's?

13 A Yes, sir.

14 Q And was anybody else at your mother's?

15 A Yes, sir.

16 Q Who?

17 A Ms. Silver, I think.

18 Q Silver Free?

19 A Yeah.

20 Q All right. What did you do after you left there?

21 A I had come back down to the camper.

22 Q Well, let me back up for a second. What were you
23 intending to do?

24 A I was intending to go visit.

25 Q With who?

1 A Tristen.

2 Q All right. And we've seen the pictures and how far

3 from the lake is your house?

4 A About ten foot.

5 Q So not far?

6 A Not far.

7 Q Okay. So what'd you do when you got back?

8 A I started to gather my rod and reels and leaned them

9 up against the camper --

10 Q Mm-hmm.

11 A --and I had to, needed to go to the bathroom, so I

12 went inside to use the bathroom. And I told Tristen he

13 can go ahead and get the rod and reels.

14 Q All right. And when you look at the pictures of your

15 trailer, there are rod and reels outside?

16 A Mm-hmm.

17 Q All right.

18 REPORTER: Is that a yes or a no?

19 A Yes.

20 Q Thank you. So you ask him to go get the rod and

21 reels and you were getting ready to go?

22 A Yeah.

23 Q All right. So as you enter the trailer, where is the

24 bathroom?

25 A To the right.

1 Q To the right. Okay. All right. So what happened
2 then?

3 A I was using the bathroom and I got through using the
4 bathroom, and I noticed some stuff in the shower. So I
5 looked to see what it was. When I seen what it was, what
6 they call a generator. I started trying to clean it up or
7 picking it up and put in the trash can. And shortly after
8 that is when Mr. Black showed up.

9 Q All right. So sometime after you got that together,
10 Mr. Black showed up.

11 A Yes, sir.

12 Q Okay. And he searched, did he search your camper?

13 A Yes, sir.

14 Q All right. And then how long after that did Mr. Veal
15 showed up?

16 A Maybe 20 minutes or 30 minutes, I reckon.

17 Q Somewhere in that range?

18 A Yes, sir.

19 Q And y'all were waiting where?

20 A On the outside in front of the camper.

21 Q The items you saw in the trailer, did you put any of
22 them in there?

23 A No, sir; I did not.

24 Q All right. Did you want them in your trailer?

25 A No, sir; I did not.

1 Q All right. When Lauren Ginn showed up, what did, do
2 you remember what she had with her?

3 A She had a big bag, a purse --

4 Q Mm-hmm.

5 A -- and I think that's about it.

6 Q And that was what we saw in the picture?

7 A Yes, sir.

8 MR. WISE: Now, you pulled up, just put the pictures
9 up, I can handle it from there.

10 Q We got a picture of, where you were shown the stuff
11 found in your trailer?

12 A Yes, sir.

13 Q Okay.

14 MR. WISE: I'd like to introduce this. It's got the
15 one on the back, but the one on the back hasn't been
16 introduced, so the back.

17 REPORTER: Is this the back?

18 MR. WISE: That's the back. Yeah.

19 REPORTER: Okay.

20 MR. WISE: Why don't you put a big X through it?

21 REPORTER: Right here?

22 MR. WISE: Yeah. And then put a, yeah.

23 REPORTER: Are we going to, number 3.

24 THE COURT: Any objection, Mr. Scott?

25 MR. SCOTT: I just need to take a quick peek at it --

1 MR. WISE: Sure.

2 MR. SCOTT: It is probably one I gave them.

3 MR. WISE: It is.

4 MR. SCOTT: No objection, Your Honor.

5 MR. WISE: And can you put that on the screen?

6 THE COURT: Okay. So that's Defense's number?

7 REPORTER: Number 3.

8 MR. WISE: Number 3.

9 THE COURT: Number 3, and admitted without objection.

10 (Whereupon, Defendant's Exhibit number 3 was admitted
11 into evidence.)

12 Q I'd show you Defense 3. All right. What items in
13 there, this is where, what items in there are not yours?

14 A All of them, but this one.

15 Q All right. The phone you think is yours?

16 A I believe that is mine.

17 Q And what is this in the upper right-hand corner?

18 A It looks like a notepad.

19 Q A notepad. Is that your writing?

20 A No, sir.

21 Q The numbers relate anything to you?

22 A No, sir.

23 Q All right. What about down here, the phone?

24 A That's not mine.

25 Q All right. What about that pencil torch?

1 A It's not mine.

2 Q All right. So the notepad, the phone that's kind of
3 in the middle, and the pencil torch are, none of those are
4 yours?

5 A No, sir.

6 Q Do you know who they belong to?

7 A No, I don't.

8 Q All right. Had you ever seen them before you
9 actually got this picture?

10 A No, sir.

11 Q Okay. Now, this picture which just was introduced.
12 Now, that's the bag that belongs to Ms. Ginn?

13 A Yes, sir.

14 Q Did you see her bring that in there?

15 A Yes, sir.

16 Q All right. Now, that pack of Marlboro cigarettes, is
17 that yours?

18 A No, sir.

19 Q And why not?

20 A I don't smoke Marlboro's. I roll my own cigarettes.

21 Q You what?

22 A I roll my own cigarettes.

23 Q Roll your own cigarettes. You don't smoke
24 Marlboro's?

25 A No, sir.

1 Q And whatever is in there is not yours?

2 A No, sir.

3 Q How long you been rolling your own cigarettes?

4 A About three years.

5 Q Right. You got anything to do it with?

6 A Yeah. I got a machine to do it with.

7 Q Okay. Now, you said you gathered them up and put
8 them in a container?

9 A Yes, sir.

10 Q Is that what we see there, the little gray container?

11 A Yes, sir.

12 Q All right. Now, these are things that are out in the
13 yard?

14 A Yes, sir.

15 Q Did you see them put them out in the yard?

16 A No, sir; I did not.

17 Q Okay. Then, let me go back, now, that's not, go back
18 one second. The bottle that's there under that step,
19 what, did you put that there?

20 A No, sir; I did not.

21 Q Did you have anything to do with it?

22 A No, sir.

23 Q All right. Now, there's been some talk about some,
24 quote, hidden step?

25 A Yes, sir.

- 1 Q This is a camper?
- 2 A Yes, sir.
- 3 Q Did it have compartments in it?
- 4 A Yes, sir.
- 5 Q And other, did it have places other than that step?
- 6 A Yes, sir.
- 7 Q And what were the purpose of those?
- 8 A You can put like your hose pipe, drop cords,
- 9 whatever, you know, like camping.
- 10 Q Storage things?
- 11 A Storage.
- 12 Q You don't have, do you have a lot of storage space in
- 13 that camper?
- 14 A A pretty good bit.
- 15 Q All right. Do those help?
- 16 A Yeah, they do, especially when you ain't got no
- 17 closets in there.
- 18 Q Okay. Now, you were out there waiting with everybody
- 19 when Mr. Veal came out?
- 20 A Yes, sir.
- 21 Q All right. And, I believe, he testified yesterday?
- 22 A Yes, sir.
- 23 Q You heard him?
- 24 A Yes, sir.
- 25 Q Is it accurate that he basically said, whose is it?

1 A Yes, sir.

2 Q And everybody said, it's not mine.

3 A Everybody denied it.

4 Q Correct?

5 A Yes, sir.

6 Q All right. And then all the three of you were
7 arrested?

8 A Yes, sir.

9 Q Now, they also had some needles in various places.
10 All right. Any of those yours?

11 A No, sir.

12 Q You heard there was some blood in some of them?

13 A Yes, sir.

14 Q All right. Would it be your blood in them?

15 A No, it wouldn't.

16 Q All right. And you had been out of this camper for
17 about how long when this raid took place on the 6th of
18 May?

19 A It was between three or four weeks.

20 Q Three or four weeks?

21 A Yes, sir.

22 Q Mostly at your brother's?

23 A Yes, sir.

24 Q Did you put any of those needles in there?

25 A No, sir.

1 Q All right. We see there in the bottom a little thing
2 of Bactine. Is that something you use?

3 A No. I have never used it before; no, sir.

4 Q You never used it before?

5 A No, sir.

6 Q Okay. And, I believe, they did find a little bottle
7 of, yeah. They found a little bottle of, hold on, right
8 here, the little shampoo bottle?

9 A Yes, sir.

10 Q Was that yours?

11 A Yes, sir.

12 Q Okay. So some of those things in there were yours?

13 A Yes, sir; they was.

14 Q All right. You completed the drug program when?

15 A It was two to three months before this here.

16 Q And it was, what program was that?

17 A It was Gateway.

18 Q Gateway. And that's where?

19 A That is back behind the hospital out here.

20 Q Back behind the hospital in Laurens?

21 A Laurens. Yes, sir.

22 Q Okay. And you went there how long?

23 A About four, maybe five months.

24 Q Okay. A good many months?

25 A Yes, sir.

1 Q How often did you have to go?

2 A I went through the program four times.

3 Q All right. Sometimes, it's tough to get over?

4 A Yes, it is.

5 Q All right. This time, you got it?

6 A I got it.

7 Q All right. You pass the three tests?

8 A I passed three tests.

9 Q Did you have any desire to go back into the meth?

10 A I ain't going to say I ain't had a desire. You know,
11 everybody has hard times and you think about it in the
12 back of your mind. But, you know, I had no desire for it.

13 Q Did you ever have anything to do with those meth
14 items being in your camper on May 6th?

15 A No, sir.

16 Q And did you go down to that camper with Tristen Wells
17 and Lauren Ginn about five or six o'clock in the morning
18 on May 6th?

19 A No, sir. I was asleep at that time.

20 Q All right, sir.

21 MR. WISE: Thank you. Answer any questions Mr. Scott
22 may have.

23 CROSS-EXAMINATION

24 By Mr. Scott:

25 Q Okay. Roy, the, or Mr. Smith, rather, this is your

1 mother's house, isn't that right?

2 A Yes, sir.

3 Q Okay. And there's the camper, isn't that correct?

4 A Yes, sir.

5 Q All right. Testimony, about a hundred yards apart.
6 It's probably less than that, isn't it?

7 A No. I'd say it's probably a little more.

8 Q That's a little more than a football field, you
9 think?

10 A About that, I'd say.

11 Q Okay. Well, how long had you lived in that trailer
12 there, the camper, rather?

13 A Eight months to a year.

14 Q And, I mean, it is full of your items, isn't it?
15 It's got your name on the walls and everything, doesn't
16 it?

17 A Yeah. It's got a bunch of my stuff in it.

18 Q And, but your testimony is that this particular time
19 you had moved in to help your brother. Is that right?

20 A Yes, sir.

21 Q And you were disabled and you were receiving Social
22 Security disability?

23 A Yes, sir.

24 Q And when do those checks come in every month?

25 A On the 3rd.

1 Q The 3rd of every month?

2 A Yes, sir.

3 Q And this happened on the 6th, is that right?

4 A On the 6th.

5 Q Okay. Tell me about, you know, the disability, is
6 that what got you hooked on meth?

7 A No, sir.

8 Q What got you into meth?

9 A I went through a hard time in my life over the loss
10 of a daughter and to keep from dealing with that, I turned
11 to drugs.

12 Q Okay. And you think you've kicked meth now?

13 A Yes, sir.

14 Q And you know a lot of people that have fully kicked
15 methamphetamine addiction?

16 A I know maybe two.

17 Q Okay. It doesn't really happen very often, does it?

18 A I mean, it's hard. It's hard. You can get over it,
19 but it's hard.

20 Q And Tristen Wells, where is he now, by the way? We
21 can't find him anywhere?

22 A I have no idea. I hadn't seen him since that day.

23 Q He's your nephew, though, right?

24 A No, sir.

25 Q I thought, how is he related to you?

1 A He's not. My brother and his mama was engaged to get
2 married.

3 Q Okay. So he was a would-be nephew, maybe?

4 A Would-be; yeah.

5 Q Okay. But you don't know where he is at the moment?

6 A I have no idea. Like I say, I hadn't seen him since
7 we got arrested other than that one time we was in jail
8 together.

9 Q But he liked to do meth, didn't he?

10 A He was what you call a social user.

11 Q A social user?

12 A Yeah.

13 Q What's that?

14 A Just every now and then.

15 Q Okay. Is that possible you can just do meth every
16 now and then?

17 A If you get on it, yeah.

18 Q Okay. Did you try to stop him from getting on it?

19 A Me and him talked about it and stuff, but he said
20 long as he could do social, he would be all right.

21 Q Okay. Is that a good, is that good advice?

22 A It is not a good thing. But when a user talks to
23 another user, I mean, you have to understand, they ain't
24 trying to talk nobody out of nothing.

25 Q All right. Now, Lauren Ginn, she, too, was a

1 methamphetamine user, right?

2 A Yes. From my understanding, yes.

3 Q And you knew both of them?

4 A I had just recently met her like the week prior.

5 Q Okay. Was that a good, wise decision to be hanging
6 out with two people you knew to use meth when you're
7 trying to recover and you're on probation?

8 A No, sir; it wasn't.

9 Q In fact, you're not supposed to be hanging out with
10 these people when you're on probation, are you?

11 A No, you're not.

12 Q And, especially, if they're manufacturing
13 methamphetamine?

14 A Manufacturing.

15 Q But you chose to do that?

16 A I chose to help my brother. I couldn't help who come
17 in up there.

18 Q Okay. Well, you testified that you took Tristen down
19 on your property to go fishing, right?

20 A Yeah.

21 Q Okay.

22 A But we wasn't, you know, that's all we were doing was
23 going fishing.

24 Q All right. Well, tell me now, how did Lauren, how
25 would she have known, and you said she pulled up in a red

1 truck, is that right?

2 A Yes, sir.

3 Q What time of day was that?

4 A Between nine and ten, I think.

5 Q A.M.?

6 A A.M.

7 Q Okay. And you don't know who drove her there?

8 A No, sir; I do not.

9 Q Any clue how she would have known where your house

10 was?

11 A No, sir; not unless her and Tristen talked.

12 Q You just met her and she shows up at 9:00 a.m. at

13 your house?

14 A Yes, sir.

15 Q And you didn't tell her where you lived?

16 A No, sir; I did not.

17 Q Okay. Maybe a lucky guess?

18 A Or her boyfriend would be a good guess to me.

19 Q Okay. Or maybe she was coming there to get some

20 dope, maybe?

21 A No, sir.

22 Q Okay. You don't know how, but about 9:00 a.m.,

23 somebody in a red truck. Did you know anybody with a red

24 truck?

25 A No, I don't.

1 Q You don't know anybody with a red truck?

2 A No, sir.

3 Q Was your mother home?

4 A Yes, sir.

5 Q Okay. And you said when you arrived there, and
6 correct me if I'm wrong, you and Tristen are getting the
7 fishing rods up together. It's about 9:00 a.m., and the
8 door is open?

9 A No, sir. When we got there, I noticed the door open.

10 Q Okay.

11 A So I stepped inside to look to see what was going on
12 and Tristen and Lauren had been fighting, and I told them
13 they could talk a little bit, I was going up to my mama's
14 for a minute.

15 Q Well, did you notice the door was open before or
16 after Lauren got there?

17 A About the same time, because we all kind of walked up
18 to the camper about the same time.

19 Q Okay. Did you ask her, what are you doing here,
20 Lauren?

21 A No, I didn't. I left that between them two.

22 Q All right. So y'all pull up or they pull up. You're
23 already there. And do you see whereabouts the red truck
24 dropped her off?

25 A There is a little road next to the fence up on the

1 upper end or lower end of that picture called --

2 Q Here?

3 A -- Hush Road.

4 Q Uh-huh.

5 A And they pulled in there, and she got out to come
6 through the gate towards my camper.

7 Q Okay. And then y'all were already down here by the
8 camper?

9 A The shed, the little shed-looking thing, we were
10 standing right there.

11 Q Okay. And then she must have met y'all somewhere
12 over here?

13 A She comes in that second gate where the
14 driveway-looking part is at.

15 Q Right here?

16 A Yeah. She come through that gate down there.

17 Q Okay. And y'all meet somewhere here, and then what
18 do y'all, go around to the right side?

19 A We meet in between the camper and the shed.

20 Q Okay. Right here?

21 A Yeah. Somewhere in there.

22 Q All right. And then y'all all three walk to the back
23 together is your testimony?

24 A Yes, sir.

25 Q And at that time y'all say, oh, my gosh, the backdoor

1 is open?

2 A No. I didn't say, oh, my gosh. I looked and pulled
3 on it to see if it was latched, because it was open. And
4 I said, you know, I said, something is, the door is open.
5 Somebody's been messing with it, or something or another,
6 so I stepped in and looked.

7 Q What'd you see? Who was in there?

8 A There wasn't nobody in there.

9 Q All right. Was it just, was it sitting open like in
10 the picture here or did you, was it unlocked? What are
11 you saying, because you just said you tested the latch to
12 see.

13 A The door was still locked, but it wasn't shut good.
14 It was just leaned up and pushed up against where you
15 close it, you know, the doorframe.

16 Q What was it that drew your attention to it, was it
17 open like that?

18 A No.

19 Q Okay. Explain more about how it was open that you
20 noticed it?

21 A It was pushed like it was going to be closed, but it
22 wasn't pushed in all the way.

23 Q Okay. So just slightly.

24 A You can see, the deadbolt, you can see like the lock
25 was sticking out of it. And then there were scratches all

1 over it.

2 Q Okay. And so it, what you're saying is it looked
3 like somebody had got in there?

4 A Yes, sir.

5 Q Is that what you're saying? Somebody opened it?

6 A Yes, sir.

7 Q Did your mother open it?

8 A No, sir; I wouldn't think so.

9 Q Okay. But you got to use a key is what you testified
10 to and your lawyer was asking you about different ways you
11 could possibly?

12 A That or a screwdriver.

13 Q Okay. You can open these doors with a screwdriver,
14 can't you?

15 A Yes, you can open any door with a screwdriver.

16 Q Okay. But you had a key that you usually locked it
17 with and you had the key to it?

18 A Yes, sir.

19 Q Tell me what you saw when you went inside and what
20 was Tristen doing when you went inside?

21 A He was standing back on the outside behind me.

22 Q Okay. All right. So he's on the outside here and
23 you go inside?

24 A Right there near the steps.

25 Q All right. Then, what did you see when you went

1 inside?

2 A I just stepped in and looked to see if I could tell
3 anything was missing in that part of it. And I told him I
4 was going to talk to my mama and see, I had asked her have
5 you seen anybody messing around down there.

6 Q Okay. And then Tristen Wells and Lauren stayed back?

7 A Yeah, they stayed down there.

8 Q And when Lauren showed up, all she had was the bag
9 with the needles in it?

10 A She had a big bag and her purse.

11 Q Okay. And that's the one you've testified to, the
12 one that had the needles in it, right?

13 A Yes, sir.

14 Q That's the bag she had with her?

15 A Yes, sir.

16 Q Okay. Anything else? Did she have bottles or
17 anything in there, nothing?

18 A No. Not that I seen, no.

19 Q All right. So you go up and speak with your mom.
20 And then what happened, did you go back to the camper
21 after that?

22 A Yeah. I think I went back down to the camper.

23 Q All right. What'd you do next?

24 A Well, started putting the rod and reel together, but
25 I needed to use the bathroom before I went fishing.

1 Q Why didn't you go to the bathroom up in your mother's
2 nice house instead of that camper?

3 A Well, I had been down at the camper for a few minutes
4 getting the rod and reels together.

5 Q And then you had to go to the bathroom?

6 A Yeah.

7 Q All right. And then that's when you noticed the HCL
8 generators?

9 A Yes, sir.

10 Q And they were in the shower?

11 A In the shower.

12 Q Okay. And then you figured, because you knew what
13 they were, right?

14 A Oh, yeah. I looked at them.

15 Q And you've used them before, right?

16 A Yes, I have.

17 Q Okay.

18 A But not those.

19 Q Okay. Well, I know you're going to say that, but I'm
20 just saying, you've used HCL generators before?

21 A I have used a generator before.

22 Q All right. You know how they work?

23 A Yes, sir.

24 Q So what is going through your mind as a probationer
25 who's got HCL generators in his camper?

1 A I'm thinking that I need to clean up before somebody
2 comes in, you know, and reacting scared. If somebody
3 come, you know, I'm going to jail.

4 Q Okay.

5 A So that---

6 Q But I thought you said you were gathering up fishing
7 rods, though?

8 A On the outside; yes, sir.

9 Q Okay. But shouldn't you have been running to
10 probation saying this looks bad. I want to report
11 somebody's got some HCL generators in my house. I'm a
12 probationer. I'm on probation for manufacturing meth. I
13 don't want anything to do with this. Somebody help me.

14 A Yes, sir. But it was within five minutes of me going
15 in the camper, my probation officer showed up.

16 Q You are kidding me?

17 A No, sir.

18 Q Coincidentally, they just showed up right then and
19 you were about to go call them though, right?

20 A I ain't going to say I was going to go call them. My
21 first instinct was get it out of my camper.

22 Q Okay. But you just put them in the trash can. What
23 were you going to do with them?

24 A Get them out of my camper. I ain't going to say, I
25 can't say what I was going to do with, but I just wanted

1 them out of my place.

2 Q Okay. All right. Okay. This step, I call it a
3 hidden step. I mean, you can pull the tread off the top
4 and hide stuff in it. You ever hide stuff in there?

5 A No, sir.

6 Q You didn't? You didn't use that to hold your pot?

7 A The only thing I ever put in there was a hose pipe.

8 Q A hose pipe. There's not a hose pipe in there, now,
9 is there?

10 A No, because it's hooked to my camper now.

11 Q Okay. Who else did you tell about the hidden step?

12 A Most anybody that would go up in there, when you step
13 on the step, it'd make like a popping noise.

14 Q Mm-hmm.

15 A I mean, about everybody that went in there knows it
16 was there.

17 Q So everybody knew you could take the tread off and
18 hide things under there?

19 A I ain't going to say you could hide things in there,
20 but it was there.

21 Q Okay. Tell me about a one pot; how do those work?

22 A That's what they use to manufacture your dope in.

23 Q Did I not give a good demonstration yesterday? Did I
24 do something wrong when I was making my meth for the jury?

25 A Yeah. If you don't go through every step, yeah, you

1 do something wrong.

2 Q Can you show us every step?

3 A I probably could.

4 Q Okay. Step down and show us how we make the meth,
5 and tell us what we're missing. And, by the way, how did
6 you make meth?

7 A How did I take meth? I shot it.

8 Q You shot it?

9 A Mm-hmm.

10 Q Okay. You still have marks on your arm?

11 A Probably. I probably got one.

12 Q All right.

13 A But you'll see they're old.

14 REPORTER: I can't hear.

15 A I said yes, I probably would have marks, but they
16 would be old.

17 Q What's that feel like when you putting that needle in
18 your arm and shooting methamphetamine into your veins?

19 A It hurts at first.

20 Q But you can't stop it even though it hurts?

21 A No, it's a bad addiction.

22 Q It is a bad--

23 A --bad addiction.

24 Q Show us how you make meth?

25 A Take this, this, put this in the bottle, and you

1 don't have nothing else there to--

2 Q -- tell me what I need. Tell me what I need.

3 A Lithium--

4 Q -- where do you get lithium from?

5 A It comes out of the battery.

6 Q All right. How do you cut the battery?

7 A Well, you take little tin snips and cut it and pull
8 it out.

9 Q All right. And that stuff's highly volatile, right?

10 A --.

11 Q Okay.

12 REPORTER: Wait a minute. Dale, I can't hear him.

13 Q You got to speak up so she can hear you.

14 A I'm sorry.

15 Q You cut the lithium.

16 REPORTER: And that last answer? He said that's
17 highly volatile.

18 A Yes, it is.

19 Q Okay. It's blown up on you before, hadn't it?

20 A Yes, it has.

21 Q And you, is your right hand still scarred, and you
22 still got a scar from a meth lab blowing up on you?

23 A Yeah.

24 Q All right. So you take the cold pack?

25 A Cold pack. You got to have lye and fuel.

1 Q And you mix them altogether?

2 A Altogether.

3 Q And then what do you do?

4 A You shake it for about a hour or so, and then you
5 pour it off.

6 Q Okay. We got that part right yesterday.

7 A Mm-hmm.

8 Q You shake it for about an hour?

9 A Yes, sir.

10 Q You ever get somebody else to help you with that?

11 A No.

12 Q You do it yourself?

13 A When I did it, I did it myself.

14 Q Okay. What's next?

15 A You pour it off into a container like this.

16 Q Okay. Do you filter it or anything?

17 A Yeah, you got to filter it.

18 Q Okay.

19 A Yeah.

20 Q And then after you filter that solution from the one
21 pot through, what's this white stuff that's left in there?

22 A That'd be the residue that goes into the thing what
23 you filter off to keep it clean.

24 Q Okay. So then what's left in here is some meth oil?

25 A Meth oil.

- 1 Q All right. And what do you do with this?
- 2 A You put salt and liquid fire in and insert this end.
- 3 Q Okay. And then what happened?
- 4 A When it hits the liquid, it turns into a powder base.
- 5 Q What do you do with that powder?
- 6 A That's your dope.
- 7 Q You dry it out?
- 8 A You got to dry it out.
- 9 Q Okay. Thanks. And so then what you would do after
- 10 it's dried out, how do you get it into a liquid form to
- 11 put into these syringes to inject it in your veins?
- 12 A Put water on it.
- 13 Q Just water?
- 14 A Just water.
- 15 Q All this stuff you just named, where would you buy
- 16 it?
- 17 A Where would I buy that?
- 18 Q Whenever you used to make it?
- 19 A When I used to make it, you can get anyplace,
- 20 Wal-mart, anyplace.
- 21 Q So tell me about those Sudafed, what happens when you
- 22 run out of chances to buy in a month?
- 23 A You have friends to get them for you or so-called
- 24 friends get them for you.
- 25 Q Okay. All right. Mr. Smith, that, I appreciate it.

1 But the testimony is when you got there that day, you have
2 no idea where any of those things came from that were in
3 your camper?

4 A Not at that time, I didn't.

5 Q Okay. But you don't deny that --

6 A -- I don't deny that I have made it before. I mean,
7 I'm not going to lie about it.

8 Q Okay.

9 A But I done my time on it, I went through drug rehab,
10 and I'm trying to be right. I mean, I did. I still
11 failed from here to here.

12 Q And your testimony is that it just happened that day
13 that you had just gotten there and somebody had just
14 dropped that off? You had just found out about it when
15 probation came?

16 A I can't tell you how long that stuff been in the
17 camper. Now, I ain't been there in three weeks.

18 Q But you had just found it when probation came?

19 A I had just found it; yes, sir.

20 Q Okay. Any clue who could have done it?

21 A Sir?

22 Q Any clue who put that stuff there?

23 A I couldn't tell you.

24 Q It's right in your mother's backyard?

25 A Mm-hmm.

- 1 Q All right.
- 2 A And if you ain't there, you can't tell who doing it.
- 3 Q Say again?
- 4 A I said by me not being there, I couldn't tell you who
- 5 done it.
- 6 Q Because you had just moved out of there a week before
- 7 or how long had you been out of that camper?
- 8 A Three or four weeks.
- 9 Q Okay. Well, your stuff's in there, your bed's in
- 10 there, everything else. Did you not drive by there to
- 11 check on your things?
- 12 A I went down there one time after I stayed at my
- 13 brother's to get some clothes.
- 14 Q In three weeks?
- 15 A Three or four weeks. I went down there like a week
- 16 later after staying with my brother that time.
- 17 Q How long does your brother stay from there?
- 18 A About seven miles.
- 19 Q Okay. And you'd only had a chance to go there--
- 20 A -- I mean, I had went there to see my mother, but I
- 21 never went inside the camper.
- 22 Q Even though that's where all your belongings were?
- 23 A I mean, I figured they locked up, I figured I was
- 24 good.
- 25 Q All right. Thank you.

1 MR. WISE: Just a couple of questions.

2 REDIRECT EXAMINATION

3 By Mr. Wise:

4 Q Do you have a watch?

5 A No, sir.

6 Q Do you keep track of time?

7 A No, sir.

8 Q When you talk about things happening at 9:00 and
9 10:00 o'clock, are they, is that an accurate time?

10 A No, sir; it's not.

11 Q All right. Did you check Lauren Ginn's pocketbook
12 when she came there?

13 A No, sir; I did not.

14 Q Was it closed?

15 A Yeah, it was closed.

16 Q Okay. And if you're making meth, you just don't take
17 a cold pack and take the pills out and dump them in there,
18 do you?

19 A No, you have a process to go through.

20 Q You got to crunch them up?

21 A Yes, sir.

22 Q And when you crunch them up, it leaves a residue and
23 whatever it is, it's used to crush it up with?

24 A Yes, sir.

25 Q Such as a coffee grinder or --

1 A Coffee grinder.

2 Q A little, what is it called, I forgot what it is now.

3 But anyway, that, use something else. But whatever you

4 use to crush it up with, it'd leave a residue?

5 A Yes, sir.

6 Q And none of that was found in your camper?

7 A No, sir.

8 Q Okay.

9 MR. WISE: Thank you.

10 MR. SMITH: Yes, sir.

11 THE COURT: Any recross?

12 RECROSS-EXAMINATION

13 By Mr. Scott:

14 Q That brought up a good question, though. Whenever

15 you're cleaning up the HCL generators and threw them in

16 the trash can, where was Lauren Ginn and Tristen? You

17 said Tristen was outside.

18 A Tristen was outside and Lauren was sitting in the

19 living room.

20 Q Okay. In the camper?

21 A Yes, sir.

22 Q Did you invite her in?

23 A It has been so long ago, I couldn't tell you now.

24 Q Well, you can remember all this other stuff, what

25 time of day it was and everything like that?

1 A You know, I probably, I know when I left to go look
2 for my mama, I told them they could go inside and talk.

3 Q Okay. I thought you said Tristen was outside getting
4 the rods ready?

5 A When I left from there.

6 Q Okay.

7 A I didn't say he went in there. I said I told them
8 they could go in there.

9 Q Okay. And so, you know, whenever the officers get
10 there, it's you and Lauren inside the trailer?

11 A Yes, sir.

12 Q Okay. And it's your testimony, I think, that at that
13 time in there, you're in the bathroom getting the HCL
14 generators in the trash can?

15 A Yes, sir.

16 Q Okay.

17 MR. SCOTT: All right. Thank you.

18 MR. WISE: That's all. You can step down.

19 THE COURT: Thank you. You can call your next
20 witness.

21 MR. WISE: All right. Call Mr. Smith.

22 FRANKLIN SMITH, being
23 first duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 By Mr. Wise:

- 1 Q Please give us your full name?
- 2 A Vernon Franklin Smith, Jr.
- 3 Q All right. And where do you live, Mr. Smith?
- 4 A Arnold Lane.
- 5 Q what?
- 6 A Arnold Lane --
- 7 Q And where is that?
- 8 A -- in Waterloo.
- 9 Q It's in Waterloo. All right. And your brother is?
- 10 A Roy Ellis Smith.
- 11 Q Okay. How long have you been living on Arnold Lane?
- 12 A Probably 20 years.
- 13 Q Okay.
- 14 A 22 years.
- 15 Q 22 years. All right. There's been some testimony
- 16 about you having a disability?
- 17 A Yes, sir.
- 18 Q And what's the problem with your right arm?
- 19 A When I was born, the doctor, the forceps that they
- 20 put on your head, to pull you out, they used those forceps
- 21 on me and kind of mashed a nerve and partially paralyzed
- 22 me on my right side.
- 23 Q So you've been disabled your entire life?
- 24 A Well, I been disabled, but I did work some, too.
- 25 Q Where'd you work?

1 A I worked out at Capsujel in Greenwood.

2 Q Okay. And how long did you work out there?

3 A About 15 or 16 years.

4 Q All right. Going back into March of, excuse me,
5 April of 2015, did you have some surgery?

6 A Yes, sir.

7 Q And what was the nature of the surgery?

8 A I got where I couldn't use my left hand --

9 Q Mm-hmm.

10 A -- because my fingers stayed numb all the time.

11 Q All right.

12 A They was going to go in there and pull two of the
13 knuckles out and rework them and supposed to put them back
14 in there and it was supposed to fix everything.

15 Q Yeah.

16 A And after they got in there, the two knuckles was
17 messed up worser than they thought, so they had to replace
18 the knuckles.

19 Q All right. Did they, did you have any type of cast
20 on your left hand?

21 A Yes.

22 Q All right. And how, do you remember about when that
23 surgery was?

24 A I remember it was in April.

25 Q Okay.

1 A I don't know what date or anything like that.

2 Q Did your brother come to live with you after the
3 surgery?

4 A Yes, sir.

5 Q All right. And why did he come up there and live
6 with you?

7 A Because of I had to have somebody help me to the
8 bathroom, to help feed me, just about like taking care of
9 a baby, really.

10 Q Could you even dress yourself?

11 A No, sir.

12 Q Okay. Now, you also had a girlfriend at the time?

13 A Yes, sir.

14 Q Was she working?

15 A No, sir.

16 Q All right. Could she help you do all this stuff?

17 A Well, she helped.

18 Q All right. And you're a little bit bigger than your
19 brother?

20 A Yes, sir.

21 Q All right. Could she help you by yourself?

22 A And not really.

23 Q All right. So how long did your brother stay with
24 you?

25 A Probably a little over a month.

1 Q A little over --

2 A Maybe a little less.

3 Q All right. Somewhere around a month?

4 A Yeah.

5 Q All right. Was he staying with you the day before he
6 got arrested?

7 A Yes, sir.

8 Q All right. And tell us, if you would, what happened
9 the night before?

10 A Tristen and his mama was arguing over the Lauren
11 girl. She was telling--

12 Q Now, first of all, Tristen is how old?

13 A At the time he was 18.

14 Q All right. And Lauren is how old?

15 A She was 28-29, something like that.

16 Q All right. Go ahead.

17 A They was arguing about --

18 MR. SCOTT: Your Honor, objection. I don't know what
19 they're about say, but just the hearsay would be an issue.

20 Q Well, I mean, go ahead with what happened that night
21 of the 6th of, the 5th of May with Lauren?

22 A They was arguing and I told her she had to leave.

23 Q All right. Did she leave?

24 A Yes, sir. She called, she got her stuff up, went
25 outside and somebody came and picked her up.

1 Q All right. And did you see her again the rest of
2 that night?

3 A No, sir.

4 Q Was she there the next morning?

5 A No, sir.

6 Q All right. What happened the next morning?

7 A The next morning?

8 Q Yes, sir.

9 A They said they was going down to the lake to go
10 fishing.

11 Q All right. And who is they?

12 A Ellis and Tristen.

13 Q All right. They leave your house?

14 A Yes, sir.

15 Q Was Lauren with them when they left your house?

16 A No, sir.

17 Q At 5:00 to 6:00 o'clock in the morning at your house,
18 was Lauren there?

19 A Not that I know of.

20 Q Was she there when you got up the next morning?

21 A No, sir.

22 Q Was Roy and Tristen there the next morning?

23 A Yeah, they was there.

24 Q All right. And they left out to go fishing?

25 A That's what they said.

1 MR. WISE: Thank you. Answer any questions Mr. Scott
2 may have.

3 MR. SCOTT: I don't have any questions, Your Honor.

4 THE COURT: Okay. Thank you, sir. I appreciate you
5 being here. You can step down.

6 MR. WISE: Call Ms. Smith.

7 MARTHA SMITH, being
8 first duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 By Mr. Wise:

11 Q All right. Ms. Smith, give us your full name?

12 A Martha Gail Smith.

13 Q All right. And where do you live?

14 A 669 Smiths Village Road in Waterloo.

15 Q And how long have you been living there?

16 A Since May of 1979.

17 Q All right.

18 A About 37 years.

19 Q 37-38 years. And Roy Ellis Smith and Franklin Vernon
20 Smith, Jr., are your two sons?

21 A Yes, sir.

22 Q All right. Who lives in the house with you?

23 A My great-grandson.

24 Q Great-grandson and how old is he?

25 A Ten.

1 Q All right. And is this the picture of your house and
2 the area? Which one is your house in this area?

3 A I really don't know, because I can't half see that
4 good over there.

5 Q Oh, you can't tell from there?

6 A Over there.

7 Q Okay. Did your son, Roy Ellis Smith, have a camper
8 in your yard?

9 A Yes, sir.

10 Q About how far away would you estimate that it is from
11 your house?

12 A I would say 50 or 60 feet.

13 Q All right. Not very far?

14 A No, it's not.

15 Q Okay. You recall the day that he got arrested back
16 in 2016, 2015?

17 A Yes, sir.

18 Q Do you recall what happened that morning?

19 A Well, Patsy Free and her daughter were at my house
20 and we were having coffee and cake and Ellis come in --

21 Q All right.

22 A -- or Roy.

23 Q All right. You call him Ellis?

24 A Yeah.

25 Q All right. Did you see anything done with his

1 trailer before he came in?

2 A No, I didn't.

3 Q You didn't see anything?

4 A Uh-uh.

5 Q You weren't looking out the window?

6 A Uh-uh.

7 Q All right. So how long did Ellis stay with you in
8 the trailer and talking to you?

9 A I would say he was up there around an hour.

10 Q All right.

11 A I'm like him. I don't watch the clock.

12 Q You're not keeping time?

13 A Uh-uh.

14 Q All right.

15 COURT REPORTER: Wait a minute. I need a yes or a
16 no, yes or no.

17 MRS. SMITH: Okay.

18 MR. WISE: All right.

19 COURT REPORTER: So your last one was yes or no?

20 Q Let me rephrase the question. You're not keeping
21 time?

22 A No.

23 Q Okay. All right. Talked to you for a while?

24 A Yeah.

25 Q When did you realize that there had been some event

1 down at the camper?

2 A Well, Patsy, Ms. Free, and her daughter had left and
3 I guess they had been gone 10 or 15 minutes, and I noticed
4 a black some kind of car, SUV or something pulled up in
5 front of the tree in the driveway.

6 Q And did you find out that day that Ellis had gotten
7 arrested?

8 A Yes.

9 Q Now, about, I believe, last Friday, did some law
10 enforcement officers come by your house?

11 A I think it was on Thursday.

12 Q Thursday. I'm mistaken.

13 A Yes.

14 Q What did they ask---

15 MR. SCOTT: I ask not to lead questions, leading.

16 Q All right. What did they ask you to do?

17 A They asked me if they could look in Ellis' camper.

18 Q And did you assist them in that?

19 A I told them I didn't have a key to it.

20 Q All right.

21 A But we would go down and see if it was unlocked and
22 we did.

23 Q All right.

24 A And it was not unlocked.

25 Q How'd you get in?

1 A I went back to my house and got a screwdriver and one
2 of them opened it up.

3 Q And opened it up. You knew how to do that?

4 A I didn't, but he did.

5 Q All right. Was it easy to do?

6 A It didn't take him long to pop it open.

7 Q And so you went in --

8 A I didn't go in.

9 Q You didn't go in the trailer?

10 A Uh-uh.

11 Q All right.

12 A I have never been in the trailer.

13 Q Never. All right. So how many officers were down
14 there that day?

15 A Two.

16 Q And both of them went in?

17 A Mm-hmm.

18 Q Did you wait outside or did you go back to your
19 house?

20 A I waited outside.

21 Q And how long are they in there?

22 A Just a few minutes.

23 Q And you assisted them in getting in and gave
24 permission?

25 A Yeah.

1 Q Okay.

2 MR. WISE: Thank you. Answer any questions Mr. Scott
3 may have.

4 CROSS-EXAMINATION

5 By Mr. Scott:

6 Q Good morning, Ms. Smith?

7 A Good morning.

8 Q Why was it that you never went down to that camper?

9 A He was always at my house. I didn't have no reason
10 to go down there.

11 Q Bad stuff happened down in that camper, didn't it?

12 A I don't know. I didn't never go down there.

13 Q Why not?

14 A I had a lot of trouble with people coming in and out,
15 and I had called the law many a times to try to get, keep
16 traffic out from down there, but they act like there
17 wasn't anything they could do.

18 Q And you worry about your son, Roy?

19 A I worry about both of them.

20 Q Okay. But, especially, Roy? He's had some issues,
21 hadn't he?

22 A Yes. He's admitted he has had some.

23 Q Okay. Well, I know. I don't, I'm not trying to
24 trick you. I know that, but what kind of stuff did you
25 understand him to do when he'd go down to the camper?

1 A He colored a lot.

2 Q What's that mean?

3 A He colored pictures. You can buy pictures that you
4 scratch off to make colors in it, and he bought colored
5 pencils and colored in coloring books. He liked to do
6 woodwork.

7 Q Okay. Did you ever go down to the camper to look at
8 what he had made?

9 A No. I've never been in his camper until I walked
10 down there the day they arrested him, but I didn't go in
11 the camper.

12 Q How long has that camper been on your property there?

13 A I really don't know. It hadn't been there too, oh,
14 he said eight months. I don't know.

15 Q Okay. Fifty or sixty feet away from your house and
16 you just don't go down there, though?

17 A Uh-uh.

18 Q You don't like to go down there, do you?

19 A Uh-uh. I just don't go down there. I don't go no
20 farther than this house.

21 Q Okay. But, I mean, I'm just trying to get why is it
22 that you don't like to go down there, 50 or 60 feet where
23 your son lived?

24 A Well, I might walk down around the lake and all, but
25 I just don't go in the camper.

1 Q Okay. Were you worried about what you'd find in
2 there?

3 A No.

4 MR. SCOTT: Thank you.

5 MR. WISE: Thank you, Ms. Smith. You can step down.
6 I call Silver Free.

7 SILVER FREE, being
8 first duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 By Mr. Wise:

11 Q Please give us your full name?

12 A Silver Elaine Free.

13 Q And where do you live, Ms. Free?

14 A Now I'm living in Ware Shoals.

15 Q Where did you used to live?

16 A River Fork Road.

17 Q All right. That's in the Waterloo area?

18 A Yes, in Waterloo.

19 Q All right. You know Ms. Smith?

20 A Yes, sir.

21 Q How long have you known her?

22 A About 11 years.

23 Q All right. And at one time when you lived on River
24 Fork Road, how far did you live from her?

25 A I would say about eight miles.

1 Q But y'all visit each other?

2 A Oh, almost every day.

3 Q Okay. Do you recall May 6th, 2016, the day Mr. Ellis
4 was arrested?

5 A Yes, sir.

6 Q Were you visiting Ms. Smith that day?

7 A Yes, sir.

8 Q All right. Did you get there in the morning or
9 afternoon?

10 A In the mornings.

11 Q All right. And what did you observe as far as, did
12 you know Roy Smith before then?

13 A Yes, sir.

14 Q Roy Ellis Smith?

15 A Yes.

16 Q You've known him for how long?

17 A I guess about as long as I've known Ms. Smith.

18 Q Okay. Did you see some activity, did you see any
19 activity at his trailer that morning?

20 A Not at the trailer; no, sir.

21 Q All right. Near the trailer?

22 A I noticed; yes, sir.

23 Q All right. What did you observe?

24 A Well, a truck come in the driveway --

25 Q Mm-hmm.

1 A -- and let a girl out.

2 Q Mm-hmm.

3 A And Ellis or Roy and Tristen came in in his car.

4 Q All right.

5 A They started towards the trailer. I don't know if
6 they went or not.

7 Q Okay. You saw the girl, you were in court yesterday?

8 A Yes, sir.

9 Q All right. You saw a girl get out and go toward the
10 camper?

11 A Yes, sir.

12 Q And in relation to when Roy, Ellis and Tristen were
13 there, time wise, what was, how close was she to being
14 there when they were there?

15 A I imagine she got out just about the same time Ellis
16 parked his car.

17 Q Okay. And you saw her, she didn't, was she in Ellis'
18 car?

19 A I didn't see her in the car.

20 Q Did you see her get out of the truck?

21 A Truck; yes, sir.

22 Q Okay.

23 MR. WISE: Thank you. Answer any questions Mr. Scott
24 may have.

25 MR. SCOTT: I have no questions.

1 MR. WISE: Thank you, Ms. Free, you can come down and
2 with that, the Defense rests, Your Honor.

3 THE COURT: Okay. Good enough. All right. Ladies
4 and gentlemen, next, we will move to arguments and charge.
5 And, I presume, and, I'm sorry. Mr. Scott, I didn't ask
6 you. Anything in reply from the State?

7 MR. SCOTT: No, Your Honor.

8 THE COURT: Okay. We'll go to argue and charge.
9 There are several things that we have to do to get ready
10 for argument and charge. We need to look at the charge
11 and make sure that we're all on the same sheet, that is
12 the attorneys, the parties, and I need to take up some
13 additional matters of law on the record. So I'm going to
14 give y'all a long lunch so that we can continue to work,
15 but then I can give the staff, of course, a lunch break,
16 as well. So I'm going to ask y'all to come back at 2
17 o'clock. That's not quite two hours. It's a little less
18 than two hours, but be back at 2:00. Actually, five
19 minutes until 2:00 and we should, that'll give us more
20 than enough time, I would hope, to do the business that we
21 need to do. And then when we come back, we'll go to argue
22 and charge. Okay. Please enjoy your lunch and don't
23 discuss the case.

24 (Whereupon, the jury was excused from open court for
25 a lunch break.)

1 THE COURT: Got any motions?

2 MR. WISE: Yeah. I, again, renew the motion for
3 directed verdict on both charges. Again, on the grounds
4 that the disposal statute I think requires some act other
5 than having trash in your house. Everybody's pulled
6 things out of that trash they didn't mean to throw away.
7 So that, I think that's a stretch to say that merely
8 because it's in a trash can in the house, that is a
9 disposal as opposed to putting a trash can out by the side
10 of the road when you're relinquishing control of it. And
11 I think that clearly would be arguably a disposal, but
12 that didn't happen in this case. And then also again on
13 the, and also on the grounds that the items that, quote,
14 disposed of, there's been no testimony that any meth waste
15 or meth residue was in those things at all. Anyway so, so
16 they were not tested. So we have no proof of really what
17 those substances are if they were, in fact, meth waste.
18 And on the manufacturing charge, again, the same motion,
19 there's testimony that some stuff was there, but there's
20 certainly no testimony any manufacturing was going on.
21 Even the State's witness testified that no manufacturing
22 was going on on May 6th of 2015.

23 THE COURT: Okay.

24 MR. WISE: Ms. Ginn.

25 THE COURT: All right. Good enough. Mr. Scott, do

1 you care to reply? You don't have to, but you may.

2 MR. SCOTT: No, Your Honor.

3 THE COURT: Okay. All right. I respectfully deny
4 the motions. With regard to the manufacturing of
5 methamphetamine, I'll not add to that. With regard to the
6 disposal, I think the Defendant's testimony was clear.
7 That he saw it, he knew what it was, and he knew he wanted
8 to get rid of it. I think that's additional evidence
9 would suggest that there was an attempt to dispose of the
10 same. You may very well may be right that, you know,
11 ultimately the Courts may determine the disposal
12 contemplates taking it to an outside receptacle and
13 turning it over to appropriate authorities or leaving it
14 in a place that's not your own. But, and like I said, the
15 plain verbiage right now says, dispose.

16 MR. WISE: All right. Well, thank you.

17 THE COURT: All right. Good enough. Okay. So let's
18 go into chambers. Y'all meet me back there in about five
19 minutes and we'll talk about charges.

20 MR. WISE: I'm going to send both of y'all a request
21 of charges and chain-of-custody.

22 THE COURT: Okay.

23 MR. WISE: That may take me, I may be able to do in
24 five minutes.

25 THE COURT: Well, yeah. You know, five, six, seven.

1 I'm not going to pull my hair out and yell at you if it's
2 not exactly five, but we're going to, that gives me a
3 little bit of time to print off my standard charge, and
4 then we can discuss it all when we get back there.

5 MR. WISE: And we have made good progress on time.

6 THE COURT: We sure have. We sure have. Okay.

7 Well, good enough. For everyone else, you're adjourned
8 for lunch.

9 (Whereupon, a lunch break was taken.)

10 THE COURT: I have been advised that all the jurors
11 are back. Are we ready for the jury?

12 MR. WISE: We are, Your Honor. And for the record I
13 am going to request, the State will open fully on the law
14 and the facts as required by the South Carolina Supreme
15 Court.

16 THE COURT: Okay. Mr. Scott, are you ready to do
17 that?

18 MR. SCOTT: I think I am, Your Honor.

19 THE COURT: Okay, bring them in, please, sir.

20 (Whereupon, the jury came into open court at
21 approximately 2:02 p.m.)

22 THE COURT: Welcome back, ladies and gentlemen.

23 We're going to proceed to closing arguments. As I told
24 you when we began the case that closing arguments are not
25 evidence to be considered by you. You've already received

1 and seen all of the evidence that you'll have in this
2 case. The attorneys now will have the opportunity to make
3 their arguments in an attempt to advocate for their
4 respective sides and to convince you to their positions.
5 After you have heard opening from the State, the Defense
6 will have the opportunity to respond, and then the State
7 will have the opportunity to respond to the Defense's
8 argument, and then I'll give you a closing charge on the
9 law. So, ladies and gentlemen, I'm going to turn it over
10 to Mr. Scott for the State's closing argument. Thank you.

11 MR. SCOTT: Your Honor, may it please the Court?

12 THE COURT: Yes, sir.

13 MR. SCOTT: As I said in opening, this case is about
14 the manufacturer, the making of methamphetamine, the
15 creation of a poison from things you buy at the local
16 discount store. I told you that in opening and you saw
17 that. All of the materials you probably got under your
18 sink at home or in your garage or in your shed out back.
19 Harmless items meant for legitimate purposes, but when
20 combined in the right way by people who know how to
21 combine them, they create that poison I was talking about,
22 that curse on your community. Sudafed, cold packs, lye,
23 starter fluid, batteries, Liquid Fire, a couple of Pepsi
24 bottles and if you're lucky enough that it didn't blow up
25 in your face and catch your house on fire, if you're lucky

1 enough. You're left with that poison I was telling you
2 about that ruins your looks, shatters your family,
3 terminates any job you have, destroys any future you may
4 have and leaves you kind of like Mr. Roy Ellis over there,
5 Roy Ellis Smith.. I'm sad to tell you he's not an uncommon
6 story. He gets caught and convicted of manufacturing
7 meth, the same poison, in Tennessee. He's lost his job.
8 He's on probation. He's living in a camper on his
9 mother's property. A camper, she was even scared to even
10 go to, it's 50-60 feet from the house. She doesn't go
11 over there. I think that was the unspoken sentiment that
12 she said. Yeah, it's just right over by my house, but I
13 don't go near that camper. And meth's never been good to
14 him. It's almost blown his hand off. He's got injection
15 marks all up and down his arms. He can't keep himself
16 from cooking and sharing drugs and he's back to hanging
17 out with the same people who share this habit he has. Not
18 a wise decision if you're on probation for a crime like
19 that and not a wise decision to hang out with other meth
20 addicts, but he needs them, and they need him. They're
21 symbiotic. And see, when you manufacture methamphetamine,
22 a lot of times, you have to conspire with other people to
23 make it. They may provide a clean syringe to him. They
24 may provide the Sudafed to him, because he can only buy so
25 much in a month. And he can cook it. He's got the

1 know-how to cook it. He's proven it before. He showed it
2 to you guys. He said, well, wait a minute. The State's
3 description of making meth isn't quite on point. Watch
4 the pros do it, and he walked you through it, didn't he?
5 So what they do is he will get somebody like Laura Ginn
6 and she'll go out with Tristen Wells, and they'll buy
7 their limit of Sudafed. And they'll take it to him. And
8 when he gets his SS check the 3rd of the month, and then
9 on the beginning of the month and on the 6th, when this
10 happened, they'll get together and they'll go to the
11 camper, and they'll set up shop. And all these terrible
12 noxious fumes will go into the air and all this toxic
13 byproduct will seep into the ground, 20-30 feet from that
14 lake that provides your drinking water. And that brings
15 us to May 6th, 2015. Probation shows up at that camper.
16 Now, Smith here at the trial, he wants to tell you he
17 hasn't really been there lately. He hadn't been in that
18 camper, though. He's been helping his brother. All his
19 belongings are in that camper, but he hasn't been there
20 regularly, and it's really just a very unfortunate
21 coincidence that that day, he got there about 10 o'clock.
22 It just so happened on that one day at 1:00 o'clock,
23 Probation comes to check on him and despite the fact that
24 he wants to tell you here under oath that he doesn't go
25 there really anymore, there he is inside the camper when

1 probation shows up. And he's in the bathroom, and he's
2 got a trash can and it's got those HCL generators that he
3 knows how to use and that he told y'all about. And a
4 couple of feet from where he's sitting is that step when
5 you lift the tread up, and it's a really nice little
6 hiding place, but I'll submit to you only somebody who is
7 familiar with that camper would know about it. And just
8 so happens to be in a home with a woman who's got a
9 package of clean needles in her purse. Meth-making
10 implements all in his camper, all throughout. Meth-filled
11 syringes in the fridge. Meth oil in the one pot located
12 under that hidden step, but he just happened to be there
13 when probation arrived. We hear about people a lot of
14 times and Judges hear about this a lot of times. People
15 step up. They get caught red-handed. And I know it's
16 hard to admit guilt sometimes. I understand that. But
17 all too often, I was at the wrong place at the wrong time.
18 In a sense, now that's what he's telling you. He's got no
19 real explanation of how all these items got into his home.
20 He will tell you he's got track marks all up and down his
21 arms. He doesn't know how those syringes filled with meth
22 got in his refrigerator. He's been convicted of
23 manufacturing meth in Tennessee. He can't tell you how
24 those HCL generators, that coffee filter with base powder
25 in it in that one pot, that Liquid Fire, and the list goes

1 on and on. He can't tell you how that got there and it's
2 just a coincidence he's in there at the very same time
3 when probation shows up May 6th at 1:00 o'clock. And it's
4 unfortunate. It's an unfortunate coincidence for him.
5 But it's really not a coincidence and you know that. You
6 understand that. I don't know if you can, they say 50 to
7 60 feet. If you look at this, this is an aerial. The
8 circle there, those are the, that's the camper and there's
9 a little shed he has referred to just on the other side of
10 it. Here's the lake. Right there on the lake. This is
11 his mother's house. Okay. She lives there. He lives in
12 the camper. I don't know why he doesn't stay in the house
13 with her. I submit to you he doesn't want her to know
14 what he's up to in the camper, though, and I submit to you
15 she may have an idea and that's why she doesn't want to go
16 to the camper. Officers show up. He's inside with Ms.
17 Ginn, again, a known, an admitted addict. This, guys, is
18 the step. And I just, I don't understand, if we are to
19 believe him, how just some random person will break in and
20 know of this hidden step and it's right beside his bed.
21 You see the mattress up here. I submit to you only
22 somebody very familiar with that camper who had lived
23 there would know about these hiding places. There's that
24 one pot right there on the left. That is what,
25 ultimately, would test positive for meth in it. And you

1 heard the expert from SLED about drawing a sample out of
2 it and finding methamphetamine in it. You saw Roy Smith
3 get up and demonstrate how the one pot was used in making
4 meth. Going from these common items we can get from
5 Wal-Mart and creating this poison I been telling you about
6 it. Right next to it is the Liquid Fire, another
7 component, another necessary part in creating this meth.
8 There is just a better picture. You see the lithium
9 strips in there? You see those black spots in there?
10 They wanted to say, well, you know, they didn't find
11 lithium strips all over the floor, in the camper. There
12 they are. He's used them up. He's creating the meth by
13 having to use up these ingredients and that's what those
14 black spots are. And, again, that is meth oil. That is
15 what they will put in the HCL generator, and they will
16 filter that out and the oil that's left, they will put in
17 that HCL generator, that hose in it and when the gas
18 reacts with that liquid, it bubbles up the liquid and
19 makes that solid. That solid he likes to mix with water
20 and inject into his veins. There right there beside his
21 commode. Do you see the commode that he was talking
22 about? That's on the right. And that's where he was
23 using the bathroom. And you remember that terrible
24 coincidence right when he discovered that, he was about to
25 get rid of it. He said it by his own admission, I wanted

1 to get rid of it. I wanted to get it out the trailer. I
2 wanted to illegally dispose of it and just so happened,
3 that was when probation out of the blue shows up. The
4 wrong place at the wrong time. Coffee filters, we heard a
5 lot about that. You've got pictures. The white powder in
6 it. That's the byproduct of, again, toxic stuff. But
7 when he's got that one pot and he's mixing all that stuff
8 together and he puts it through the filter, that's the
9 solid that's left over. The meth oil goes into the other
10 pot that, ultimately, he'll gas off and there you see the
11 byproduct. That's not actually meth. That's just what's
12 leftover in the process of making it. Syringes, there
13 they are and probably, you know, when you get to where
14 you're injecting stuff in your vein and you've gotten past
15 smoking it and you've gotten past snorting it and you're
16 filling these vials up and these needles up with this
17 poison and putting it into your veins and blowing out your
18 veins and leaving scars all over it, you're pretty fairly,
19 you're pretty well addicted at that point. And I don't
20 care if you're on probation, you're going to find a way to
21 get that stuff even if it means making it yourself. He's
22 got two charges guys, the manufacturing methamphetamine,
23 which we'll talk about disposal. But the manufacture is
24 really kind of what we spent the bulk of this trial
25 talking about. What is it? This is kind of how I'll

1 explain it. The Judge is going to have a definition for
2 you guys to take a look at as well. If a person
3 manufactures or otherwise aids, abets, attempts or
4 conspires to manufacture methamphetamine, he's guilty of
5 manufacturing methamphetamine. You know, really, all
6 three were charged and all three conspired to manufacture.
7 I think that was clear. Lauren Wells talked about her
8 part. She is a conspirator. She is just as guilty as he
9 is, and she'll have her day in court. Tristen Wells has
10 been charged. He'll have his day in court. You can
11 conspire to manufacture methamphetamine and be guilty of
12 it. You can aid, abet. You can help somebody manufacture
13 it and you can be guilty of it. So I want to be clear
14 just in case you're wondering about Lauren Wells or
15 Tristen Wells, rather, and Lauren Ginn. They'll have
16 their day in court. Everybody's entitled to their day in
17 court. This is Mr. Smith's day in court. But
18 manufacturing meth, what does that mean? To create the
19 meth out of these items we've been talking so much about.
20 I know it's boring, but I wanted to make clear, because
21 it's not something we all deal with every day. I hope we
22 don't. I hope we're not all making meth. But the idea of
23 this chemical process, these, otherwise, legitimate
24 ingredients that are being combined in a rather I'd say
25 sophisticated way, unless you know what you're doing, to

1 create this methamphetamine. The disposal, it's just what
2 it sounds like. The unlawful, knowingly to unlawfully
3 dispose of any waste from the production of
4 methamphetamine or if you help somebody else do it. We
5 heard Sergeant Veal. He's got to go in there with a
6 HAZMAT suit, and he's got some training in collecting and
7 identifying everything. But even he doesn't dispose of
8 it. He's got to call in a private company. Do you
9 understand there's companies that specialize in the proper
10 disposal of waste like this? You actually have to call in
11 pros this stuff is so toxic. And I don't know how much
12 the taxpayers pay these people, but it's private, when
13 they come and with their HAZMAT suits and they come in
14 with heavy gloves and all the precautions necessary and
15 they collect this stuff, and then they have to properly
16 dispose of it. I submit to you jamming it into a trash
17 can beside your toilet is not the proper disposal of it.
18 I submit to you he's also guilty of the unlawful disposal
19 of methamphetamine. I submit to you leaving a highly
20 volatile concoction, that one pot next to the Liquid Fire
21 under a step in your camper is the unlawful disposal of
22 methamphetamine waste. Does that make sense? I hope that
23 makes sense. I mean, we spent a lot of time going over
24 how to manufacture methamphetamine. All of these items
25 being on his property, again, in his care. The only

1 person who lived in that camper was him. That thing seems
2 so clear to me, you know, but I don't get to really ask
3 you guys. Do you have any questions? Can I answer any
4 questions for you? I'll try to explain the best I can.
5 I'll never be able to explain one-hundred percent of any
6 case. I never have. Luckily, that's not required.
7 Luckily, that's not my standard. The standard is beyond a
8 reasonable doubt. I'll go ahead and tell you guys if you
9 have a reasonable doubt that Mr. Smith over here isn't
10 guilty of these charges, cut him loose. Send him back out
11 to the camper. That's fine. If you got a reasonable
12 doubt, is there a doubt in your mind whether he did this,
13 just cut him loose. You're hearing the Solicitor tell
14 you. Because, ultimately, it's you guys. You guys are
15 citizens of Laurens County who's deciding this. Did the
16 State present this case in a manner that left you firmly
17 convinced? Not one-hundred percent convinced. Well, let
18 me tell you what, let me show you what the law is and
19 here's, essentially, what the Judge will charge you. The
20 word that makes the most sense or the term that makes the
21 most sense to me is firmly convinced. That's the standard
22 I have. I must leave you firmly convinced. If I do my
23 spill and argue it to you and I present all this evidence
24 and you're not firmly convinced, you have some really
25 reasonable doubts. I say reasonable. That's an important

1 word. That doesn't mean some obscure willy-nilly doubt
2 here or there. It's a reasonable doubt that you can say,
3 hey, I think it's a real possibility that somebody in the
4 middle of the night snuck out there and started cooking
5 meth in that camper, nobody saw them, and nobody knew
6 about it, and then it's in this guy who's on probation,
7 it's in his camper and he just happens to be there when
8 they show up. If that's reasonable for you, cut him
9 loose. You ain't going to hurt my feelings. That's what
10 reasonable doubt is. If you are firmly convinced, by law,
11 you have to convict him. It does not mean you can't hold
12 some doubts after hearing all the evidence. There are
13 few, very few things in this world that you know to be
14 true with absolute certainty. These are words the Judge
15 is going to read you, by the way. The law does not
16 require proof that becomes, overcomes every possible
17 doubt. Again, if you are firmly convinced of his guilt,
18 you must find him guilty. Y'all might be wondering why I
19 have a picture of George C. Parker up here. He lived from
20 1860 to 1936. He made his living conducting illegal sales
21 and most of the time to unwary immigrants in New York and
22 the ruse was he would approach them and say I think, you
23 know, would you like a stake in the Brooklyn Bridge, would
24 you like a stake in the Statute of Liberty? How about
25 Madison Square Garden? How about the Metropolitan Museum

1 of Art? And these unwary, sometimes naive immigrants
2 would say that sounds great and oftentimes, they found out
3 they were duped when they were setting up their toll
4 booths on one side of the bridge so they could collect
5 their tolls when they thought they rightfully owned the
6 bridge. And the police said, you don't own this bridge,
7 this is property of New York and that's when they realized
8 they'd been duped or else they set up ticket sales outside
9 the Statue of Liberty only to find out they didn't own any
10 piece of the Statue of Liberty. And that's where, I
11 guess, the phrase comes from that if you believe that,
12 I've got a bridge to sell you. And I do want to leave you
13 with that. If you believe, if you believe the Defense's
14 story they're selling you, if you believe that, that
15 somebody went in his camper while he's on probation, when
16 he's an admitted needle user, admitted manufacturer of
17 meth and put all these things in there, he just happened
18 to be there with all those things surrounding him when
19 probation showed up. If you believe that, I got a bridge
20 to sell you. And you aren't going to believe that,
21 though. The evidence is clear. You should be firmly
22 convinced. I ask you now to find him guilty of the two
23 charges he's been charged with. That's manufacturing
24 meth, this poison we've been talking so much about and the
25 illegal disposal of that poison. Thank you.

1 MR. WISE: Madam Forelady and ladies and gentlemen of
2 the jury, when you go to your jury room and you sit down
3 and you think to yourself and talk among yourselves and
4 you say to yourself, you know, Roy Ellis Smith is probably
5 guilty. He probably was manufacturing meth and he
6 probably disposed of it. What should your verdict be?
7 Your verdict should be not guilty, because we don't talk
8 about what probably happened that day, what might have
9 happened or what could have happened when we talk about
10 proof beyond a reasonable doubt. Oh, he says it's, you
11 can have some doubt. Well, that's not true. If the doubt
12 you have is a fanciful doubt, then, of course, that's not
13 a reasonable doubt. But if you sit here and say taking
14 the evidence as a whole and taking the lack of evidence, I
15 have a real concern over whether or not the State has
16 proven this case; then, yes, that is a reasonable doubt.
17 That is clearly a reasonable doubt and that's what it
18 means. It's the one thing we brag about in our criminal
19 justice system when we talk to other people in other
20 countries, when we brag about our system of justice and
21 it's been said that, you know, it's to protect the
22 defendant. Well, in part, true, but not entirely. It's
23 also to protect the jury, because the State, in essence,
24 has told you your job is easy. Your job is easy. We have
25 to prove it beyond a reasonable doubt. If we don't, find

1 him not guilty. Even though if you believe he's guilty or
2 think he may be guilty, you find him not guilty, because
3 believing and thinking and probability isn't sufficient.
4 And it's also for the benefit of the jury as each
5 individual. Because when it's proven beyond a reasonable
6 doubt, you don't sit down two days from now, a week from
7 now and say did I make the right decision. You don't have
8 that lingering doubt. You can put your head on the pillow
9 at night and rest comfortably that the decision is
10 correct. So it's also for protection of the jury when you
11 judge in this case. So against that, let's look at the
12 facts of this case. Y'all have to decide two issues,
13 actually, three, excuse me.. Two being the disposal of
14 methamphetamine waste. You got to decide three issues and
15 not necessarily the first one, but the order in which I'm
16 going to discuss them. The first is was there
17 manufacturing of meth going on on May 6th, 2015 at that
18 address in Waterloo. That's the first question and the
19 State has to prove to you not that there were ingredients
20 there, but there was actually meth manufacturing going on.
21 So what do we have. We have, first of all, according to
22 their expert testimony over half the ingredients needed to
23 make meth are missing. Over half. There is no lye.
24 There is no empty lye containers. There is no lye
25 residue, nothing. Exactly. There is no lithium

1 batteries. Oh, there was talk about lithium batteries.
2 There's a good picture of it, but they don't have it and
3 that which doesn't exist and that which is not proven are
4 the same. There's no lithium batteries. There's no
5 Coleman fuel that's seen. No Coleman fuel there at all.
6 And then in addition to that there's no pseudoephedrine.
7 Pseudoephedrine comes in things like Sudafed and cold
8 packs and stuff like that. There's none of that there.
9 No blister packages where some used to be. No boxes,
10 labels or anything. Nothing. It's not there. There is
11 no place ever in discovery where pseudoephedrine had been
12 crushed up which is going to leave a residue. As somebody
13 testified to you, use a coffee grinder or a mortar and
14 pestle and all that, but you would have a residue of it
15 somewhere. They searched that camper, and it's not a big
16 camper, to their hearts content and found absolutely
17 nothing to verify that. At the best for the State, you
18 have some equipment that may have been used, we don't
19 know, and here's why we don't know. You have, can you put
20 the pictures up there. You have the bottles with the
21 tubes in it that you remember. All right. The, right
22 here. The bottles with the tubes in it. All right.
23 Before you could find those who use or manufacture meth,
24 the question has to be asked, what's in them? There was
25 no analysis of the contents of those, none. So what's in

1 them. You don't know. You don't know if they have ever
2 been used to make meth or not. You don't know, because
3 the government didn't give you the proof you need to know.
4 All right. We have this. Oh, that's white powder.
5 That's residue left over. I would be willing to bet that
6 if there's residue in that building from manufacturing
7 meth that it has certain chemical compounds in it that
8 would tell someone this is residue left over from making
9 meth. What is that. What are the chemical compounds in
10 there. You don't know and you don't know, because it
11 wasn't tested and, therefore, you have no clue. You have
12 to guess. You have to speculate. You have to conjecture,
13 none of which are proved beyond a reasonable doubt. All
14 right. We also have that interesting bottle. What's in
15 it. They finally tested something. They finally did it.
16 But what's in it. Well, that's meth in it. All right.
17 How much meth is in it. I don't know. Is there a lot of
18 meth in it. I don't know. That was her answer. Could it
19 be just a little small amount of meth in it. Well, yeah.
20 We don't know how much is in it. You can't tell us then
21 that's what's in there could be used to make any meth
22 whatsoever. Well, there's meth in it. That was the
23 answer. And the question again was, but you don't know if
24 it could be used to make meth and the answer is no. Now,
25 there's something else interesting about this, that

1 bottle. All right. We heard that, oh, good, gosh, to
2 bring that bottle in the courtroom would be dangerous.
3 Remember, it would explode. They demonstrated that you
4 put this stuff in there and you /shake it and it starts
5 getting, builds up of gasses and you have to release the
6 top and you release the gasses and you put it back in
7 there and you shake and you release it again and you shake
8 it, because you have to release the gasses, because,
9 otherwise, it's going to explode. I will submit the
10 evidence in this case proved nothing in that bottle would
11 have ever been used to manufacture meth and for one simple
12 reason, it didn't explode. They left it where they found
13 it inside the camper long enough for Mr. Veal to get down
14 there 20 to 30 minutes later. They bring it out and put
15 it in the hot sun and it didn't explode. They were saying
16 it was so dangerous if they bring it in this courtroom, it
17 would explode. It didn't explode. Something's wrong.
18 Something's wrong. All right. Then, they say the key
19 thing to manufacturing meth is to have some little
20 container with some fluid in it and you bubble the gas
21 through it and guess what. That forms the methamphetamine
22 in that little container. Where is that little container.
23 It's not there. It doesn't exist and if the container
24 that the methamphetamine is supposed to coagulate in isn't
25 there, then no one is manufacturing meth. It really is

1 that simple. Another reason we know it wasn't being made.
2 I don't know if any of you are Sherlock Holmes fans, I
3 enjoy it. All right. Well, lawyers, I guess, are
4 supposed to. That's all I can say. But he wrote,
5 Sherlock Holmes story one time called The Dog That
6 Wouldn't, That Didn't Bark. And Sherlock Holmes solved
7 this case because the dog didn't bark. And why was that
8 such a big clue. Because it told Sherlock Holmes that the
9 person that went into this house was friendly with the
10 dog, because the dog didn't bark. So you can eliminate
11 all the strangers. And you know, I have a pretty good
12 idea who the suspect is and that's how Sherlock Holmes
13 solved the case. All right. Well, we got a Sherlock
14 Holmes situation here. All right. Only we're going to
15 title this one the lab that didn't smell. We've heard
16 testimony about, oh, if you bring some of these things in,
17 the odor would be just so overwhelming, overwhelming. You
18 know, couldn't stand it. Where was the first testimony
19 from any witness that went in that camper that said the
20 odor was overwhelming, the odor was strong, even the odor
21 was distinct. Nothing. Mr. Black, the first person in
22 that camper never said one word about any odor. He just
23 went in. Found something suspicious and, and sent after
24 Mr. Veal. Mr. Veal comes out. Not once did he say, oh,
25 the odor was overwhelming. It was very strong. You could

1 have smelled, and, you know, if you're making meth, you
2 can smell it some distance away, but the lab that didn't
3 smell is simply not a lab. There was no meth. Somebody
4 just had some items that when put together with the proper
5 ingredients at the proper time could possibly make
6 methamphetamine. All right. But the proper ingredients
7 aren't there, some of the devices are and that's it. It
8 is not illegal to possess some of those items. You're not
9 here charging, the State did not charge Mr. Ellis with
10 possession of any of these items. They have to be taken
11 together to see if there was actually manufacturing of
12 methamphetamine on May the 6th, 2015, and there wasn't.
13 There simply wasn't. All right. Now, if you decide there
14 is no manufacturing methamphetamine, that ends the
15 discussion on that issue. All right. Period. It ends
16 the discussion of the manufacturing charge. If you find
17 that perhaps there was some manufacturing, and then you
18 can go to the second issue and that is, is it Roy Ellis
19 Smith's. The testimony is pretty clear that he was not,
20 there for several weeks before this day. All right. No
21 question about that. The only thing that really kind of
22 connects him to it is Lauren Ginn, a young lady who is
23 also charged with manufacturing methamphetamine, is now
24 going through the drug court program run by the
25 Solicitor's office here and she comes in and testifies.

1 Now, there was one question I asked her that I thought was
2 most interesting. Just one. I mean, there were several,
3 but one in particular. I stood here and asked her after
4 she said they got there at 5:00 or 6:00 o'clock in the
5 morning, which nobody else agrees with at all, even Ms.
6 Free, a totally independent witness, saw her get out of a
7 truck sometime in the morning, daylight. All right. So
8 she was not there at 5:00 or 6:00 o'clock in the morning
9 like she testified to, but I asked her a question. I
10 asked this question. I stood here and said was there any
11 cooking of meth that morning. What was unique about her
12 answer, because it's a yes or no answer, so how could that
13 be unique. What was unique about her answer, though, was
14 it took her so long to answer. If you remember, it is a
15 long pause, 30 seconds or so, before she finally said no.
16 All right. Now, why was there such a long break? One,
17 she wasn't there that morning, so she really wouldn't
18 know. And two, was she trying to figure out what the
19 story is she's supposed to tell of how this figures, fits
20 into the story she's supposed to tell. Is that what she
21 was thinking about. We just know that her version of
22 spending the night at Mr. Smith's house, Vernon Smith's
23 house is not correct, because she was run off and we saw
24 her get out of a truck the next morning well into the
25 daylight hours. And therefore what she said is not true.

1 Now, why did she make it up. I don't know. But that you
2 can consider. She is, was charged with a very serious
3 crime of manufacturing methamphetamine. I am sure she
4 doesn't want to, you know, lose whatever program she's in
5 and that's good. And so she's saying what she needs to
6 say to get her deal and she'll say what needs to say to
7 make the State happy. I don't know. The point is she
8 didn't tell the truth and when it takes you 30 seconds to
9 answer a simple yes or no question that you should have
10 been able to answer instantly if you saw what you said you
11 saw, then you have reason to be suspicious of that. Now,
12 let's talk about Roy Ellis Smith. As the Judge told you
13 from the beginning, Mr. Smith didn't have to testify. He
14 didn't have to put the first witness on the stand. He
15 didn't have to put up anything. He chose to. He also
16 chose to tell you about his history. One he's not proud
17 of. You can tell that from his testimony. He's not proud
18 of it. But you know what he is proud of. He is proud of
19 finally completing the drug program with three successive
20 negative drug tests, just a few months before this. He
21 also told you, which also Mr. Black told you, anybody on
22 probation's house is subject to random inspection at any
23 time. All right. Anytime. 2 o'clock in the morning, 2
24 o'clock in the afternoon, 4 o'clock in the morning. It
25 don't make any difference. He knew that and Mr. Black

1 knew that. So the State wants to tell you that a man who
2 worked for to successfully complete a drug program decided
3 to go leave a bunch of stuff in his trailer so he can get
4 caught by his probation officer and have it revoked. I'm
5 sorry. That's not believable either. You had a chance to
6 watch him testify. You had a chance to judge his
7 sincerity. You had a chance to, he gives the idea of the
8 caliber of a man. Yes, he's done some bad things. He's
9 had some bad breaks in life. Disabled now, but he
10 completed that drug program successfully in February and
11 he wasn't going to run the risk of setting all that aside,
12 because he testified that it took him a while. It was not
13 easy and he was honest enough to tell you that it isn't
14 easy today, but he's trying, and he didn't have those
15 items in his camper that, you know, he didn't bring them
16 there, and he didn't ask them to be brought in there, and
17 he didn't tell anybody to bring them in there. They were
18 not his, and he told you that. Now, on the unlawful
19 disposal of meth waste, one, there has been no disposable,
20 disposal of meth waste, because everything's still sitting
21 there. It hadn't been taken out to the landfill. It
22 hadn't been given to a garbage man and it hadn't been, as
23 the State seemed to argue, dumped on the ground except
24 when the State put it on the ground. That's the closest
25 it came to being dumped on the ground is when the State

1 put it on the ground. All right. There is no disposal
2 methods. First of all, you have to find is there meth
3 waste. The things in the trash can, we don't know. We
4 don't know if they're meth waste. The best you can say is
5 it's speculative that they are. The best you can say is,
6 well, maybe it's not beyond a reasonable doubt. Even if
7 you said it's probably meth waste, it's not proof beyond a
8 reasonable doubt. So there's no proof beyond a reasonable
9 doubt that there was meth waste being disposed of, because
10 it wasn't tested. The big white bottle, it was in the
11 camper and nothing had been done with it. Nothing. So it
12 wasn't being, quote, disposed of, and, you know, the State
13 says about the only way you can dispose of meth waste is
14 to call somebody. Well, I guess, you could go online and
15 find out the proper way of disposing of meth waste and
16 find out what the procedure is and get it done. All
17 right. But in this case, it was still in, some of it that
18 had not been tested was in the trash can in the house. A
19 white bottle in that step. Then, they're going to say,
20 oh, who would know about that secret step. It's a camper.
21 Anybody who's had any experience with campers would know
22 that. It isn't a, quote, secret compartment. It is a
23 storage compartment that you'll find in any camper,
24 because a camper is kind of cramped and they put storage
25 spaces everywhere. It's like a sailboat. On a sailboat,

1 you've got these compartments and they're not, quote,
2 secret compartments. It's the way sailboats are built.
3 They give you compartments to store stuff in. So that's
4 it. Obviously, Mr. Black knew about it, because he lifted
5 it up and found it. I mean, a lot of people knew about
6 it. It's a common, anybody that's had experience with
7 campers would know about something like that. And then
8 they're going to say, oh, who brought that in there.
9 Well, we don't have to explain who brought that in there,
10 although, I can give you some speculation. All right. It
11 is interesting to me that when the police go to Ms.
12 Smith's house last Thursday and decided we want to take
13 some more pictures, Ms. Smith didn't say get off my
14 property. Get off my property, we're not doing any of
15 that. She says, okay, I'll meet you down there. She
16 cooperated with them. She goes down there. It's locked.
17 They say, do you have a key? She says, no, I don't have a
18 key. She could have said I don't have a key. Sorry, you
19 can't get in. She didn't do that. She said let me help
20 you. I will go get the screwdriver. I'll go get the
21 screwdriver and help you get in. So that's what she does.
22 She goes back, gets the screwdriver, and you'll have the
23 pictures back in the room with you and you can see when
24 you look at that picture up close that a screwdriver has
25 been used more than one time to pop that lock, and they

1 succeeded in popping it very quickly with a screwdriver.
2 All right. So yes, easy access to a third person who knew
3 he wouldn't be there. And the only two people that knew
4 he wasn't there during this period of time were Lauren
5 Ginn and Tristen Wells. All right. Those are the only
6 two that knew where he was, well, I guess, I'm not going
7 to say that. Those are the only two whose names came up
8 in this courtroom. Came up in this courtroom, both of
9 them use meth. Lauren Ginn says originally I don't shoot
10 up meth. I just snort it or smoke it. All right. Fine.
11 Well, Ms. Ginn, what's that in your pocketbook. That's a
12 needle. Well, so you shot up. Well, yeah, I shot up
13 before. And then she kind of backs it down to, well, no,
14 somebody shot me up. Whatever. I don't know. All right.
15 But at first she said she'd never used a needle, and then,
16 noticed a needle in her personal belongings which
17 basically could have accommodated that stuff to be frank
18 with you. A needle in her personal belongings, she
19 confessed, had used it before. But then, this is what's
20 interesting. She is a good Samaritan and her reforming,
21 you know, this is probably the start of her reform. She
22 is a good Samaritan. She is so concerned about her fellow
23 addicts that she wants to have a clean needle for them
24 when they are using so they won't get hurt or get sick or
25 catch some disease. And I'll tell you what, if you

1 believe that, I got a bridge in Brooklyn I'm going to sell
2 you. Nobody believes that. Nobody. She had the needles,
3 she had all the needles and speaking of the needles,
4 another thing the State has not done in this case that was
5 so simple to do, and we're not talking about great
6 forensic science here. We're talking about basic every
7 day laboratory science. There was blood in the needles
8 and they never got the first DNA test. They didn't even
9 try. They didn't even try. Why? Is not their case
10 important enough to try to find out who used that needle.
11 Well, I guess, it isn't to them. I hope it is to you.
12 Now, another thing, and this is interesting. In order to
13 convict Mr. Smith, they got to prove what we call the
14 chain-of-custody on some of these items, the
15 chain-of-custody is something you can consider at arriving
16 at a verdict. They give in discovery a chain-of-custody
17 form. This chain-of-custody form accurately says, it was
18 taken on May 6th of 2015 and you'll have the chain in the
19 room with you. Then, the chain-of-custody form says that
20 it was taken out on May 20th of 2015. Taken out by Matt
21 Veal and given to him by the evidence custodian. Well,
22 Matt Veal said no, no, that didn't happened. That didn't
23 happen. I never took that. Well, what is this. Oh,
24 that's a Scrivener's error, that's just an error. Oh,
25 okay. Okay. Do you have the chain-of-custody form from

1 the Sheriff's Department that show what happened to these
2 materials from the time they were turned in? Yes, we do.
3 And everybody has to sign them? Yes, we do. Do you have
4 that with you? No, I don't. Where is it? It's at the
5 Sheriff's Department. Where is it? It's not here where
6 it should be to show that this was a Scrivener's error.
7 You go down to SLED. Look at what they do. Every time
8 that package is moved, somebody signs for it and it's
9 dated and timed and everything. That is a
10 chain-of-custody form. That is what's required in order
11 to establish a chain-of-custody, not some document that
12 the dates don't make any sense on that aren't signed and
13 all we know is whatever. That's not a chain-of-custody.
14 Also, we introduced a picture that they took, Defendant's
15 Exhibit 3, or it's been said that's, you know, not mine.
16 You know, that kind of makes sense for him to say that's
17 not his. If you look at it, it's a woman's handwriting.
18 So something else, too. Cell phone. He said that's
19 probably mine. That one is. All right. Whose cell phone
20 is it. I don't know. And you don't know, because there's
21 no one, no one took the time and the effort to simply turn
22 on that cell phone and see if they could determine whose
23 cell phone that is. If it's Lauren Ginn's cell phone,
24 it'd be helpful. If it's Tristen Wells' cell phone, it'd
25 be helpful. But we don't have it. We don't have it.

1 What this case, basically, boils down to is this.. You
2 know, they're saying, oh, granted we didn't test these
3 things, you know, that we are contending was a meth lab, a
4 lot of things we contend were a meth lab, but I'm the
5 government, trust me. That's, in essence, what they're
6 saying. We're the government, trust us. Well, that's not
7 proper proof and that should never be proper proof in a
8 court of law in this country to say trust us we're from
9 the government. If you've got proof, if you've got the
10 ability to prove it, if you've got the ability to say
11 whose blood that was, if you've got the ability to say
12 what substances are in those bottles, if you got ability
13 to say whose cell phone that is, if you've got those
14 abilities, and you want it to come into this courtroom,
15 you should bring that evidence. That is not rocket
16 scientist. That is simple, basic police work and they
17 elected to do none of it and now want you to say y'all
18 listen to them and say I'm from the government, trust me.
19 Now, that's not sufficient. And now we find out here
20 today that Tristen Wells is gone. I don't know what that
21 tells you. He's gone. He hadn't been charged. He hadn't
22 been tried. Hasn't been charged, hasn't been tried, he is
23 just gone. Now, when you look at all this evidence, when
24 you look at the lack of evidence, when you look at what
25 the State needed to do but didn't do, when you look at the

1 character of the man that testified in front of you, that
2 looked you in the eye and said, yes, I've made mistakes.
3 Yes, I've had problems, but I'm on the right track. I
4 wouldn't have that stuff in my house, my trailer. And you
5 look at that and the proper verdict in this case should be
6 not guilty. Thank you.

7 MR. SCOTT: All right. The way the rules are written
8 out, I get to have one final closing argument. I can
9 respond to things he just said. I'm not going to go over
10 the whole long closing again and just a couple of things
11 he said that were complete misstatements. All right.
12 First of all, I want to point out something interesting.
13 We see this from time to time. You have a, basically, a
14 double-sided defense, okay, did you notice that. There
15 were two defenses and they compete against one another.
16 Number one defense, there was no manufacturing going on
17 there. There's no manufacturing of meth going on there.
18 Number two, well, even if there was manufacturing meth, it
19 wasn't mine. Should it be one or the other. Shouldn't it
20 be, okay, maybe there was manufacturing meth. There was
21 methamphetamine all over the place and all the implements
22 for making meth, but it wasn't mine or vice versa. It's
23 all my stuff. It's completely legal to have. They can't
24 even pick what defense to use. And then if you can't show
25 that manufacturing meth was going on, if you look at the

1 indictment. The Judge will read it to you. Essentially,
2 what he's saying is we have to go in there, probation
3 would have to go in there and catch him shaking the bottle
4 and catch him with the tube in there venting off the oil.
5 That is not the case. The indictment will read, on or
6 about May 6, 2015. Again, Lauren Ginn talked about it up
7 there, the last couple of days they had been cooking. She
8 tried to explain reworking that bottle. He wouldn't let
9 her explain it and what she was trying to explain is he
10 was trying to rework and render the last bits of
11 methamphetamine out of that oil, that oil that ultimately
12 tested positive for methamphetamine. He got up there and
13 asked, well, what amounts did that methamphetamine render?
14 It doesn't matter. It doesn't matter. The crime is
15 manufacturing and making methamphetamine. It doesn't
16 matter how much. He's not charged with trafficking.
17 Trafficking is charged where the weight would be defended,
18 will be an element of the crime. The fact is meth was in
19 the oil. The fact is there's all the implements of making
20 meth were there, in one form or another. He said there
21 was no lithium battery strips. I already showed you the
22 picture where they're in the bottom of the one pot.
23 There's no lye. Okay. That's his defense. We didn't
24 show you lye. We didn't show you a container with Coleman
25 fuel. Take a look at this property with all these out

1 buildings. I don't think, they weren't in the camper. I
2 don't know. He thinks he went to his mama's and got some
3 lye and maybe got some Coleman fuel. I don't know. I
4 don't have to show every component in making it. I don't
5 have to, and I don't know that you got the pretty little
6 boxes that says Coleman fuel or a nice sack that says lye
7 written across it. I don't know. No analysis of the HCL
8 generators. He wants me to analyze those. Well, the
9 testimony is that all you can find in there would be
10 Liquid fire and salt. If SLED has a way to test that, I
11 don't know. You wouldn't find any illegal drugs in there,
12 because the reaction that goes on there is Liquid Fire and
13 salt and that was the testimony. I don't know what that
14 would have told you if we would have tested that. By the
15 way, y'all got any of those in your house? You ever even
16 seen one? Have you ever left your house and come back and
17 somebody left some of those in there? I'm just curious,
18 because it sounded perfectly rational to them. Coffee
19 filter, why didn't they test that. Do you know what's
20 left in there, crushed Sudafed; all the pseudoephedrine
21 that's been filtered through the reaction; it's in the
22 meth oil; ammonium nitrate and lye. What does that tell
23 you. How does that advance this case. How is SLED even
24 going to test that. She is a forensic scientist and she
25 works in the illegal narcotics department. She tests

1 substances for illegal drugs, she doesn't test for lye or
2 salt or Liquid Fire. That's his argument. That's what
3 he's telling you guys. It was funny. He was fairly
4 flippant and laughing about that exploding and why we
5 didn't bring it to court as if a picture doesn't tell you
6 all you need to know. His client, Mr. Smith, almost had
7 his hand blown off in Tennessee when he was shaking one of
8 those things. They are highly explosive. The testimony
9 is real. The facts are real if you mix these things
10 together. He started to show him. Why is that difficult
11 to accept. Does that sound smart to bring that into
12 court. Policy is when they take, when they clean up these
13 things, they take pictures, okay, and then they dispose of
14 them, properly dispose of them. That's another one of
15 those things. This case is all about proper disposal.
16 There is a way to do it. They don't bring this stuff into
17 court. I don't bring loaded guns into cases to court
18 either. There was another misstatement and y'all want to
19 probably ask them to play some of the testimony back.
20 Lauren Ginn's, she admitted, like he did, she is an
21 addict. Do y'all remember a 30-second pause, because I
22 don't. Do y'all remember her sitting up there for
23 half-a-minute trying to answer a question. I remember him
24 talking over her a lot and not letting her answer the
25 question. I remember her very clearly stating over the

1 last couple of days they had been cooking meth in there
2 and he had been reworking that bottle and she tried to
3 explain it and he wouldn't let her explain. I don't
4 remember a 30-second pause, but, if you guys do, what I
5 want you to do is go back there and if one of you have a
6 watch, look what 30 seconds looks like. He got on her and
7 said she could not possibly be telling the truth, because
8 she said she got there at 6:00 a.m. Okay. He said 9:00
9 a.m., three hours different. And he was able to try to
10 clear up Mr. Roy Ellis Smith's version by saying, well,
11 you weren't wearing a watch, so you don't really know
12 exactly what time. And he said, well, no. These people
13 are trying to remember over a year ago what time they got
14 there and maybe she did get there at 6:00 and maybe 9:00.
15 I don't even know how that's relevant. He's saying based
16 on that you can't believe a thing she said. You must not
17 be able to believe Roy Smith either. He said that camper
18 he lived in was over a hundred yards from his mother's
19 house. His mother said it was 50 to 60 feet away. Does
20 that mean we don't believe anything they say? That's the
21 example he gave you of why you shouldn't believe a thing
22 Ms. Ginn said when all she did was tell you the truth. He
23 asked her, well, I asked her how do you take meth. She
24 said, I snorted it or I smoked it. He said, you ever
25 shoot it? She said, well, I did, but somebody had to do

1 it for me. And he's saying that's her denying it. I very
2 clearly remember her admitting to doing it. That wasn't
3 her preferred method, but she said she couldn't do it
4 herself. She had to have somebody else do it. She
5 admitted to having those syringes. He said she was a liar
6 for admitting to giving them to people. She explained
7 it's a tradeoff, I provide the Sudafed, I provide the
8 syringes, he gives me dope. He explained that. Roy Smith
9 explained it, people trade off Sudafed for dope. That's
10 how the game works. That's how people in the know, it's
11 very clear to people like this. Roy Smith is a pro. It
12 makes sense to him. I don't know why it doesn't make
13 sense to his lawyer. She admitted to having those needles
14 and she admitted why. The cell phone and the drawings.
15 Okay. They're saying those are her's. I remember her
16 admitting to being in the camper texting on her phone when
17 the police got there. I don't know why that's relevant.
18 I don't remember anybody trying to hide that from you. So
19 now based on his closing or what we come away with is
20 those two defenses and both of them competing against one
21 another. And we're left with the idea of an unknown
22 person who is very familiar with campers and all the
23 hiding places in them who is able to know when Roy Smith
24 is away who is able to sneak on the property multiple
25 times without his mother who is 50 feet away from ever

1 seeing them or any of the neighbors ever seeing these
2 people break in and they're, they know how to make meth.
3 And they, like Roy Smith, use needles to inject it, and
4 they make it the same way he does. Do you have reasonable
5 doubt now? That on or about May 6th, 2015, he was cooking
6 meth in there? Don't buy the bridge. Don't buy the
7 bridge. Thank you.

8 THE COURT: All right. Ladies and gentlemen, the
9 time has come for me to give you a charge. Now, it's
10 going to take me about 15 or 20 minutes. Any of y'all
11 need a break before I start. Everybody's okay? Good.

12 When we started the trial I told you that you have
13 certain duties to perform and I have certain duties to
14 perform. You are the judge of the facts which means you
15 will determine what the facts are in this case. No one
16 can tell you what the facts are, I can't tell you what the
17 facts are, you will determine that based on the evidence
18 that was presented at trial. If at any point and time
19 during this trial I said anything to give you the
20 impression that I have an opinion about the facts or an
21 opinion about what you should decide, disregard that
22 entirely. However, understand that you must accept the
23 law as I give it to you. So, if you have any prior
24 opinions, any prior understandings or any prior
25 dispositions about what the law is or what the law should

1 be then you have to disregard that, under your oath you
2 must accept the law as I give it to you.

3 Now, ladies and gentlemen, understand as we sit here
4 now the Defendant is presumed innocent. And the Defendant
5 retains that presumption of innocence until twelve
6 deliberating jurors determine that the State has met its
7 burden of proving each and every element of each offense
8 beyond a reasonable doubt. Now, understanding, in this
9 case you have got two indictments. You have the
10 manufacturing methamphetamine indictment and you have the
11 disposal of methamphetamine waste indictment. Now, each
12 of those indictments is independent of the other. I am
13 going to give you two verdict forms. I am going to give
14 you a verdict form for the manufacturing and for the
15 disposal. And that is important because you consider
16 those two independent of one another. When you look at
17 the evidence, you determine what the facts are, you are
18 going to apply that evidence to the law as I give it to
19 you and you are going to decide if the State has met its
20 burden of proof for proving each and every element of the
21 offense on the manufacturing. Then you are going to do
22 the same analysis for the disposal indictment as well.
23 Understand that they are separate and distinct which means
24 that if you find that the State met its burden of proof on
25 one of the indictments that doesn't mean that you have to

1 find that the State met its burden of proof on this other
2 one. If you find that they failed on one it doesn't mean
3 that you have to determine that they failed on the other.
4 You consider the two independent of one another.

5 Now, ladies and gentlemen, you are going to determine
6 what the facts are in this case, as I have told you. And
7 you will determine what the facts are in this case by
8 looking at the evidence and judging and valuing the
9 evidence that you received in the case. Now, one of the
10 ways that you do that is by judging the credibility of the
11 witnesses, that is the believability of the witnesses.
12 And you know through your own common sense and your
13 personal experience whether someone can be or should be
14 believed or not. You know that you can look at them and
15 see what they had to say, you can look at their body
16 expressions and their facial expressions and determine
17 whether they were believable or not. You can also
18 determine whether they had something to gain or something
19 to lose as a consequence of their testimony. And from all
20 that you determine whether, in fact, that person is
21 believable to you. Then you determine if, in fact, it is
22 believable how valuable it is, just like any piece of
23 evidence that you receive, how valuable is that evidence.
24 That is, should you give it great weight or should you
25 dismiss it as not really relevant to what you are here to

1 decide. You and your exclusive discretion determine what
2 is believable and what evidence has a doubt.

3 Understand, ladies and gentlemen, there was evidence
4 presented by expert witnesses. I have already talked to
5 you about that. I just remind you, just because someone
6 was qualified as an expert witness doesn't mean that they
7 have any value. You decide what weight that evidence has
8 and you decide whether it was credible or whether it was
9 not credible.

10 Ladies and gentlemen, you heard testimony from
11 witnesses who had a prior record. With regard to
12 witnesses who have a prior record, that does not effect
13 their ability and their competency to testify. You may
14 consider the prior record solely for the purpose of
15 determining credibility. That is whether you should
16 believe that person or not. When you are talking about
17 the prior record of a Defendant then you can only, of
18 course, consider it for purposes of credibility, whether
19 he should be believed or not. You cannot consider that as
20 evidence of his guilt in this case. That is, you cannot
21 say he was convicted of another crime, he must be guilty
22 of this one. You can only consider that prior record for
23 purposes of credibility in determination of believability.

24 Ladies and gentlemen, you have heard around by all,
25 everyone in the courtroom this burden of proof of guilty

1 beyond a reasonable doubt. So I will define for you a
2 reasonable doubt. Proof beyond a reasonable doubt is
3 proof which leaves you firmly convinced of the Defendant's
4 guilt. Now understand, ladies and gentlemen, there is
5 nothing that you can know beyond any doubt. The State,
6 excuse me, the law does not require that the State prove
7 its case beyond any doubt. However, ladies and gentlemen,
8 after your review of the evidence, if you are firmly
9 convinced of the Defendant's guilt then under your oath
10 you would find him guilty. However, after your review of
11 the evidence, if you believe that there is a real
12 possibility that the Defendant is not guilty then under
13 your oath you would find him not guilty.

14 Now, ladies and gentlemen, when you receive evidence
15 in a case, in any case, that evidence is going to be in
16 one or two forms. It is either going to be direct
17 evidence or it is going to be circumstantial evidence.
18 Now, ladies and gentlemen, direct evidence is evidence
19 which immediately establishes a fact to be proven.
20 Circumstantial evidence is proof of a chain of facts or
21 collateral facts that when taken together prove a main
22 fact to be proven. So, that is a pretty simple definition
23 but I find it is easier to conceptualize it if I give you
24 an example. So let's imagine tonight you go to bed and
25 you look out of your front window before you go to bed,

1 before you to go to sleep and you see there is no
2 precipitation on the ground. The next morning you get up
3 and you look out that very same window and you see that
4 there is a blanket of snow on the ground. And in that
5 snow you see footsteps which lead to your door and which
6 lead away. Under that set of circumstances you have got
7 direct evidence that it snowed last night because it is
8 there, so immediately established by its presence. You
9 can touch it, you can feel it, it is there. But you have
10 circumstantial evidence that sometime earlier that morning
11 or during that night somebody walked to your door and
12 walked away. You can't see that person, you can't touch
13 them, you can't have a conversation with them but you know
14 as a consequence of the timing of that snow fall and the
15 existence of the footprints in the snow that someone must
16 have walked to your door and walked away. That is
17 circumstantial evidence.

18 Now, ladies and gentlemen, the law does not prefer
19 direct evidence over circumstantial evidence, or
20 circumstantial evidence over direct evidence. You decide
21 what is important, you decide what value either direct
22 evidence has or circumstantial evidence has. Ladies and
23 gentlemen, do know that to the extent that the State
24 relies on circumstantial evidence, all of those
25 circumstances when taken together must prove conclusively

1 to the guilt of the accused beyond a reasonable doubt.
2 Those circumstances cannot just suggest or create a
3 suspicion. The State has the burden of proving each and
4 every element of the offense beyond a reasonable doubt
5 whether they rely on direct or circumstantial evidence.

6 Ladies and gentlemen, with respect to drug evidence,
7 the State is required to establish a chain-of-custody.
8 That is the State is required to establish reasonable
9 assurance that the drugs tendered into evidence at trial
10 are the same drugs alleged to have been sold or alleged to
11 have been in the possession of the Defendant. However,
12 the State is not required to foreclose every possibility
13 of tampering and is not required to have every person
14 involved in the chain-of-custody testify. Any evidence,
15 should you, should you find there to be evidence or
16 speculation as to the substitution or tampering of the
17 drugs goes to the weight, you, the jury give to the
18 evidence admitted.

19 Now, we are going to talk about the charges now.
20 Very simple definitions. We will go over the first one,
21 the first one is manufacturing methamphetamine. And the
22 State must prove beyond a reasonable doubt that Mr. Smith
23 manufactured or otherwise, aided, abetted, attempted or
24 conspired to manufacture methamphetamine. Manufacture
25 means the production, preparation, propagation

1 compounding, conversion or processing of a controlled
2 substance either directly or indirectly by extraction from
3 substances of natural origin or independently by means of
4 chemical synthesis or by a combination of extraction and
5 chemical synthesis.

6 Ladies and gentlemen, the next charge that you must
7 consider is disposal of methamphetamine waste. Ladies and
8 gentlemen, in the State of South Carolina it is unlawful
9 for a person to knowingly cause to be disposed any waste
10 from the production of methamphetamine or knowingly
11 assist, solicit or conspire with another to dispose of
12 methamphetamine waste.

13 I have two verdict forms for you, they correspond to
14 the charges that I have just defined for you. Now, one of
15 them is for the manufacturing of methamphetamine and one
16 of them is for the disposal of methamphetamine waste.
17 They are the same, however. You will see it has the
18 caption of the case and then it has the offense. Then you
19 will see, it says, we, the jury, by unanimous agreement
20 find the Defendant. Now, when you read that understand
21 that that is meaningful. Your verdict in this case must
22 be unanimous. You must all agree on it. It can't be 11
23 to 1 or 10 to 2. You must all agree on your verdict.
24 Also, ladies and gentlemen, your verdict must be based on
25 the evidence that was presented in trial and the law that

1 has been given to you. It can't be based on sympathy,
2 conjecture, caprice, biased or prejudiced. It has to be
3 based on the law and the evidence. Ladies and gentlemen,
4 you have two choices here, not guilty and guilty. They
5 are not in any particular order, I prepared these, I am
6 not trying to send you any hidden signals. Okay. You
7 have got two choices, one is going to be first, and one is
8 going to be second. I just put two choices on here. If
9 you find that the State has not met its burden of proof
10 then, Ms. Cunningham, you would either X or initial beside
11 not guilty. If you find that the State has met its burden
12 of proof then you would X or initial beside guilty. And
13 then, Ms. Cunningham, sign as Foreperson of the Jury.
14 Once you have completed your deliberations on one of the
15 indictments then you can proceed to the next. Go through
16 the same process and then, Ms. Cunningham, initial or X
17 beside the choice and then sign noting that the jury has
18 reached a unanimous verdict.

19 Now, ladies and gentlemen, I am going to ask you to
20 return to your jury room. I don't want you to begin
21 deliberating quite yet. This is the time in which the
22 attorneys have the opportunity to correct either a
23 misstatement of law that I have made or remind me of
24 something that I may have left out of the charge. I hope
25 that is not the case but if I have left something out or

1 misstate it then I will bring you back in and I will
2 correct whatever it is that I said. If I don't need to
3 bring you back in then what I am going to do is I am going
4 to send back with you these two verdict forms. When you
5 receive these verdict forms you will know it is time to
6 begin deliberating. Shortly after receiving the verdict
7 forms the attorneys are going to do an inventory of the
8 exhibits and you will get the exhibits as well. But when
9 you receive these verdict forms you will know that is your
10 signal that you can begin your deliberations. So I ask
11 you at this point return to your jury room, don't start
12 deliberating yet.

13 (Whereupon, the jury was excused from open court.)

14 THE COURT: Okay, Counsel, exceptions to charge?

15 MR. SCOTT: None from the State, Your Honor.

16 MR. WISE: I would object to you not giving the full
17 definition of manufacturing as we noted in-chambers.

18 THE COURT: Yes, sir.

19 MR. WISE: And also not giving the definition of
20 substantial circumstantial evidence in my request to
21 charge two. You gave somewhat my request to charge one,
22 but I think it was important to point out, which was the
23 bold faced portion of my request to charge one, that the
24 burden is on the State to disprove without a reasonable
25 explanation.

1 THE COURT: All right, good enough, thank you very
2 much. I appreciate that. I know that we discussed
3 in-chambers the remainder of that statute. As I
4 suggested, the remainder of that statute applies if you
5 take it at face value. It would apply to someone who was
6 manufacturing some type of drug for his or her own
7 personal use. In this instance the Defense's position was
8 that he was not manufacturing methamphetamine or any other
9 type of drug in any manner whatsoever. Therefore I think
10 that the evidence did not support charging the remainder
11 of the statute. And I think that would have only served
12 to confuse the jury. With regard to the second point, I
13 think what I charged was in substantial compliance with
14 the law. As a matter of fact, I think it was in precise
15 compliance with the law. And I recognize there may have
16 been some semantical deviations from what you gave to me
17 or submitted. But substantively it was the same, I think
18 it was a correct recitation of the law. Okay. Anything
19 else?

20 MR. WISE: Alternates?

21 THE COURT: What I am going to do, when I send that
22 back I am going to have the alternates come to my chambers
23 and I am going to dismiss them from there.

24 MR. WISE: Some Judges hold them back.

25 THE COURT: Thank you, gentlemen, I appreciate it.

1 (Whereupon, the Attorneys and Court Reporter went
2 over the exhibits.)

3 (Whereupon, the jury started deliberations at
4 approximately 3:25 p.m.)

5 (Whereupon, the alternates were excused to
6 in-chambers with the Court and excused from the trial
7 of the case.)

8 THE COURT: Counsel, I have been informed that the
9 jury has reached a unanimous verdict. Is the State
10 prepared to receive the verdict?

11 MR. SCOTT: We are, Your Honor.

12 THE COURT: And the Defense?

13 MR. WISE: Yes, Your Honor.

14 THE COURT: Bring them in, please.

15 (Whereupon, the jury came into open court with the
16 verdict at approximately 4:17 p.m.)

17 THE COURT: Ms. Cunningham, has the jury reached a
18 unanimous verdict, Ma'am?

19 MS. CUNININGHAM: Yes, sir.

20 THE COURT: Can you give the verdict form to the
21 bailiff, please, Ma'am.

22 (Whereupon, the Foreperson handed the verdict form to
23 the bailiff.)

24 THE COURT: Madam Clerk, you may publish the verdict.

25 CLERK OF COURT: Your Honor, in the case of the State

1 of South Carolina versus Roy Ellis Smith, case number
2 2015-GS-30-1139. We, the jury, by unanimous agreement
3 find the Defendant not guilty. Signed by the Foreperson,
4 Ayana Cunningham. Dated February 22nd, 2017.

5 In the case of the State of South Carolina versus Roy
6 Ellis Smith, the verdict as to manufacturing
7 methamphetamine, 2015-GS-30-1138. We, the jury, by
8 unanimous agreement find the Defendant guilty. Signed by
9 the Foreperson, Ayana Cunningham. Dated February 22nd,
10 2017.

11 Ladies and gentlemen, if that be your verdict please
12 indicate by raising your right hands.

13 (Whereupon, all jurors raised their hand.)

14 THE COURT: Gentlemen, anything additional for this
15 jury?

16 MR. SCOTT: No, Your Honor.

17 MR. WISE: No, Your Honor.

18 THE COURT: All right, ladies and gentlemen, I
19 appreciate your service in this case. I am going to ask
20 you to go to the jury room so there you can collect your
21 belongings and your cell phones. I will come back and
22 dismiss you informally from your jury room. I won't keep
23 you any additional time, I am just going to give you the
24 opportunity to ask any questions or give me any critiques
25 or criticisms that y'all want to extend. And then I will

1 release you for the week. Okay. Thank you very much.

2 (Whereupon, the jury was excused to the jury room.)

3 THE COURT: All right, Counsel, I am going back and
4 release the jury informally. I will come back in and hear
5 any posttrial motions that you may have and we will
6 proceed to sentencing at that point.

7 (Whereupon, the Court speaks to the jurors in the
8 jury room. The jury is released from open court at
9 approximately 4:27 p.m.)

10 THE COURT: I am almost ready to proceed. I know I
11 had some jurors who were going to come back in the
12 courtroom to observe any motions or sentencing. So, I am
13 just going to wait for them to get in before we get
14 started. Okay.

15 Is the issue of the probation revocation before the
16 Court, Mr. Wise?

17 MR. WISE: Excuse me?

18 THE COURT: Is the issue of the probation revocation
19 before the Court?

20 MR. WISE: Not before this Court, he is on probation
21 out of Tennessee. Which is one of the problems we, in
22 this case is that, if he plead to anything he goes back to
23 Tennessee.

24 THE COURT: I understand, I understand. So we don't
25 need probation?

1 MR. WISE: No, sir.

2 THE COURT: Okay. Counsel, let's proceed to
3 sentencing. You may come forward or stay where you are,
4 it is entirely up to you. I have no particular
5 preference.

6 MR. WISE: Let me put on the record something. I
7 think the only thing that is slightly different is, I
8 disagree with the Court that charge of, definition of
9 manufacturing to exclude personal use.

10 THE COURT: Yes, sir.

11 MR. WISE: And the basis is that, as I sat here and
12 think, thought through it while the jury was out and so
13 forth, the jury could have concluded that the only
14 manufacturing was done in that one little jar. And that
15 one little jar would easily enable the jury to conclude it
16 was personal use. So I think, if you look at what the
17 jury could decide as opposed to what they, well, look at
18 what the jury could decide and what is favorable to me, I
19 think that that would justify a conviction for
20 manufacturing. And I think it would also justify a charge
21 of personal use.

22 THE COURT: And I appreciate that--

23 MR. WISE: --and that is the only new addition I
24 would have to the other motions I made as far as directed
25 verdict on manufacturing on the grounds that they didn't

1 prove any manufacturing, just the components to
2 manufacture.

3 THE COURT: Okay. And I recognize that you disagree
4 with that and it is a reasonable disagreement. I think
5 ultimately the Supreme Court and/or some other bodies is
6 going to make the determination as to whether the
7 Legislature intended to allow for the manufacturer of
8 methamphetamine for personal use. I tend to think that
9 they didn't. However, I haven't explored the Legislative
10 history, perhaps our appellate courts could. If you are
11 right I think that is going to be a shock to a lot of
12 people in the State.

13 MR. WISE: To further amplify my reason behind it, I
14 think this is where it comes on. When I first started
15 doing some of these manufacturing meth cases, I mean they
16 were pretty big operations because that is the only way
17 you could do them. So you were really making, I mean a
18 lot of meth. And then when people learned how to do it
19 over time and came up with what is known now as shake and
20 bake, I mean that really is only for personal use. I
21 mean, unless you have got a table full of shake and bake,
22 a lot of the manufacturing cases now are shake and bake
23 and that is just simply, you know, unless you want to, I
24 guess technically yourself and one other person but
25 basically it is a personal use type operation.

1 THE COURT: You are protected on the record.

2 MR. WISE: All right.

3 THE COURT: I appreciate it. Are we ready to proceed
4 to sentencing?

5 MR. SCOTT: Yes, sir. Your Honor, as we talked
6 about, this is a third drug offense. I appreciate the
7 jury's verdict. September 2nd of '09 in Laurens he plead
8 to a conspiracy to distribute imitation controlled
9 substance. Then we have got the Tennessee charge of
10 initiation process intended to result in manufacturing
11 meth. In that case it is interesting, I guess they caught
12 him in the act. He had just shaken a bottle, it blew up
13 and leading to scars on his hand. He plead to that and
14 the Judge in Tennessee gave him probation. All he did
15 with that was, he shows up in Laurens, in April of that
16 year he gets a manufacture in meth, unlawful disposal.
17 That is a pending charge we have. I only mention that to
18 say he was out on bond, or he was on probation, he picks
19 up that. Gets out on bond, April 26th of 2013 gets
20 another manufacturing meth. That is still pending, he is
21 out on bond and he gets that. Makes bond on that.
22 October 27th of 2014 another manufacturing meth, another
23 lawful disposal. He is out on bond for that. March 9th
24 of 2015 he gets possession of meth. Gets out on bond on
25 that. I don't know how he is making bonds. And that

1 leads us to our, I know you can't consider those pending
2 charges, Your Honor. I say that in one point to
3 illustrate, this is a real severe problem here in our
4 county. He is a known entity. I think, Sergeant Veal, if
5 he wishes to speak and reflect that. I know it is bad up
6 in Greenville too. But this is just one after another, it
7 is just these one pot, they are making it and especially
8 like someone like Lauren Ginn. It is just tearing this
9 community apart and I don't see an end to it. And this
10 guy has gotten all of these chances and finally a jury has
11 convicted him of it. The range is 10 to 30, I made no
12 specific number but I think anywhere in that range would
13 be appropriate. I know it is harsh considering like it is
14 a drug offense and his age. But I think he deserves
15 something in that range though, I will say that.

16 THE COURT: All right, thank you very much. Mr.
17 Wise.

18 MR. WISE: Your Honor, being familiar with the other
19 pending charges I would just simply point out to the Court
20 that, those charges are about four years old now. And
21 there is a reason the more recent charges, the first one
22 tried because they really were not strong cases to be
23 frank with you. We have been waiting to try those for
24 years and it hadn't worked up the docket. So this ended
25 up being the strongest case they had, that is why it was

1 tried. Your Honor, he really has been doing well on
2 probation, I mean, as he testified he struggled to get
3 through the drug court. But he finally made it. And, you
4 know, we disagree with the verdict, you know, that stands
5 as it is. But I think he really went through some, and
6 this is another reason I think manufacturing is, has to
7 have something beyond personal use. And the reason is,
8 the sentence, when you get up to several of them get up
9 there real high, and they have to be designed for somebody
10 who really is manufacturing to really distribute the
11 product out in the community which I don't think this is
12 true at all in this case. He wasn't living high off the
13 hog, he had a modest income through his disability, he
14 wasn't paying any rent where he was living because he was
15 living on his mother's property so he could get by on his
16 income. So there is nothing here to indicate he is, you
17 know, a big wheeling drug dealer to be frank with you. It
18 truly is an unfortunate, you know, a personal use
19 situation and I think the minimum sentence is
20 disproportioned to the seriousness of his personal
21 involvement. Now, if he were out manufacturing and giving
22 it to four, five, six people, or going to sell on the
23 street, the minimum sentence fits frankly. But that is
24 not true here and you have got a chance to observe him and
25 know about his background, his family background. As I

1 say, he has been on disability for a number of years. But
2 I think the minimum sentence for something who basically
3 has involved in a manufacturing meth that is really not
4 much, if beyond personal use, is certainly not much beyond
5 it. And I think, you know, when you look at the fact that
6 he has got to go to Tennessee too. I think between the
7 two of them that will be more than justice in this
8 particular case. And I will be frank with you, the State
9 is disappointed in a minimum sentence, they have got
10 another chance to go try him. And they can add onto it
11 then.

12 THE COURT: All right, okay. Thank you, Mr. Wise.
13 Mr. Smith, anything you would like to tell me?

14 MR. SMITH: No, sir.

15 THE COURT: Okay. All right. Let me just say, I
16 don't necessarily disagree with a lot of what you said,
17 Mr. Wise. I think that in a lot of these drug offenses
18 that the sentencing ranges are probably too high. But
19 that, of course, is a reflection of public policy as
20 promulgated and effective by the Legislature in the State
21 of South Carolina. The people in the State of South
22 Carolina have spoken to the Legislature to say that an
23 appropriate range for this type of offense is 10 to 30
24 years. 30 years is too much, I know that, I am not going
25 to sentence him to 30 years. But I have to fall within

1 that range at some point. And I also say that one thing
2 that speaks almost as badly as anything else from Mr.
3 Smith, notwithstanding pending charges which I won't
4 consider and not withstanding prior record,
5 notwithstanding the fact that he was on probation, is the
6 fact that he is a clearly an intelligent man who just took
7 a calculated risk, a calculated risk knowing full well
8 what the consequences for that risk were. That is an
9 adult decision. That was basically an exercise of his
10 responsibility and he elected to roll the dice. And in
11 this instance he lost. So, with no animus I respect the
12 verdict of the jury and the determination of the
13 Legislature of the sentencing range. Taking into
14 consideration that this is a violent offense and that it
15 is a serious offense, violent affecting the amount of time
16 that he may actually do. I also look at the fact that he
17 is 51 years old and I do think it is different when
18 someone is 51 as opposed to 21 or 31. Taking all of that
19 into consideration the sentence of the Court is you be
20 committed to the Department of Corrections for a period of
21 15 years, credit for any time that you may have served.
22 Good luck to you, sir.

23 *** END OF REQUESTED TRANSCRIPT OF RECORD ***
24
25



EVIDENCE STATUS

TO: V5144 - SGT MATTHEW A VEAL CASE NO.: 15001316
FROM: EVIDENCE CUSTODIAN DATE IN: 05/08/2015
DATE: 05/20/2015 TRIAL DATE: _____
SUBJECT: STATUS OF EVIDENCE BEING DETAINED SUSPECT: ROY ELLIS SMITH
LAUREN HODGES GINN
VICTIM: SOCIETY/PUBLIC OFFENSE: 35A - DRUG / NARCOTIC VIOLATIONS

Items listed below are in evidence. Please advise on status of this evidence.

Barcode	Category / Description	
0000008059	DRUGS/NARCOTICS Location: NARCOTICS SAMPLE FROM ONE POT (IN BEST KIT B253313)	*0000008059*
0000008060	DRUGS/NARCOTICS Location: NARCOTICS 4 SYRINGES WITH SUBSTANCE (IN BEST KIT B253313)	*0000008060*
0000008061	DRUGS/NARCOTICS Location: NARCOTICS BOTTLE WITH 3 BLUE PILLS (VIAGRA-NON CONTROLLED)	*0000008061*

Does this evidence fall under section SC code 17-28-320? ☐ Yes ☐ No
Preservation of Evidence Act Signature _____ Date _____

The following information is to be supplied by the arresting or investigating officer and forwarded to the Evidence Custodian by (date) _____. It is the responsibility of the arresting or investigating officer to notify the owner if the property is to be released to owner.

TO: EVIDENCE CUSTODIAN
____ Return to Owner _____ Destroy
____ Sell at Auction _____ Photograph and Return to Owner
____ Request these items be held for the following reasons: _____ Release to Other Agency

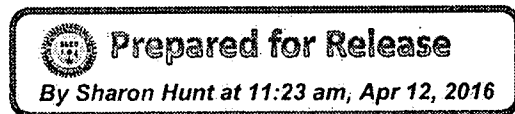
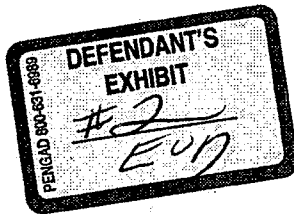
Signature of Officer _____ Date _____

Release to:
Owner (Name): _____ Phone: _____

Address: _____

Signature of Officer _____ Date _____

SOUTH CAROLINA LAW ENFORCEMENT DIVISION



Chain Of Custody

L15-06832

Item 1: One(1) sealed BEST Evidence Pouch containing BEST Kit Evidence

Submissions

Date	Time	Submitted by
5/26/15	13:07	David C. Craig of the Laurens County Sheriff's Office

A handwritten signature of David C. Craig inside a rectangular box.

Item Chain of Custody

Date	Time	Container	Custody Of	Location / Person
5/26/15	13:07		Forensic Technician	Jackie M. Davis
5/26/15	13:08		Evidence Room (150)	Drug evidence intake storage
7/6/15	11:25		Forensic Technician	Doris Yarbrough
7/6/15	11:28		Forensic Scientist	Maribeth C. McCormack
9/10/15	9:00		Forensic Technician	Jennifer Aycock
9/10/15	9:02		Evidence Room (150)	Drugs For Return Shelf
9/11/15	10:53		Forensic Technician	Amy Stephens
9/11/15	10:54		Evidence Disposition	Returned to Agency in person

A handwritten signature of David C. Craig inside a rectangular box.

David Craig - Laurens CSO

Item 1: 1: Sharps tube containing...

Submissions

Item Chain of Custody

Date	Time	Container	Custody Of	Location / Person
9/4/15	13:56		Forensic Scientist	Maribeth C. McCormack
9/10/15	9:00		Forensic Technician	Jennifer Aycock
9/10/15	9:02		Evidence Room (150)	Drugs For Return Shelf

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

279



Chain Of Custody

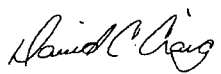
L15-06832

9/11/15	10:53	Forensic Technician	Amy Stephens	
9/11/15	10:54	Evidence Disposition	Returned to Agency in person	
David Craig - Laurens CSO				

Item 1-1-1: Syringe containing less than 1 milliliter liquid substance

Submissions

Item Chain of Custody

Date	Time	Container	Custody Of	Location / Person
9/4/15	13:57		Forensic Scientist	Maribeth C. McCormack
9/10/15	9:00		Forensic Technician	Jennifer Aycock
9/10/15	9:02		Evidence Room (150)	Drugs For Return Shelf
9/11/15	10:53		Forensic Technician	Amy Stephens
9/11/15	10:54		Evidence Disposition	Returned to Agency in person
				
David Craig - Laurens CSO				

Item 1-1-2: Syringe containing less than 1 milliliter liquid substance

Submissions

Item Chain of Custody

Date	Time	Container	Custody Of	Location / Person
9/4/15	13:57		Forensic Scientist	Maribeth C. McCormack
9/10/15	9:00		Forensic Technician	Jennifer Aycock
9/10/15	9:02		Evidence Room (150)	Drugs For Return Shelf
9/11/15	10:53		Forensic Technician	Amy Stephens

SOUTH CAROLINA LAW ENFORCEMENT DIVISION



Chain Of Custody

L15-06832

9/11/15 10:54 Evidence Disposition Returned to Agency in person

David Craig - Laurens CSO

Item 1-1-3: Syringe containing less than 1 milliliter liquid substance

Submissions

Item Chain of Custody

Date	Time	Container	Custody Of	Location / Person
9/4/15	13:57		Forensic Scientist	Maribeth C. McCormack
9/10/15	9:00		Forensic Technician	Jennifer Aycok
9/10/15	9:02		Evidence Room (150)	Drugs For Return Shelf
9/11/15	10:53		Forensic Technician	Amy Stephens
9/11/15	10:54		Evidence Disposition	Returned to Agency in person

David Craig - Laurens CSO

Item 1-1-4: Syringe containing less than 1 milliliter liquid substance

Submissions

Item Chain of Custody

Date	Time	Container	Custody Of	Location / Person
9/4/15	13:57		Forensic Scientist	Maribeth C. McCormack
9/10/15	9:00		Forensic Technician	Jennifer Aycok
9/10/15	9:02		Evidence Room (150)	Drugs For Return Shelf
9/11/15	10:53		Forensic Technician	Amy Stephens

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

281



Chain Of Custody

L15-06832

9/11/15 10:54 Evidence Disposition Returned to Agency in person

David Craig - Laurens CSO

Item 12: Tube containing glass vial containing 2 milliliters liquid substance

Submissions

Item Chain of Custody

Date	Time	Container	Custody Of	Location / Person
9/4/15	13:57		Forensic Scientist	Maribeth C. McCormack
9/10/15	9:00		Forensic Technician	Jennifer Aycock
9/10/15	9:02		Evidence Room (150)	Drugs For Return Shelf
9/11/15	10:53		Forensic Technician	Amy Stephens
9/11/15	10:54		Evidence Disposition	Returned to Agency in person
David Craig - Laurens CSO				

THE STATE OF SOUTH CAROLINA**COUNTY OF LAURENS****INDICTMENT FOR****Manufacturing Methamphetamine
§44-53-0375(B)**

At a Court of General Sessions, convened on the 24th day of July, 2015, the Grand Jurors of Laurens County present upon their oath:

That Roy Ellis Smith did, on or about May 6, 2015, in Laurens County, willfully, unlawfully and knowingly manufacture or otherwise aid, abet, attempt or conspire to manufacture Methamphetamine, in violation of Section 44-53-375 of the South Carolina Code of Laws, 1976, as amended.

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


Assistant Solicitor

WITNESSES

Matthew Veal
Laurens County Sheriff

WARRANT NUMBER

2015A3010100738

true bill

Marretta Thompson
Foreman of the Grand Jury

Date: *7-24-15*

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

July Term, 2015

Indictment # 15GS30- 1138

THE STATE

vs.

Roy Ellis Smith

INDICTMENT FOR

Manufacturing Methamphetamine

§44-53-0375(B)

CDR: 3778

THE STATE OF SOUTH CAROLINA**COUNTY OF LAURENS****INDICTMENT FOR****Disposal of Methamphetamine Waste
§44-53-0376**

At a Court of General Sessions, convened on the 24th day of July, 2015, the Grand Jurors of Laurens County present upon their oath:

That Roy Ellis Smith did, on or about May 6, 2015, in Laurens County, willfully, unlawfully and knowingly dispose of, or cause to be disposed of, any waste from the production of methamphetamine, and/or did knowingly assist, solicit, or conspire with another to dispose of methamphetamine waste, in violation of Section 44-53-376 of the South Carolina Code of Laws, 1976, as amended.

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



Assistant Solicitor

WITNESSES

Matthew Veal
Laurens County Sheriff

WARRANT NUMBER

2015A3010100739

True bill

Mariette Thompson

Foreman of the Grand Jury

Date: *7-24-15*

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

July Term, 2015

Indictment # 15GS30- 1139

THE STATE

vs.

Roy Ellis Smith

INDICTMENT FOR

Disposal of Methamphetamine Waste

§44-53-0376

CDR: 3282

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Laurens

VS.

Roy Ellis Smith

AKA:

Race:

Sex: M

Age: 51

DOB:

SS#:

Address:

Smiths Village Road

City, State, Zip:

Waterloo, SC 29384

DL#:

SID#:

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

In disposition of the said indictment comes now the Defendant who was

TO: Manufacturing Methamphetamine, 3rd Offense

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 15GS30-1138

A/W#: 2015A3010100738

Date of Offense: 5/6/2015

S.C. Code § : 44-53-0375(B)

CDR Code #: 3778

SENTENCE SHEET

10yrs - 30yrs

☒ CONVICTED OF or ☐ PLEADS

in violation of § 44-53-0375(B) of the S.C. Code of Laws, bearing CDR Code # 3778

☐ 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:

Scott, C. Dale

73081
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 15 days/months/years or ☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 61.6 (Public Def/Probation)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114(BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

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 Fund

Other:

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

Presiding Judge

Judge Code:

Sentence Date:

2/15/17
26 FEB 2017

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,



Laura R. Baer
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 31st day of July, 2018.

RECEIVED
JUL 31 2018
SC Court of Appeals