

TO THE SOUTH CAROLINA COURT OF APPEALS

APPEAL FROM Horry County

HONORABLE FERRELL COTHRAN, CIRCUIT COURT JUDGE

APPELLATE CASE NO. 2020-001497

THE STATE

RESPONDENT

V

RECEIVED

JUN 15 2022

THEODORE BOLICK

SC Court of Appeals
APPELLANT

MOTION TO SUPPLEMENT RECORD ON APPEAL

NOW COMES: Appellant, Theodore Bolick
pro se and hereby moves the Honorable
Court of Appeals to allow Appellant to
supplement the record on appeal with
the missing pages from the July 22-
24, 2019 Transcript, the missing pages
from the April 15, 2021 Transcript, and
the missing pages from the June 8,
and 9, 2021 Transcript.

Appellant moves to supplement

the record on appeal with these missing pages from these three (3) separate transcripts so as to allow this Honorable Court to have a better understanding of the proceedings and the issues on appeal.

From the July 22-24 Transcript Appellant submits pages 7-26, pages 31-58, pages 81-88, pages 105-134, and pages 145-150

From the April 15, 2021 Transcript Appellant submits pages 7-24, and pages 27-34, and

From the June 8 and 9, 2021 Transcript Appellant submits pages 27-36, pages 41-48, pages 51-54, and pages 59 and 60

CONCLUSION

Appellant prays this Honorable Court allow the submission of these missing parts of the transcripts so as

ensure a better understanding of
the case on appeal.

Respectfully Submitted
This 9th day of June, 2022
Theodore Bolick pro se
Faulk Correctional Inst.
610 Highway #9 West
Besseville S.C. 29512

CERTIFICATE OF NOTIFICATION

I hereby certify that I notified
Mr. William Blitch of this filing by stating
so in a letter placed in the U.S. Mail
postage pre-paid addressed as follows

Mr. William Blitch
PO Box 11549
Columbia, S.C., 29211-1549

June 9, 2022
Theodore Bolick

JULY 22-24, 2019 TRANSCRIPT

Pages 7-26

Pages 31-58

Pages 81-88

Pages 105-134, and

Pages 145-150

1 locate him, and he stopped answering his telephone.

2 ~~When the Judge determined that we needed to move forward~~
3 ~~with the trial, he did make a ruling on the motion for~~
4 ~~severance, and the rest of his motions indicating that they~~
5 ~~were withdrawn at that point because Mr. Bolick failed to show~~
6 ~~up. But he did hear at least the preliminary charges -- the~~
7 ~~preliminary arguments orally on the 22nd as to severance. He~~
8 ~~also had the written motions for severance that Mr. Bolick had~~
9 ~~filed available to him.~~

10 So an abuse of discretion as it relates to this, he was
11 informed of all of that. He knew what was going on, not only
12 did he hear what happened pretrial, but during the course of
13 the trial, he was able to hear the facts that came out, the
14 witnesses who testified, the evidence that came in during that
15 trial. And he, Judge Hyman, the Trial Judge, had a duty to
16 make sure the court was running properly and fairly and
17 insured that fairness was adhered to, and at no point, did he
18 say, Solicitor, you can't do this. We were prepared,
19 depending on his ruling on severance, to go forward either on
20 one charge using the other two as Lyle evidence, or as all
21 three together as one consolidated trial. However, when that
22 motion was ruled withdrawn, the state went forward on all
23 three. So that got us to that charge.

24 So the other thing that we're looking at toward going to
25 the abuse of discretion is an error of law, and this is where

1 we get to the joinder arguments. And understanding what Your
2 Honor said and how Your Honor ruled back in April, I believe
3 the -- the law, the joinder laws had evolved over the last few
4 years. Especially coming true in the two most recent cases
5 that specifically dealt with joinder; those being *Tallent* and
6 *Beekman*. Originally, the Court said in *Tucker* that charges
7 can be joined and tried together, where they arise out of a
8 single chain of circumstances or proved by the same evidence
9 of the same general nature, and no real right of the defendant
10 has been prejudiced. And it's the single chain of
11 circumstances that, I believe, was the Court's holdup on that
12 as far as trying these three burglaries from three separate
13 nights over a nine-day period together.

14 Since then, the Court has expounded upon what it means by
15 same chain of circumstances, where the Supreme Court in
16 *Beekman* interpreted that a single chain of circumstances to
17 include crimes that involve connected transactions closely
18 related in kind, place, and character. So using that
19 definition and putting it back with the -- the elements from
20 *Tucker*, you essentially get two different -- two different
21 flows of case law, where one does use the single chain of
22 circumstances to mean the very direct, I went from this house
23 and I was evading police and I broke into this house in my
24 attempt to evade police, and I then I went to this house in an
25 attempt to evade police. Where those are truly a single chain

1 of events, they can all be tried together. But then you have
2 another kind that mostly deals with a common scheme or plan or
3 transactions that are so similar that they -- they can be
4 tried together because they're the same kind, place, and
5 character. The evidence is still the same. They are of the
6 same general nature and again, the courts do look to whether
7 or not a right of the defendant will be prejudiced by tying
8 all three of these together.

9 Looking at the specifics in this case, and I'm -- I hope
10 Your Honor can see this well enough. I tried to make it as
11 understandable and big as possible with the limited
12 constraints of the Power Point slide. But through this chart,
13 I'm hoping to show the -- this is also in black and white form
14 in the memorandum that I have given to the Court.

15 **THE COURT:** I got it.

16 **MR. TERRELL:** ~~Looking at the same kind, place, and~~
17 ~~character of these three specific burglaries.~~ Those are going
18 to be the ones that are listed here in blue. All three of
19 these businesses were off of Ocean Highway. That -- that is
20 the -- there are basically three thoroughfares through Myrtle
21 Beach. You've got the strip; you've got 17 business and
22 you've got 17 bypass. All three of these occurred off Ocean
23 Highway, which is 17 business. It's not the strip that
24 during, you know, the summer months are going to be highly
25 populated. It's not the 17 bypass that also sees a lot of

1 traffic. It's the middle one. They're all on the South end
2 of Myrtle Beach. All three of these businesses were within
3 three quarters of a mile. The Barrel Bar being the farthest
4 one south, and the China Chef and Giff's Liquors is actually
5 part of the same -- same strip mall. They shared the same
6 exterior structure, where they are only two doors apart.
7 Furthermore, all three of those locations are within about a
8 mile and a half from where the defendant was staying, where he
9 was living at the time. The Barrell Bar was about half a mile
10 from -- maybe a little more than half a mile from the Palmetto
11 Vista where he was staying. So the farthest one north being
12 the China Chef was just -- just under a mile and a half from
13 where he was staying.

14 ~~As for the same general nature, all three of these are~~
15 ~~the exact same charge.~~ They're all burglary second degree
16 violent. They all occurred between -- during the nighttime
17 hours. The legal definition of nighttime hours, predawn.
18 ~~They were all through food and beverage industry buildings.~~
19 ~~There was a liquor store, a bar, and a food establishment, the~~
20 ~~China Chef Restaurant.~~

21 ~~The interesting, I would say most telling reason to try~~
22 ~~all of these together was their similarity in nature, mainly~~
23 ~~through the entry that was made. All three of these~~
24 ~~businesses were entered through the rooftop, through the HVAC~~
25 ~~system. On top of a lot of these buildings, not all~~

1 ~~commercial buildings, but essentially down at the beach where~~
2 ~~they will raise up their HVAC systems, get them off of the~~
3 ~~ground, in case of high water. They put the HVAC system on~~
4 ~~the roof, the air handler is -- is up there and from there the~~
5 ~~vents and the duct work drops down into the ceiling and can~~
6 ~~spread throughout the building from there. (I've talked to~~
7 ~~in my years of prosecution I haven't seen any other type of~~
8 ~~rooftop entry such as this.) I've talked to many prosecutors,~~
9 ~~who have done this a whole lot longer than I have, and they~~
10 ~~all agree that it's a very rare calling card, if you will, to~~
11 ~~be able to go in in such a unique manner; go through the duct~~
12 ~~work and then drop into the business through the duct work.~~
13 ~~That's incredibly unique. (It's at least unique enough to be~~
14 ~~considered a calling card. Again, he moved through the ducts,~~
15 ~~he dropped in through the ceiling.)~~ Inside each of these
16 businesses he targeted the easy money; he goes right for the
17 cash register. If it's in there, he takes the entire till.
18 The tills were found outside of both of the businesses where
19 he was able to find them and in the tills were change. He
20 also took change, basically a change jar that was in the China
21 Chef, but most of what he got inside was change. He went for
22 the easy money, and that's what -- what he was able to find.
23 And then he made his exit, even when there were other avenues
24 of escape, he made his exit according to the crime scene, by
25 breaking his way out of the back door. So, he came in through

1 the roof, dropped in through the ceiling, got what he was able
2 to and then left through the back door.

3 ~~As far as the same evidence is concerned, all -- all of~~
4 ~~this evidence is very intertwined, and while you will have~~
5 ~~different victims having differing testimony toward their~~
6 ~~specific business, all of the evidence is so intertwined that~~
7 ~~it would be hard to parcel out this -- this evidence from this~~
8 ~~crime, that evidence from that crime, without being able to~~
9 ~~give the jury a full understanding of what's going on.~~

10 ~~The Barrel Bar and the China Chef both have surveillance~~
11 ~~video. Both showed this defendant or someone matching the~~
12 ~~physical characteristics of this defendant on video breaking~~
13 ~~in, looking around, committing these crimes. The same~~
14 physical characteristics: older, white male, scraggly long
15 hair, tattoos. The tattoos that appear to match the tattoos
16 that Mr. Bolick has. ~~He's wearing a bandana style skull cap,~~
17 ~~not a very common type of headwear.~~ He is shown wearing work
18 gloves in both of the videos. He's also, in one of those
19 videos, has what appears to be an extra glove stuck in the
20 waistband of his shorts.

21 ~~The -- the final burglary, Giff's Liquors, a glove is~~
22 ~~left behind. The glove is then sent off to SLED, which they~~
23 ~~do eventually return the results that Mr. Bolick was the~~
24 ~~primary contributor from the DNA from that. The -- as far as~~
25 ~~the look of the gloves, it's a -- it's a common style glove,~~

1 ~~but when you see the glove that was found in the Barrel Bar~~
2 ~~and compare it with the glove that was found during the search~~
3 ~~warrant of his house -- of his residence, they -- they have~~
4 ~~the same type of rust stains, the same type of wear patterns~~
5 ~~that you would expect from a matching pair of gloves. And~~
6 ~~again, it had his DNA in it.~~

7 Also when he was -- when he was arrested, he had a Zombie
8 Killer throwing knife. He had two Zombie Killer throwing
9 knives on his person. That was found -- the -- those come in
10 a set of three. The third knife was found in the duct work of
11 the Barrel Bar by the owner of the Barrel Bar. They were
12 trying to repair the damage. They come in a set of three; two
13 were found on him, one is found in there. That was found
14 during the arrest of Mr. Bolick, which happened at the search
15 warrant of his residence, that they were able to get this
16 defendant as a suspect through the surveillance video, through
17 the still shots from the first two. ~~While they were --- sorry,~~
18 ~~You also have the --- you've got the same lead detective based~~
19 ~~on --- from Myrtle Beach Police Department, based on the~~
20 ~~similarity they believed that it was the same person who~~
21 ~~committed all three of these unique burglaries within such a~~
22 ~~short period of time. The same crime scene investigators were~~
23 ~~involved in them. You have the same evidence custodian, the~~
24 ~~same crime scene officer, who is going from, you know, going~~
25 ~~around the area he worked to try and get an ID of the person~~

1 who had still photos for, trying to figure out who that was
2 and where that person lived. And based on that, they were
3 able to get the search warrant that led to finding evidence of
4 each of these crimes, as well as Mr. Bolick who had a
5 substantial amount of change in his pocket, as well as the
6 Zombie Killer throwing knives.

7 ~~Now, that much is circumstantial, but it's significant.~~
8 ~~Also during the search warrant, they found multiple of these~~
9 ~~skull cap, bandana style headdress units, and many mismatched~~
10 ~~work gloves. Very few pairs of gloves, and in the video,~~
11 ~~where you can make it out, of the three gloves all three of~~
12 ~~them were distinctly different gloves.]~~ Again, to try and
13 parcel it out to where it's different and so intertwined would
14 keep the jury from being able to hear the entire story showing
15 that they do all have the same -- the same evidence. On that
16 same evidence prong or standard, *Beekman* points out for
17 joinder of related offenses our Appellate Courts have
18 recognized that there may be evidence that is relevant to one
19 or more but not all of the charges, and that by arguing that
20 the evidence of multiple crimes may not merely overlap, but
21 must be wholly identical to warrant consolidation as an
22 incorrect reading controlling establish precedent. I believe
23 language they use says that it's found nowhere in our case
24 law, and so you do have the same evidence based on multiple --
25 multiple pieces of evidence, multiple things going toward one

1 or two of the burglaries, and maybe not the other one, but
2 then evidence from that burglary is connected to the other
3 two.

4 ~~Another thing to point out is the time between the~~
5 ~~charges is not necessarily dispositive. It's certainly a~~
6 ~~factor when looking at the single chain of circumstances,~~
7 ~~preng, but from -- from what I've been able to tell, the~~
8 ~~weight of the -- the weight of the case law is on the side of~~
9 ~~allowing consolidation into one trial, and the -- the four~~
10 ~~that I came across -- it looks like some of them might~~
11 ~~actually have been cut-off from there -- where it was not~~
12 ~~allowed. There was basically no other connection, no other~~
13 ~~connection to allow --- to allow joinder.~~

14 So, in Tate, the one where you've got two forgeries in
15 different liquor stores, basically Tate goes in and passes a
16 forged check at two different liquor stores three or four
17 months apart. There was no connection other than the
18 defendant, the check and three to four months apart was not
19 enough to allow consolidation.

20 In Middleton, this happened over four days and the state
21 attempted to try his escape, the rape, murder, and mutilation
22 of one victim, the rape, murder, and mutilation of a second
23 victim and then an armed robbery, an attempted armed robbery
24 on the fourth day, and there were numerous problems with that
25 one. One of which was the mutilation was so extremely

1 prejudicial that to have two victims with that mutilation is
2 too prejudicial. Other than that, there's no connection other
3 than the time between the four crimes. Nothing in the escape
4 pointed toward the rape and murder and mutilation. Nothing
5 toward the rape, murder, and mutilation pointed to the
6 attempted armed robbery.

7 But as you -- as you go down this list, you can find
8 multiple instances where in this case we're talking about a
9 span of nine days. The courts have routinely held
10 consolidation and joinder appropriate, and times that span
11 much, much longer. You've got nine months in *Cutro*, six weeks
12 with *Rice*. *Greenville v Chapman* was about 23 counts of milk
13 adulteration that happened over the course of 19 months. The
14 Court held that was fine. Also notable about that case, is
15 they said that back in 1947, and that's from what I was able
16 to tell was really the first time that the courts came out and
17 said basically to be wary of such a strict reading of single
18 chains of circumstances or transactions, and allow where the
19 evidence is the same where they are all so similar to allow
20 them to be tried together for efficiency purposes.

21 But going down 10 months, 8 months, 17 months, several
22 years in *Tallent* being the most recent one. And so while it
23 is a consideration to be taken into, to be looked at, it's not
24 -- it's not controlling. The time is not dispositive. The
25 courts are much more concerned with how interconnected all of

1 the charges are; how similar they are. And I believe that
2 these three charges over the span of nine days in such a
3 localized area of south Myrtle Beach with the unique way that
4 access to these buildings was obtained, I think they are
5 close, and I would argue that they are close enough to be able
6 to try them all together.

7 Finally, Mr. Bolick would have to show that not only was
8 there abuse of discretion by Judge Hyman, or some error of
9 law, but he would have to show that he was prejudiced in some
10 way. Now, the South Carolina Courts have been able to explain
11 recent, more recently, that here in *McGaha* in cases where
12 defendant argues prejudice from the admission of evidence of
13 other charges not tried in the same case, our courts have
14 analyzed whether the evidence of one or more charges would be
15 admissible in a trial involving only the other charge. So
16 essentially, if they -- if the same evidence is going to come
17 in under *Lyle*, then the defendant will have a very hard time
18 showing prejudice for a joined trial. Not to say that it's
19 impossible, but it would be incredibly difficult. One of the
20 things with *Lyle* for evidence, we would get into a common
21 scheme or plan. In this case we would need to show that
22 they're logically connected, showing a close degree of
23 similarity. Just last, I believe it was last year, the
24 Supreme Court came out with three opinions on the same day,
25 *Perry*, *Cotton*, and another one. But all having to do with the

1 same common scheme or plan *Lyle* evidence. One of the things
2 they said in *Perry* is there must be something in the
3 defendant's criminal process that logically connects the other
4 crimes to the crime charged, such as the same particularly
5 unique method of committing uncharged crimes that one used to
6 commit the charged crime. Basically talking about a calling
7 card. It's got to be so unique that it -- it makes it more
8 probable that it's the same person doing both of these acts,
9 and I believe with the mode of entry, we certainly have that
10 here.

11 **MS. RICHARDSON:** Your Honor, Alicia Richardson with the
12 Solicitor's Office in Georgetown. I'm just assisting him in
13 the research. I'm going to jump in here on the caselaw.
14 Basically, it appears that the case law has evolved. It used
15 to be a lot more strict and just last year in the *State v.*
16 *Tallent* case, the Court of Appeals said, and they were quoting
17 the *State v. Beekman* case that the Supreme Court issued in
18 2016. Now, these are both CSC cases, but they said, we're
19 getting away from this restrictive reading on single chains of
20 circumstances. So basically what we're looking at is there a
21 logical connection; is it interrelated; is it some of the same
22 evidence; and that's exactly what we have here. ~~Exactly what~~
23 ~~we have here is a burglary that is unique. In my mind, it's~~
24 ~~almost like the movie home alone where they leave the water~~
25 ~~on, so they know that every time they leave the water on, the~~

1 ~~water bandits, they're going to be caught. This is an unusual~~
2 ~~burglary, just like in the Perry case with the preacher doing~~
3 ~~the, you know, reading the scripture to the girls. The~~
4 ~~Supreme Court recognized that's unusual. This is unusual.~~
5 ~~Most of our burglaries don't involve somebody coming down~~
6 ~~through the duct work and that's what we have here.~~ It's so
7 unusual and so close in proximity in time and place, that it
8 goes to his identity, and it goes to the res gestae of the
9 crime. So the fact that he came down the roof on this case,
10 and a search warrant was done on two of the cases that gave
11 some evidence on the third case, they're very interrelated. A
12 glove at one, gloves found in his home. And again, what was
13 stolen and the area. Two of the businesses were right, pretty
14 much right beside each other in the same strip mall. One
15 happened one night and one the next. So to give the jury the
16 complete story, you have to have that information, and so the
17 court has recognized that. If you will look at some of these
18 more recent cases, just looking *Tallent*, it is a CSC with a
19 minor, a female victim, a stepdaughter, and a contributing to
20 the delinquency of a minor for providing alcohol and drugs to
21 the girl and all the boys in the house. And the Court allowed
22 that and said there's a logical relation, we're not getting so
23 specific. And again, your witnesses don't have to be
24 absolutely identical.

25 In *Beekman*, it was CSC with a minor with two victims, a

1 stepdaughter and a stepson that were over eight months apart
2 and were different, obviously, methods of molestation.

3 In *State v. Tucker*, the case that we seem to quote the
4 most is actually a death penalty case, a death penalty case,
5 where joinder was allowed in a three to four day crime spree
6 and they were all burglaries; one with a murder. But
7 basically, the court looked at it and said look, you know, at
8 this house we find the clothes that the victims in the first
9 house said he was wearing. So they looked at the
10 interrelated, and again, it was a death penalty.

11 And the case where it's not allowed, one of the biggest
12 cases for the other side is *State v. Middleton*. And again
13 that is a death penalty case that was in '86, whereas *Tucker*
14 was in '96. And again, that was the murders with mutilation.
15 But in that case, the court really focused on the prejudice
16 part of it, and there were numerous errors in that case. They
17 really didn't give a lot of time explaining the joinder, it's
18 just there were so many other errors in the case that it was
19 completely prejudicial.

20 But in this case, Your Honor, and based on the case law
21 that it's not to be so restrictive, it's our position that the
22 information would have come in anyway. And as far as
23 prejudice to him, it actually benefits him to have the cases
24 tried together. These are most serious violent burglaries,
25 that would be a strike. If the state were to try him

1 consecutively and get convictions, he would be looking at life
2 without parole. ~~And he's alleged prosecutorial misconduct and~~
3 ~~all these grand conspiracies, and I would say to Your Honor,~~
4 ~~just that fact would show that there's been no improper~~
5 ~~motive. It just made logical sense, based on the way the~~
6 ~~evidence was collected, based on it being the same detectives,~~
7 ~~the same area, for the cases to be tried together.~~

8 And, Your Honor, the other thing, again we talked about
9 the res gestae, the LWOP eligibility. The other thing is, he
10 made these arguments. He insisted on being his own attorney.
11 You've seen and had the benefit of that type of hearing with
12 him in April and you've seen the transcript, how careful Judge
13 Hyman was to make sure that he was advised of his *Faretta*
14 warnings and that he was sure that's what he wants to do. But
15 he shouldn't get a benefit now of asking us to a retry a case
16 seven years later because he skipped town. I believe he was
17 gone over a year. Judge Hyman was patient with him. You can
18 look at the transcript, listened to his arguments that first
19 day, was very cautious to advise him of his *Faretta* warnings,
20 and he failed to show up and prosecute. He was his own
21 lawyer, and if it had been any other -- if it had been a
22 licensed attorney that had failed to do that, it would have
23 been just too bad, so sad. You made this motion, you didn't
24 argue it. And that's what the case law says, he's
25 representing himself, he's his own attorney, and now he's

1 wanting a benefit of having Judge Hyman second guessed seven
2 years later, because he didn't show up. And he's going to get
3 -- if he would get the benefit of that and it would prejudice
4 the state by it taking so long to do it.

5 And there is a fugitive entitlement -- disentitlement
6 doctrine, which basically is an equitable proposition that he
7 who offends the law -- who offends against the law seeks in
8 vain the help of the law. Now, that's used a lot in civil
9 cases, and that sort of thing; but basically he wants to say,
10 oh, y'all made the bad decision, but I didn't bother to show
11 up to argue it. It's the state's position that he waived
12 that. If you'll look at *State v. Manning* which is also a
13 joinder case, where the attorney didn't move for joinder until
14 after the jury had been advised. It was a federal DUI case
15 with death, and there was a possession of Hydrocodone. So
16 they didn't want the Hydrocodone in there because it wasn't in
17 his system. And the Judge said pretty much, look, you waited
18 to late; you didn't argue it, and now you're trying to goad
19 the state into a mistrial. This is a self-inflicted injury.

20 So he wants to complain about something that he inflicted
21 himself. Judge Hyman was there ready to rule, had already
22 heard most of the arguments, and then he didn't show up and
23 prosecute it and now he wants everybody else to be blamed in
24 it except for himself.

25 And in going back and saying that a new trial should be

1 allowed, we have to differ to what Judge Hyman did. A Judge,
2 as you know, is in charge of the courtroom and in making sure
3 everything is fair. And it is not like this just came out of
4 the blue. There is multiple precedents for joinder cases,
5 even in death penalty cases, and Judge Hyman would have had a
6 duty if it had been improper. He had heard the arguments, and
7 he said, look, he waived them. And we have to say pretty much
8 that he abused his discretion in allowing the state to go
9 forward. He heard the evidence, he heard the testimony, he
10 saw the witnesses, and he saw how it was interrelated, and he
11 allowed it to go forward and the verdict to stand and issued a
12 sealed sentence for him because he wasn't here.

13 So, Your Honor, based on the way the case law has
14 evolved, the fact that we were able to get a transcript that
15 shows that Judge Hyman did consider these arguments and
16 considered the merits of Mr. Bolick's motion, we'd strongly
17 urge Your Honor to reconsider the motion granting him a
18 mistrial or a new trial on improper joinder, and allow the
19 verdict to stand. He had already filed an appeal with the
20 Court of Appeals; they remanded it back just because that
21 procedural posttrial motions hadn't been heard and let the
22 Court of Appeals take it up. But we'd ask and urge very
23 strongly that you reconsider this based on the changes in the
24 case law and what we've been able to provide from Judge Hyman.

25 **THE COURT:** ~~Okay. And my understanding from the state is,~~

1 you're asking me to reconsider my mistrial, as well as go back
2 and rule on what the Court of Appeals from Judge Hyman and
3 make a finding of the fact where it's properly joined or not;
4 is that what you think the Court of Appeals or is that for
5 some other issue?

6 **MS. RICHARDSON:** I think the Court of Appeals -- because
7 this is my understanding, this is what happened, a lot of this
8 is because he didn't show up. But Judge Hyman, he failed to
9 appear, and Judge Hyman allowed the trial to go forward. ~~He~~
10 ~~had no representation now because he chose after strong urging~~
11 ~~from Judge Hyman, to represent himself.~~ So the sentence was
12 sealed, so obviously it was a guilty verdict and no posttrial
13 ~~motions made because he wasn't there. When he was located, I~~
14 ~~think in the State of North Carolina a year later?~~

15 **MR. TERRELL:** ~~North Carolina. A good bit of time later.~~

16 **MS. RICHARDSON:** ~~A long time later when he was located~~
17 ~~and brought back before Judge Seals, he made motions. He made~~
18 ~~the posttrial motions at that point and they were not ruled~~
19 ~~on. And -- and then that's why when the Court of Appeals got~~
20 ~~his appeal, the sentence was unsealed, the posttrial motions~~
21 ~~that he made at this later date weren't ruled on, the Court of~~
22 ~~Appeals sent it back and said, okay, we've got this~~
23 ~~outstanding posttrial motion.~~

24 **THE COURT:** Okay.

25 **MS. RICHARDSON:** So, that's what you've been asked to

1 make is the posttrial motion as to whether he was entitled to
2 a new trial and to a mistrial based on the joinder and I think
3 there was a bunch of other issues that he raised, but the
4 issue Your Honor ruled on was the joinder and you did rule
5 that there was no prosecutorial misconduct. I'd ask that we
6 get that in writing as well.

7 **THE COURT:** So, I need -- Judge Seals is not going to
8 rule on that; is there something that is before me outside of
9 this, because I guess once I rule on this it made everything
10 else moot. So if I reconsider my motion here and don't grant
11 the mistrial, then I need to rule on the posttrial motions
12 that Judge Seals had before him, or is he supposed to rule on
13 those?

14 **MR. TERRELL:** Judge Seals has recused himself since this
15 has happened based on allegations levied by this defendant.

16 **THE COURT:** Okay.

17 **MR. TERRELL:** Basically, so we're asking and I guess the
18 Court of Appeals through us, is asking you to send in Judge
19 Seals' seat who was sitting in Judge Hyman's seat and just
20 ruling on the posttrial motions that were finally written by
21 the defendant between the time he was picked up and moved in
22 North Carolina and moved to J. Reuben, and the time we were
23 able to get him into court in compliance with the code of
24 protocols. There's was substantial amount of time there, a
25 few months, where he did file these motions that were not

1 ~~heard by Judge Seals when he unsealed the sentence?~~

2 ~~THE COURT:~~ Okay.

3 ~~MR. TERRELL:~~ And we would just ask Your Honor to
4 reconsider and defer to Judge Hyman as the Trial Judge, defer
5 to his rulings on the matter of joinder and severance, and
6 just whether or not the mistrial and new trial are warranted
7 in that light. Then if they're not, the Court of Appeals
8 would need a ruling on these other motions, which if you're
9 inclined to hear, we obviously have no objection to him being
10 given transcripts. We have no objection to him being given a
11 court appointed attorney. That would resolve the motions that
12 were sent back from the Court of Appeals for the unsealing
13 judge to ---

14 THE COURT: So, the only -- so, what's -- if I reconsider
15 this motion, then the only other motions out there that I need
16 to consider is the fact that he gets an attorney and/or
17 transcript?

18 MR. BOLICK: Your Honor, if I may, I might can save this
19 Court a lot of time.

20 THE COURT: Okay.

21 MR. BOLICK: Your Honor, the state's arguments must fail
22 for two very important reasons. One, the facts that they're
23 asking the Court to consider as facts today, are not facts.
24 On April 15th, he had the opportunity to come to this Court
25 and bring the evidence to prove that what he's arguing is

1 charge, the appropriate charge, notifies the defendant of his
2 charges, and gives jurisdiction to the Court to now handle the
3 case. That indictment is not evidence. Nothing contained in
4 the document is evidence, and you should not consider it at
5 all as evidence. As I said, merely the document that sets out
6 the allegations, the fact that a person may be charged or
7 indicted should not be considered by you at all. If you are
8 seated on this jury, your job is to determine whether or not
9 the state has produced such evidence in court that would
10 convince you beyond a reasonable doubt of the defendant's
11 guilt as to any charge.

12 As I said, or I may not have said to you, there are three
13 charges in this particular case, all being the same charge,
14 burglary in the second degree violent. And you must return a
15 verdict on each of these charges separate from any other
16 verdict on the other charges. Each one must be looked at
17 distinctly and separately by you. I tell you that because I
18 want you to understand that everyone who enters this courtroom
19 comes in with a presumption of innocence, and that is so
20 important to our legal system. They are presumed to be
21 innocent, and that presumption only goes away if you, as a
22 jury, are convinced unanimously of the person's guilt beyond a
23 reasonable doubt.

24 Now, the allegations in this case are that first on or
25 about August the 27th of 2016, Mr. Bolick did enter without

1 consent and with the intent to commit a crime therein Giff's,
2 Liquors, a building located at 1490 South Kings Highway in
3 Myrtle Beach, and that he entered the building in the
4 nighttime. That's important to this particular charge, and
5 I'll explain that to you later as we get into the case, that
6 it occurred in the nighttime.

7 He's also charged with having on August the 18th, 2016,
8 entered with consent and with the intent to commit a crime
9 therein, the Barrel Bar Grill located at 2303 South Kings
10 Highway in Myrtle Beach, again in the nighttime.

11 And it is finally alleged that on August the 26th of 2016
12 that he did, with the intent to commit a crime and without
13 consent enter the China Chef, a building located at 1470 South
14 Kings Highway in Myrtle Beach in the nighttime.

15 Now, these are the offenses that he is charged with. Our
16 purpose this morning is to seat a jury that would be not only
17 fair to Mr. Bolick, but also to the state. In this particular
18 case, Mr. Bolick has waived, as he has the right to do, he has
19 the right to waive his presence at his trial. And I will tell
20 you right now, you are to draw no conclusion whatsoever, you
21 are not to subject to any prejudice or bias by the fact that
22 he has exercised his right not to appear at this trial. It is
23 not a consideration for you. It should not even be discussed.
24 It does not lessen the state's duty to provide you with the
25 evidence sufficient to convince all twelve jurors who sit on

1 this case, of his guilt beyond a reasonable doubt as to each
2 offense before there can be any convictions, and we want to
3 make that really clear.

4 Now, the way we select a jury, this second phase where we
5 actually pick the jury, depends on the type of case that we
6 have. If this were a civil case, and I explained that to you
7 yesterday. You know, it could have been a wreck case or a
8 contract or something of that nature. The way we would do it
9 is of your 35 names, you would be reshuffled and a new list of
10 jurors produced, and you would be given brand new numbers, and
11 the attorneys would be given the list and the attorneys would
12 sit there at their table and when I ask them to, they would
13 exercise their strikes, and when we were done we would call
14 your names and you would come sit in the jury box if you were
15 selected. You would not even know if we were talking about
16 you because you're given a new number. You're anonymous.
17 Isn't that a kind a gentle way to do that?

18 In a criminal case it's quite different. Your name is
19 called, and you will be required to walk right up here and
20 stand in front of me and turn and face the other jurors and
21 the attorneys and parties involved in the case, and normally
22 the process would begin like this. The state would say, Your
23 Honor, present this juror, or the state would say, excuse this
24 juror. If the state said excuse the juror, that meant the
25 state had exercised one of its strikes and you would simply

1 return to your seat. If the state said present the juror,
2 what that means is the juror is then presented to the defense,
3 and at that time, the state -- the defense would either say
4 swear the juror and that means you would come around and get
5 in the jury box and you would be sworn as a juror and you
6 would serve. If the defense were to say excuse the juror on
7 this case, then you would return to your seat and the defense
8 would have exercised one of its strikes.

9 Now, a lot of people find that to be kind of
10 intimidating, embarrassing and most people don't like to come
11 up, you know, and be the focus of everyone's attention, but
12 let me say this, before I became Judge I practiced law for 32
13 years. I know I don't even look like I'm 32 years old, but I
14 am, but I did that and then I became a Judge and I've been
15 doing this for about 12 years. So, you know, I've got forty-
16 some years of doing this, and let me tell you what I sort of
17 learned about that jury selection process. These attorneys
18 they scratch their heads and they make faces and they grimace
19 and grin about these jurors, and they'll look at you and look
20 back down and make notes and stuff. They give you the
21 impression that they know what they are doing, and I can tell
22 you they do not. They don't have a clue. They don't have a
23 clue, do you, Mr. Terrell?

24 **MR. TERRELL:** No, sir.

25 **THE COURT:** That is the hardest thing in the world. That

1 is just, it's so difficult because, you know, when I first
2 started practicing law they would bring in a jury panel and if
3 you weren't my cousin I probably knew you anyway, but that's
4 not how it is now. Our demographics have changed so much that
5 the attorneys they don't know you. They don't know anything
6 about you, and it's simply a gut reaction. Of course, what
7 they're trying to do is size you up in a moment and they hope
8 that they get people that will be more sympathetic to their
9 position in the case, and that's normal, that's natural.
10 That's what, you know, they -- they should be doing. But I
11 tell you that because my -- my old friend and mentor, Judge
12 Floyd, used to say they may strike you because you part your
13 hair on the left; they may strike you because you part your
14 hair on the right; they may strike you because you got no hair
15 to part. It's a gut reaction, so I ask you not to be offended
16 if you are struck. That same lawyer may be happy to have you
17 on the next case that he did. I tell you all that because I'm
18 -- I don't want anyone's feelings to be hurt if they're
19 struck, but you're probably all out there thinking I hope I
20 get struck so I can go home.

21 But let me say this, people who actually serve, it's not
22 often we have an opportunity to serve on a jury, but people
23 who do, and I often talk to jurors after the case, tell me
24 that they have a new appreciation for the process and most
25 importantly for the protections that we all have that are

1 provided in this country. You know I'm told that 98 percent
2 of all jury trials in the world are tried in the United
3 States. You don't have this right in -- in most of the world;
4 it's a rare thing, but it's very common here and we often take
5 it for granted. But if you serve, I hope that you will
6 develop a new appreciation for this system.

7 Now, with that said let me ask you some questions about
8 the jury selection process or whether or not you should serve
9 as a juror on this particular case. You know yesterday you
10 took an oath to answer those general questions. You're about
11 to take another one to answer these questions that I'm asking
12 you today. They are equally important and if you are seated
13 on the jury, you will take another oath. I think that
14 emphasizes how important a juror is. You know I tried capital
15 cases before, that's cases involving the death penalty, and
16 the star witness, the most important witness in that whole
17 case, can come up here and testify and they take the oath one
18 time. To sit on a jury you take it three times. Three times
19 you swear or affirm that you will well and truly try the
20 issues before you. I think that is telling, it emphasizes how
21 important jurors are.

22 Madam Clerk, would you place them under oath again?

23 **REPORTER'S NOTE:** (Jury sworn by the clerk).

24 **THE COURT:** Okay. Was there anyone who did not take the
25 oath or affirmation? And let the record reflect that there

1 was no response. I have to do that every time I ask you
2 something and there's no affirmative response. That's part of
3 what we discussed yesterday, being the record.. So, Ms. Todd
4 has to write all that down or record all that for us.

5 All right. Is there anyone on this jury panel who is
6 related by blood or marriage, are you close personal friends
7 of, do you have any association with, in any form or fashion,
8 the defendant in this matter, Theodore Jerry Bolick?

9 And to that question there was no response.

10 The, let's say, alleged victim in these matters are
11 companies. There's the China Chef, the Bar Barrel Grill, and
12 Giff's Liquors, all business operated over in Myrtle Beach.
13 Do any of you know the owners of these businesses, do you
14 frequent these businesses, are you friends with anyone who
15 might have any interest in these -- these businesses, do you
16 know of any reason whatsoever why you might have any interest
17 at all in the outcome of this case?

18 And there is no response.

19 Is there anyone who might have worked for any of these --
20 these businesses or owned an interest in them?

21 And there's no response again.

22 Now, there are several possible witnesses in this case
23 and please don't let this scare you. I require the parties to
24 provide me with the names of any person in the world who might
25 possibly, for any reason, have been called in this case, and

1 Mr. Terrell, who is the prosecutor in this case is always very
2 good about that. He's kind of overwhelming sometimes, but
3 these are the potential witnesses in this case, and I need to
4 know if you are close personal friends of, do you have -- are
5 you related by blood or marriage, do you have any social
6 contact with, you go to church with, do you know anything
7 about any of these potential witnesses. Todd McPherson; Jacob
8 Duesing, and let me spell that for you. That might be a name
9 that you're not familiar with. It's D-U-E-S-I-N-G; Matthew
10 Griffin; Tony Humes; James Smith; Rhett Ammons; Austin Cox;
11 Nate Howitt, H-O-W-I-T-T; Judy Widenhouse; Doane Widenhouse;
12 Logan Cooper; Angie Campbell; Amanda Cargo. Who is that, Mr.
13 Terrell, I'm going to have you help me with that one?

14 **MR. TERRELL:** Your Honor, that's Xiao Jiang. X-I-A-O is
15 the first name. The last name, J-I-A-N-G.

16 **THE COURT:** Well, you did better than I could have. Mr.
17 Xiao Jiang; Ms. Sherba, S-H-E-R-B-A; John Fullwood; Sergeant
18 Dorio, he's with I think SLED, is he not?

19 **MR. TERRELL:** Myrtle Beach Police Department.

20 **THE COURT:** Myrtle Beach Police. Do you have his first
21 name by any chance?

22 **MR. TERRELL:** I believe it's Joe, Your Honor.

23 **THE COURT:** Okay. Adrienne Hefney, H-E-F-N-E-Y; Katie
24 Corley; Courtney Thompson; Steve Brown; Melanie Best; Shea
25 Clarkson; Malinda Shadoan; Doris Yarbrough; Amy Black;

1 Angelika Dodwani, and that's D-O-D-W-A-N-I; Charlotte Pitts;
2 Bethany Davidson; Susan Stafford, and Justin Lieberth, L-I-E-
3 B-E-R-T-H. Does anyone have any connection with any of those
4 witnesses that you are aware of?

5 Okay. Let's see here. Let's start back in the back
6 corner and who are you, sir, and what's your number?

7 **JUROR 341:** I'm Mark Smith and it's 341.

8 **THE COURT:** Uh-huh (affirmative response).

9 **JUROR 341:** I went to school with a James Smith, but I
10 haven't had contact with him for 20 years.

11 **THE COURT:** Well, let me just ask you this. Would the
12 fact that you may have gone to high school with this witness
13 20 years ago, would it affect your ability to be fair and
14 impartial in this trial at all?

15 **JUROR 341:** No.

16 **THE COURT:** It would not?

17 **JUROR 341:** No.

18 **THE COURT:** And you could fair to both sides?

19 **JUROR 341:** Absolutely.

20 **THE COURT:** Thank you, sir.

21 And the gentleman with the blue shirt, I believe he had
22 his hand up?

23 **JUROR 233:** I'm in the same boat as him, I went to high
24 school ---

25 **THE COURT:** And who was that you know?

1 **JUROR 233:** John Fullwood.

2 **THE COURT:** John Fullwood. And, that's the extent of it,
3 you just went to high school together; would you -- could you
4 be fair and impartial in this trial and give both parties a
5 fair trial?

6 **JUROR 233:** Yes, sir.

7 **THE COURT:** Okay. And there was someone else, I think?
8 Yes, sir.

9 **JUROR 293:** I work with a fellow Steve Brown. I don't
10 know if it's the same Steve Brown or not, but ---

11 **THE COURT:** Was your relationship such that you would not
12 be able to be fair in this trial; could you be fair?

13 **JUROR 293:** I could.

14 **THE COURT:** And give both sides a fair trial?

15 **JUROR 293:** I believe so.

16 **THE COURT:** And your name and number was?

17 **JUROR 293:** Richard Reed, 293.

18 **THE COURT:** Thank you, Mr. Reed. Okay.

19 **MR. TERRELL:** Your Honor, if I may inquire as to this
20 gentleman with the blue shirt?

21 **THE COURT:** I'm sorry, I didn't get your name and number?

22 **JUROR 233:** 233, Johnathon McDowell.

23 **THE COURT:** Thank you, Mr. McDowell.

24 Now, let me tell you about the attorney in this case and
25 that's Mr. Tom Terrell. Mr. Terrell is seated here, you've

1 seen him. Mr. Terrell works for your Solicitor, Mr. Jimmy
2 Richardson. Mr. Richardson is the Solicitor or for those of
3 you who might not be familiar with South Carolina terminology,
4 that's the same things as a D.A. in many other states or Chief
5 Prosecutor. Mr. Terrell has worked in the solicitor's office
6 for several years. I can't recall how many, but have you ever
7 practiced in the private sector here in South Carolina?

8 **MR. TERRELL:** Not here. No, sir.

9 **THE COURT:** Okay. All right. Has anyone of you ever had
10 any association with Mr. Terrell; are you friends with him,
11 you're related to him; is there anything that might cause you
12 to be bias for or against the state because of Mr. Terrell's
13 representation or for or against the defendant because of his
14 representation?

15 And there's no response for that.

16 Now, I have explained to you what these charges are.
17 It's burglary in the second degree violent. Let me kind of
18 explain what that means. Burglary is broken down into many
19 categories. You may have heard folks refer to burglary in the
20 first degree. Burglary in the first degree has to involve a
21 residence or a dwelling. Okay. And as you move down, if it's
22 just a building, just a building that's entered without
23 consent and with the intent to commit a crime, that's a
24 nonresidential building; that becomes essentially burglary in
25 the second degree. If it occurs under what they allege, and

1 again it's just allegations, aggravating circumstances and
2 there could be more than one, but one of them and the one that
3 the state alleges is present in this case would be in the
4 nighttime. You know a moment ago I said in the nighttime was
5 present. So that's the offense, entering without consent a
6 building with the intent to commit a crime in the nighttime;
7 that's the offense. Is there anything about that offense that
8 would cause you to have any prejudice or bias for or against
9 the state or the defendant?

10 And there no response to that.

11 Have any of you discussed this case or any other matter
12 that seems to be arising, at least from my discussion with
13 you, have you formed any opinions about the case?

14 Yes, ma'am?

15 **JUROR 21:** I'm juror 21, Joanne Bennett. I just have --
16 I've been burglarized; I've been a victim of burglary.

17 **THE COURT:** Well let me ask you this, before we get any
18 further, let's don't get into the facts of it. Okay. Would
19 that affect your ability to be a fair juror in this case?

20 **JUROR 21:** I mean it might. I've been burglarized twice.

21 **THE COURT:** I mean you're afraid you can't set that
22 aside?

23 **JUROR 21:** Well it's different because this is a business
24 and my was, you know, in my home, so I probably -- it would be
25 okay. I just wanted to let you know.

1 **THE COURT:** Well, do you think you could give both sides
2 a fair trial?

3 **JUROR 21:** Yes.

4 **THE COURT:** Okay. All right. That's all I needed to
5 know. And your number was?

6 **JUROR 21:** 21.

7 **THE COURT:** 21.

8 Okay. I'm pretty sure that I covered this yesterday, but
9 is there anyone on this jury panel that was a member of the
10 Grand Jury that issued the indictment in this case; I ask you
11 that again, because you know I said you would be disqualified
12 if you had been on the Grand Jury in the last three years.
13 This indictment was actually issued October the 20th of 2016.
14 So it's been outside that period, but has anyone served on the
15 Grand Jury that might possibly had issued the indictment in
16 this case, and I ask you that because the Grand Jury is a
17 proceeding where the defendant doesn't have the right to
18 appear. Law Enforcement will appear and just set forth their
19 position, and it bias someone if they only heard one side.
20 Okay. Is there anyone was on the Grand Jury that could have
21 issued this indictment or these indictments?

22 And there is no response.

23 Does any member of this jury panel know of any reason why
24 he or she should not serve as a juror in this case with
25 particular emphasis on your being able to be fair and

1 impartial to both the state and the defense; I mean that's
2 what we're seeking here, a fair and impartial jury?

3 And there's no response.

4 Mr. Terrell, do you have any other questions for me?

5 **MR. TERRELL:** No, sir, Your Honor.

6 **THE COURT:** All right. Thank you.

7 Madam Forelady, I mean, Madam Clerk, would you give us a
8 juror please and remember what I said, we're going to ask you
9 to come right down here and just turn around. Okay?

10 **THE CLERK:** Juror number 253, Elizabeth Moody?

11 **THE COURT:** I think you have five, Mr. Terrell?

12 **MR. TERRELL:** Yes, sir, Your Honor.

13 **THE COURT:** Yes, ma'am.

14 **THE CLERK:** What say the state?

15 **MR. TERRELL:** Please present this juror.

16 **THE CLERK:** You may take a seat.

17 **THE COURT:** See what a good job she did. She -- you have
18 some -- you have some -- did you have some things?

19 **JUROR 253:** No.

20 **THE COURT:** Okay. I saw you start to go back. I don't
21 know whether you were running away, or you needed to go back
22 and get your purse maybe. Have a seat in the jury box.

23 **THE CLERK:** Juror number 61, Megan Coggin. What say the
24 state?

25 **MR. TERRELL:** Please present this juror.

1 **THE CLERK:** Please be seated.

2 Juror number 265, Jeffrey Oliver. What say the state?

3 **MR. TERRELL:** Please present this juror.

4 **THE CLERK:** Please be seated.

5 Juror number 195, Richard Lee. What say the state?

6 **MR. TERRELL:** Please present this juror.

7 **THE CLERK:** Please be seated.

8 Juror number 293, Richard Lee, I'm sorry, Richard Reed.

9 What say the state?

10 **MR. TERRELL:** Please present this juror.

11 **THE CLERK:** Please be seated.

12 Juror number 367, Thomas Trunk. What say the state?

13 **MR. TERRELL:** Please present this juror.

14 **THE CLERK:** Please be seated.

15 Juror number 382, Gary Weaver. What say the state?

16 **MR. TERRELL:** Please present this juror.

17 **THE CLERK:** Please be seated.

18 Juror number 357, Laura Suggs. What say the state?

19 **MR. TERRELL:** Please present this juror.

20 **THE CLERK:** Please be seated.

21 Juror number 323, Wayne Semsey. What say the state?

22 **MR. TERRELL:** Please present this juror.

23 **THE CLERK:** Please be seated.

24 Juror number 160, Joey Housand. What say the state?

25 **MR. TERRELL:** Please present this juror.

1 **THE CLERK:** Please be seated.

2 Juror number 148, Terry Hauschilt. What say the state?

3 **MR. TERRELL:** Please present this juror.

4 **THE CLERK:** Please be seated.

5 Juror number 24, Jazzica Bibart.

6 **THE COURT:** Bobby, slide Mr. Hauschilt over.

7 **THE CLERK:** What say the state?

8 **MR. TERRELL:** Please present this juror.

9 **THE CLERK:** Please be seated.

10 **THE COURT:** Let's get one alternate. Okay.

11 **THE CLERK:** Juror number 63, Gina Collins. What say the
12 state?

13 **MR. TERRELL:** Please present this juror.

14 **THE CLERK:** Please be seated.

15 **THE COURT:** All right. I assume there will be no
16 challenge.

17 **MR. TERRELL:** No, sir, Your Honor.

18 **THE COURT:** All right. Very well. We have our jury for
19 this case. The rest of you are excused. Please call back
20 after 6. Thank you.

21 **REPORTER'S NOTE:** (Jury venire excused for the day).

22 **THE COURT:** All right. Mr. Hauschilt, would you mind
23 serving as the foreperson in this jury?

24 **JUROR 148:** Negative.

25 **THE COURT:** Negative?

1 **JUROR 148:** I would not mind.

2 **THE COURT:** Okay. Good. As the foreperson, you sort of
3 the liaison between the jury. You preside over the
4 deliberation process, but if there's any problem, if there's
5 any issue, if you need anything, just let Mr. Ropp there know.
6 He's going to be with you throughout this trial. He'll bring
7 it to my attention, and I promise we will address it. And Ms.
8 Collins, I would ask you to always occupy that seat. You are
9 our alternate, so if you would just always be there so we'll
10 know where you are. Mr. Hauschilt, would you occupy that
11 seat. The rest of you certainly may sit any place that you
12 would like.

13 Let me give you just a little bit of preliminary
14 instruction and then we'll let you go to lunch before we start
15 the actual evidence in the case.

16 You know, you probably all have seen trials or police
17 shows or things about trials on the news and T.V. everyday.
18 You can't turn it on without -- without seeing it, that's why
19 I don't watch anything but Antique Roadshow and the Pickers.
20 Those cases are just a thrill a minute. They're action
21 packed. But I will tell you that's normally not the case in
22 some -- in most trials. Of course, some are but generally
23 they are not, because in the search for an answer to the
24 questions put to you, you will see that the development of the
25 evidence is often slow, tedious, and that's because in the

1 presentation of evidence, lawyers, whether it be for the
2 defense or -- or for the state, are required to follow certain
3 rules of presentation. Many of those rules have to do with
4 how a question is asked or what has to be asked before a
5 question is asked. And sometimes jurors get to the point that
6 they just want to jump right over that rail and choke the
7 living daylights out of the attorneys because they know where
8 they -- I mean, jurors are smart. Jurors know where the
9 question is going, but you think why are you asking ten
10 questions when you could just ask one, and that's because they
11 are trained to do that. They do that because they are good
12 lawyers, and they know that the record has to reflect that
13 they laid the proper foundation, or they put in the proper
14 evidence in a particular case. So I would ask you to -- to
15 bear with us in that regard.

16 Now, after this evidence is presented, you're going to be
17 asked to deliberate. That's a term of art it has a special
18 meaning in a trial. I told you earlier that every defendant
19 who enters this courtroom has a presumption of innocence, and
20 that's in violent. The state must produce such evidence to
21 convince you of his guilt beyond a reasonable doubt before
22 there can be any, any conviction. We have to understand that.
23 But the deliberation process involves sort of three things
24 actually. First of all, as jurors you are the exclusive, you
25 are the only judges of the facts in this case. Facts and

1 evidence are different. You know technically in a case you
2 have evidence of all sorts of things, but you as a jury have
3 to sort through that and determine what happened. That is the
4 most important thing that you do. I cannot comment on them --
5 on the evidence. I cannot comment on the facts; it would be
6 highly improper for me to do so. If during this trial, by my
7 mannerisms or perhaps something that I might say to an
8 attorney, I have an opinion about the evidence, please
9 disregard it; it was not intentional. The law does not allow
10 me to even have an opinion about the facts in the case.
11 That's entirely up to you.

12 The other part of the deliberation process is to
13 determine what the law is. Now, just like the determination
14 of the facts, is your business. Determination of the law
15 applicable to the case is mine. And you must accept the law
16 as I give it to you and be guided by the law as I give it to
17 you whether you think it's what the law ought to be or what
18 the law is, you still have to follow it as I give it to you.
19 And that's important because the third part of the
20 deliberation process is where you bring them together. You
21 know think about great big gears in a mill. You build one
22 gear in your determination of facts. I give you the other
23 one; I build it, and that's the law. But that final, the
24 essence of the deliberation process is when you bring them
25 together and you see how well the gears fit. That's when you

1 determine whether or not the state has in fact met its burden
2 in this case.

3 Now, a moment ago I told you that attorneys have trouble
4 selecting jurors because they just don't know you. You're
5 going to be asked to listen to witnesses and decide whether to
6 believe the witness or not, to judge the witness's
7 credibility. That's entirely up to you. You can believe one
8 witness over many or many over one. You can believe part of
9 what a witness says and reject the rest of what he says. You
10 can believe everything a witness says or not a single word a
11 witness says. That's entirely up you, and you may say well
12 how do we do that, we don't know these people? You can
13 consider anything that you use in your daily lives to
14 determine what is believable and what is not. You can
15 consider such things as well, did this witness, was he really
16 in an area or, or place where he could see or hear what he
17 says he heard or saw; does this witness have any interest,
18 prejudice, bias; does this witness have anything to gain by
19 this witness's testimony. You can consider a witness's
20 intelligence, his ability to remember and recall. You can
21 even consider how a witness, and this is very important, how a
22 witness appears on the witness stand; we call that, you know,
23 the manner in which the witness testifies, his demeanor. You
24 can consider all of this because we do it every day. How we
25 determine what should we believe and what should not be

1 believed is no difference here -- different here than before
2 you walked into this courtroom. It is the same.

3 Now, I'm going to ask you, during the time in which you
4 serve on this jury not to discuss the case among yourselves
5 even. I don't think we will go over -- we might go over into
6 tomorrow, but if we do and if you go home please tell that
7 significant other, you know I can't talk about this case right
8 now. And let me tell you why that is. You know, I have Mr.
9 Bullock here, my law clerk, and after we leave the bench, we
10 take a break, we might go back there in -- in the office and
11 he or I might have some opinion or say something about a
12 witness, you know I believe everything that witness says; I
13 don't believe a single word that witness says, but see that
14 doesn't make any difference between us because we're not
15 making the ultimate decision. But if you, as a juror, we take
16 a break and you go back and you're here with 13 other people
17 that are probably strangers, and you say I believe everything
18 that witness there testified to; that's what I'm going to go
19 on, or I don't believe anything he said. Well you've
20 committed yourself then, and it's awfully hard to back up you
21 know. As you hear the rest of the case you may decide you
22 need to back up. Don't get yourself in a situation where
23 you're uncomfortable taking another position. So just don't
24 talk about it. Also don't seek any outside information. We
25 used not have to worry about that, but now days everybody has

1 got a smart phone or genius phone and you can go to Google
2 Earth, you can bring up where these businesses were, you can -
3 - where the defendant lives, you can do all kinds of things on
4 there. You can even go to look up and see if there was old
5 newspaper articles or whatever, all sorts of things like that.
6 That's highly improper. Do not do it. You might even want to
7 look up the law and make sure that I'm telling you the right
8 thing. You might even want to look on and see if Mr. Terrell
9 has got a Facebook page and see what he's been up to. Many
10 things that jurors have been known to do; just please don't do
11 that. That's highly, highly improper. You've got to decide
12 this case from what comes right there from that witness stand.

13 Now, I told you this yesterday, I want to re-emphasize
14 it. If at any time you can't see or hear what's going on, you
15 let me know. See, Mr. Terrell, he's just like every other
16 attorney. He's got the attorney's disease and let me tell you
17 what the attorney's disease is; you get so wrapped up in
18 presenting your case, and I don't know if he will or not, but
19 a lot of times they'll have easels and boards and stuff up
20 here to show you things, and you end up standing right in
21 front of it and blocking the jury. Well if that happens,
22 raise your hand. I promise you the attorney who is presenting
23 the evidence wants you to see it. He wants you, he's doing it
24 for a reason, and that's all so you will understand what he's
25 talking about. So if that occurs, you're not going to upset

1 him one bit if you will just raise your hand and say, I'm
2 blocked; I can't see; I'm blocked; I can't hear. Please, let
3 me know if anything like that happens. If you become
4 uncomfortable, again, raise your hand. I don't care what's
5 going on, you raise your hand and say, Judge, I need a break;
6 we're going to take it. Don't forget, I'm 70, almost 71 years
7 old; I need a break too. Just raise your hand and let us know
8 and we will take a break. I don't want anyone distracted
9 because they're uncomfortable. Just let us know. If you have
10 any problems in your jury room, if you need anything, let Mr.
11 Ropp know. I'll -- I'll make sure that it's taken care of. A
12 lot of Judges don't like this, but I do. If you want -- if
13 you need some water, or something to drink to sip on, I don't
14 mind you bringing it in the courtroom not one bit. Please
15 feel free to do so. Okay. Just try not to spill anything.

16 Okay. I want the clerk to place you under oath.

17 **THE CLERK:** Please stand and raise your right hand.

18 **REPORTER'S NOTE:** (Jury sworn by the clerk).

19 **THE COURT:** Was there anyone who did not take the oath?

20 All right. There's no response to that.

21 Mr. Ropp, take them into their room. It's just past 12.
22 I'm going to give you to 1:30. Okay. That will give them a
23 chance if they're not familiar with Conway to find a place for
24 lunch. I think about half of them went over to Joey Dogs
25 Monday. I saw them over there anyway. But at any rate, make

1 sure they're comfortable and know how to get back in. Okay.

2 And I'll look for you about 1:30. Okay.

3 **REPORTER'S NOTE:** (Jury excused for lunch 12:06 P.M.).

4 **THE COURT:** Mr. Terrell, anything?

5 **MR. TERRELL:** Your Honor, I do have a couple of items and
6 I ask the Court to take judicial notice of. You want to take
7 care of that now or ---

8 **THE COURT:** Yes, we will.

9 **MR. TERRELL:** Okay. Your Honor, I would ask the Court to
10 take notice -- judicial notice of the temperature, this is
11 from the NOAA website. The temperature on August 27th of 2016
12 at about 4:53 in the morning was 72 degrees. The dewpoint was
13 70 degrees, and the humidity was 93 percent.

14 **THE COURT:** Well, okay.

15 **MR. TERRELL:** Thank you, Your Honor. Also, the time of
16 sunrise and sunset on these various dates in August of 2016.
17 On August 16th, sunrise was at 6:38 in the morning; sunset was
18 at 8:00 P.M. On August 26th, the sunrise was at 6:45 in the
19 morning and on August 27th, the sunrise was at 6:46 in the
20 morning.

21 **THE COURT:** And that's from the NOAA website?

22 **MR. TERRELL:** That is actually from timeanddate.com. The
23 actual observations from Myrtle Beach, South Carolina.

24 **THE COURT:** Okay. All right. Well I'll take judicial
25 notice of that. It's regularly published and relied upon

1 information, so I'll take judicial notice of it. Okay.

2 **MR. TERRELL:** Thank you, Your Honor. Nothing further.

3 **THE COURT:** Okay. Scott, you need me?

4 **MR. HIXSON:** No, just making sure that the TIA stuff was
5 done properly, and I just wanted to follow-up with him and
6 make sure.

7 **THE COURT:** We've got the bond paperwork, the arraignment
8 paperwork. I put on the record that I discussed this with him
9 yesterday.

10 **MR. HIXSON:** Oh, he was actually here? Okay.

11 **MR. TERRELL:** He was here yesterday.

12 **THE COURT:** Yeah. Okay.

13 **MR. HIXSON:** I've had to do a couple of these in the past
14 and with pro se TIA's it's kind of a little awkward.

15 **THE COURT:** Okay.

16 **THE CLERK:** All right. Judge, we'll see you at 1:30.

17 **THE COURT:** All right. We'll see you at 1:30.

18 **(COURT IS IN RECESS)**

19 **THE COURT:** Thank you all. Please just keep your seats.
20 Ms. Goldfinch, how are you?

21 **MS. GOLDFINCH:** I'm good. How are you doing?

22 **THE COURT:** I'm doing well. All right. Mr. Terrell, you
23 ready to roll?

24 **MR. TERRELL:** Yes, sir, Your Honor. Real quick, the
25 documents you took judicial notice of prior to the break, I

1 marked those as exhibits 3 -- Court's exhibits 3 and 4.

2 **THE COURT:** Very well. Okay.

3 **(COURT'S EXHIBIT NUMBERS 3 AND 4 ARE**
4 **MARKED FOR IDENTIFICATION)**

5 **THE COURT:** Okay. How about have Bobby bring them in if
6 you would?

7 **REPORTER'S NOTE:** (Jury enters courtroom 1:35 P.M.).

8 **THE COURT:** All right. We've got everyone back in the
9 courtroom and Mr. Terrell tells me he's ready to proceed. Let
10 me just tell you how it will go. Mr. Terrell will be making
11 an opening remark in just a minute, and what he's going to do
12 is explain to you why these charges were brought and what
13 evidence he hopes to be able to produce for you during his
14 presentation. That's not evidence, what he says in his
15 opening remark. It's only evidence if it comes from the
16 witness stand, but it's absolutely proper for him to sort of
17 lay out the case and let you know what the case is about and
18 the direction that he's heading in this matter. After the
19 state has concluded its evidence, then he will make a closing
20 argument. Again, to just sum up what he's presented to you.
21 Again, he cannot add to the evidence or distract from it; it's
22 -- what he says is not evidence, it's just a summation. And
23 then I will charge you on the law and you will have the case
24 for your consideration. Mr. Terrell?

25 **MR. TERRELL:** Yes, sir. May it please the Court?

1 **THE COURT:** Certainly.

2 **MR. TERRELL:** Ladies and gentlemen, as Judge Hyman just
3 told you, basically I'm just going to give you a brief
4 synopsis of what I expect for you to hear from the witness
5 stand. I'm not going to make this any longer than it needs to
6 be. I'm not going to try and belabor it. The opposite side
7 of that coin, is everything that you're going to be very
8 important so I ask that you pay close attention and I will try
9 to move this along for everybody's expediency.

10 Mr. Bolick, he's charged with three counts of burglary
11 second degree violent. Basically he broke into three
12 businesses in Myrtle Beach back in August of 2016. The first
13 one was August 18th, 2016. He broke into a place called the
14 Barrel Bar -- Barrel Bar and Grill and Restaurant down there
15 in Myrtle Beach. He comes in through the ceiling. He goes
16 and tries to get what he can out of the cash register, out of
17 the cash drawer. He attempts to break into an ATM machine
18 that's located in that business and then he leaves. We know
19 it's him because he's on the surveillance video. You'll be
20 able to see the video that's inside -- inside that restaurant,
21 and you'll be able to see at least a portion of what he does
22 while he's inside.

23 The second place he breaks into is on August 26th, 2016.
24 He breaks into the China Chef. Again, he comes in through the
25 roof. He goes through the cash register. You'll see him,

1 because again it's on surveillance video. You'll see him,
2 he'll grab the entire cash register and run out. Then he
3 comes back, riffles around, goes through drawers, rummages
4 through things, and again you'll see him on video do this.

5 The next night, August 27th, he breaks right next door to
6 the China Chef, a place called Giff's Liquors. He breaks in
7 through the roof again, drops down into the liquor store. The
8 liquor store, for reasons you will hear from a witness, they
9 did not have surveillance video. It was -- it was not running
10 that night, but what we do have is a glove that was left
11 behind. We know that the night of the -- the night of the
12 26th, it wasn't there and when police and the victim showed up
13 on the morning of the 27th it was there. That glove was then
14 sent off to SLED, the South Carolina Law Enforcement Division,
15 they do whatever kind of voodoo magic they have up there to,
16 you know, test it and see, you know, who -- who could have
17 worn this glove; if there's any DNA inside. So they take a
18 swab of it, they're able to analyze that and it's a match to
19 Mr. Bolick.

20 You will hear all of this. You'll hear how through the
21 surveillance video law enforcement was able to get pictures.
22 They were able to find out and get information on who this
23 individual in these pictures was that led them to a residence
24 also on the south end of Myrtle Beach. In that residence they
25 find clothes that are similar or the same clothes that you see

1 A: To my knowledge, no, it had not.

2 Q: What made you think that was out of the ordinary?

3 A: It was just a single glove for the right hand, and there
4 was no other glove in that room that would even match it. I
5 did speak with the owners, and I was also told the -- it
6 didn't belong to anybody that worked there.

7 Q: I'm showing you what's marked as state's exhibit 28, and
8 ask you if you recognize what that is?

9 A: This is the glove that packaged into the brown paper bag
10 that night at the scene.

11 Q: So you did collect that glove?

12 A: Yes, sir.

13 Q: Could you -- could you open this?

14 A: Yeah.

15 Q: So we can see; do you have scissors?

16 A: I do not.

17 Q: Real quick before you open that, how do you recognize
18 that as yours?

19 A: This is a brown evidence bag that we use, and this is my
20 writing on here on the front, and my initials are on the back
21 with the envelope seal whenever I seal it.

22 MR. TERRELL: Your Honor, we'd ask that be moved into
23 evidence?

24 THE COURT: It's admitted.

25 (STATE'S EXHIBIT NUMBER 28

ADMITTED INTO EVIDENCE)

BY MR. TERRELL:

Q: Would you open that up for us please?

A: Sure. Do you want me to open up this bag too?

Q: Yes, please.

A: All right. Do you want me to open this one?

Q: Yes, please. Could you explain to the Court the importance of why it's packaged the way it is?

A: Our evidence package is sealed that way with evidence tape that if it's tampered with, it's going to tear, and my initials are on it from when I initially sealed it. So this is from the state lab.

Q: Okay. And why -- why did you initially collect the glove?

A: The glove is collected to potentially be able to send off to the state lab for potential DNA ownership.

Q: And was that done in this case?

A: Yes, it was.

Q: Then when they send it back, they repackage it; is that correct?

A: Yes, sir.

Q: Okay.

A: Inside this is another glove.

Q: And we know from the packaging and everything else that this is the same leather glove that you would have found that

1 night?

2 A: Yes, sir. Uh-huh (affirmative response).

3 Q: Or that morning?

4 A: Yes.

5 Q: Thank you. Once that item was collected into evidence --

6 -

7 A: Yes.

8 Q: --- were you involved at all in sending it to SLED?

9 A: I completed the processing sheet.

10 Q: Okay.

11 A: And that was the extent of that.

12 Q: Okay. And what goes on the processing sheet?

13 A: Just the group and item number from property and evidence
14 and what processing is being requested, as well as the
15 incident date and time.

16 Q: Do you remember what processing was being requested in
17 this case?

18 A: DNA ownership.

19 Q: Okay.

20 **MR. TERRELL:** I have no further questions for this
21 witness, Your Honor.

22 **THE COURT:** You may step down. Thank you.

23 **MR. TERRELL:** Justin Lieberth.

24 **THE CLERK:** Please raise your right hand and put your left
25 hand on the Bible?

1 JUSTIN LIEBERTH, HAVING BEEN

2 DULY SWORN TESTIFIES AS FOLLOWS:

3 THE CLERK: Please be seated and state your name for the
4 Court and spell your last name?

5 MR. LIEBERTH: My name is Justin Lieberth. L-I-E-B as
6 in boy-E-R-T-H.

7 DIRECT EXAMINATION OF JUSTIN LIEBERTH BY MR. TERRELL:

8 Q: Mr. Lieberth, where are you employed?

9 A: Myrtle Beach Police Department.

10 Q: And what is your -- what is your position there?

11 A: I am one of the training officers.

12 Q: How long have you been employed there?

13 A: A total of about 10 years.

14 Q: Do you remember coming up to the courthouse here in
15 Conway probably about a year ago?

16 A: I do.

17 Q: A year or so ago. Do you remember what date that was?

18 A: It was on May 18th.

19 Q: Of?

20 A: 2018?

21 Q: 2018. What was the purpose of your trip to Conway that
22 day?

23 A: I walked in, my training sergeant said, there's a Court
24 Order for you to, or not by me personally, but for someone to
25 go up there and get DNA from a Theodore Bolick, and I -- I

1 don't know if I had the court order in my hand or just came
2 here and got the cotton swab. I came through, I think it was
3 3-D down the hall, and I walked in. The Judge saw me walk in,
4 told Mr. Bolick to go with me up out to the vestibule out
5 there and cooperate with me, which he did, and I gave the DNA
6 cotton swab and I packaged it up when we finished and then
7 went back to my department and put it in evidence.

8 Q: So Mr. Bolick was pointed out to you that day?

9 A: Correct.

10 Q: And you collected a DNA swab?

11 A: Correct.

12 Q: A buccal swab?

13 A: Yes.

14 Q: And the process for that is what, how do you collect a
15 DNA swab?

16 A: They actually have a -- it looks like a very long Q-tip
17 just on one side; it's actually already pre-capped with a
18 plastic cap. You just open the cap, pull the plastic down,
19 you do a cotton swab inside the cheek, and you put the plastic
20 back on top and it snaps on top, I put it in the manilla
21 envelope and closed it up and put it in evidence when I got
22 back to my department.

23 Q: I'll show you what's been marked as state's 29. Do you
24 recognize that?

25 A: Yes.

1 Q: And what -- what are you holding?

2 A: I'm holding the manilla envelope I put the cotton swab in
3 because that is my initials and the same date that I took it.

4 Q: Your Honor, we'd ask that this be state's 29 we move into
5 evidence?

6 **THE COURT:** Without objection, it's admitted.

7 **(STATE'S EXHIBIT NUMBER 29**

8 **ADMITTED INTO EVIDENCE)**

9 **MR. TERRELL:** Thank you, Your Honor.

10 **BY MR. TERRELL:**

11 Q: And so that was -- that's the cotton swab you took of Mr.
12 Theodore Bolick?

13 A: Yes.

14 Q: And what do you do with it once it was collected?

15 A: I put it in this manilla envelope, and I processed it
16 through the P&E voucher system, and then once I was done with
17 it this evidence tape was sealed and I put my initials on it
18 and the date.

19 Q: And from there, what would have happened to it, if you
20 know?

21 A: I gave it to the P&E tech at the time, which was Mr.
22 Weathers, and he took into property and evidence at that time.

23 Q: Okay. Did you have any other dealings in this case
24 whatsoever?

25 A: No, not after I hand it over.

1 David O-A-N, as in Nancy.

2 **DIRECT EXAMINATION OF MALINDA SHADOAN BY MR. TERRELL:**

3 Q: Where are you employed?

4 A: The City of Myrtle Beach Police Department.

5 Q: And what is your -- what are your responsibilities there?

6 A: I am the Evidence Technician for the city and basically
7 not only are we the lost and found of the city, but we also
8 house, protect, and secure all the evidence that comes in from
9 each officer from our city limits.

10 Q: And in addition to keeping all that evidence, is one of
11 your duties to transport evidence to other laboratories?

12 A: I do.

13 Q: And did you do that in this case?

14 A: I did.

15 Q: Certain items were transported to SLED from this case; is
16 that right?

17 A: Correct.

18 Q: What were those items?

19 A: May I refer to my notes?

20 Q: Yes, ma'am.

21 A: It was the work glove, I believe it was the first one
22 that you guys have seen.

23 Q: That was sent to SLED when?

24 A: I took that to SLED on October 13th of 2016. And then
25 the buccal swab, which is the DNA swab of Theodore Bolick. I

1 had taken that to SLED on a different occasion and that was on
2 August 14th, 2018.

3 Q: And both of those items would have come directly from
4 your evidence custody; is that right?

5 A: Correct. Yes.

6 Q: How does that work?

7 A: So basically what I do is house and protect all that
8 individual evidence, and then when I get a what's called an I-
9 Lab, which is the processing form and request to take
10 something to SLED for analysis, I will then take it out of my
11 secure location and hand deliver it to SLED myself.

12 **MR. TERRELL:** I have no further questions for this
13 witness, Your Honor.

14 **THE COURT:** You may step down. Thank you.

15 **MS. SHADOAN:** Thank you.

16 **THE COURT:** Is that the last witness today?

17 **MR. TERRELL:** Yes, sir, Your Honor.

18 **THE COURT:** Ladies and gentlemen, you know when I was
19 giving you some preliminary remarks -- remarks I talked about,
20 we're required to do foundational questions and it takes a
21 while to finally get to the question you want. The same thing
22 applies for witnesses. Mr. Terrell was required to put
23 foundational witnesses up concerning what he offers to you as
24 evidence. And tomorrow, we were going to have some folks from
25 -- from the SLED here to testify. We did not bring them today

1 so we finished up a little bit early, and we're going to have
2 to break right now. But I ask you to come back at 9 o'clock.
3 We're moving along much faster than we thought, and I hate to
4 let you go so early, but it's just necessary because we don't
5 have the folks from Columbia here yet. Thank you, sir. 9
6 o'clock, Bobby, and Bobby have something for them in the
7 morning. Okay. Some biscuits, some doughnuts, something.
8 Okay.

9 **THE BAILIFF:** Yes, sir.

10 **THE COURT:** Go to Krispy Kreme.

11 **REPORTER'S NOTE:** (Jury excused for the day 3:28 P.M.).

12 **THE COURT:** Okay. We'll see you all in the morning. All
13 right?

14 **(COURT IS IN RECESS)**

15 **THE COURT:** We're just -- we're marking the knife
16 container, right?

17 **MR. TERRELL:** The second knife container, yes.

18 **THE COURT:** The second knife container is number 34.

19 **COURT REPORTER:** 57, Judge.

20 **THE COURT:** 57, okay.

21 **MR. TERRELL:** 57.

22 **(STATE'S EXHIBIT NUMBER 57**

23 **ADMITTED INTO EVIDENCE)**

24 **MR. TERRELL:** And then state's 34 is marked but has not
25 been talked about and I probably want.

1 **THE COURT:** Okay. Well we'll just wait then. All right.

2 All right. See you in the morning.

3 **MR. TERRELL:** Thank you, Judge.

4 **THE CLERK:** All right, Judge, I'll see you in the
5 morning.

6 **(COURT IS IN RECESS)**

7 **THE COURT:** Well pull those rascals in here. Good
8 morning, Sallie Beth?

9 **COURT REPORTER:** Good morning, Judge, how are you?

10 **THE COURT:** I'm good.

11 All right. Mr. Terrell, you ready?

12 **MR. TERRELL:** I am, sir.

13 **THE COURT:** Let the record reflect that Mr. Bolick chose
14 not to be with us again this morning. I fear that Mr. Bolick
15 might be perhaps living somewhere else now.

16 **THE COURT:** Good morning, Ms. Walter, how are you?

17 **MS. WALTER:** I'm fine, Your Honor, how are you.

18 **THE COURT:** I'm good. It's good to see you.

19 **MS. WALTER:** It's always a pleasure.

20 **THE COURT:** Tom, how many more do you think you're going
21 to call?

22 **MR. TERRELL:** I've got four more witnesses, Your Honor.
23 I imagine I'll be done within the hour.

24 **THE COURT:** Oh, okay. You gone do your DNA?

25 **MR. TERRELL:** Yes, sir.

1 **DULY SWORN TESTIFIES AS FOLLOWS:**

2 **THE CLERK:** Thank you. Please be seated and state your
3 name and spell your last name for the Court?

4 **MR. WIDENHOUSE:** My name is Doane Widenhouse. W-I-D-E-
5 N-H-O-U-S-E.

6 **DIRECT EXAMINATION OF DOANE WIDENHOUSE BY MR. TERRELL:**

7 Q: Good morning, Mr. Widenhouse.

8 A: Good morning.

9 Q: Where are you employed?

10 A: The Barrel Sports Bar and Grill.

11 Q: And what do you do there?

12 A: I am the general manager.

13 Q: How long have you been in that capacity?

14 A: Almost 11 years.

15 Q: And are you related to Ms. Judy Widenhouse?

16 A: Yes, sir, she is my mother.

17 Q: Okay. So is the Barrel Bar kind of a family business?

18 A: Yes, sir. It is a family operation.

19 Q: Okay. As the general manager, what are your duties?

20 A: Basically hire employees, all the ordering inventory,
21 cost controls, I do bartend, and I also cook, wait tables, a
22 little bit of everything. Kind of overall operations.

23 Q: Very good. Do you remember an incident that occurred
24 back in August of 2016?

25 A: Yes, I do, sir.

1 Q: And you were called out, I believe it was the morning of
2 August 18th; is that right?

3 A: Yes, I was.

4 Q: Who called you?

5 A: Actually, my mother called me.

6 Q: And what did she tell you?

7 A: She called me it was round, I don't know, around 4:30
8 A.M. in the morning saying that we had been broken into, that
9 I needed to get up and come up there, the police officers were
10 already there and had done a search of the premises, and that
11 we had actually been broken into.

12 Q: And you were -- you had surveillance video at the time?

13 A: Yes, sir.

14 Q: And you were able to assist the police in acquiring that
15 video; is that right?

16 A: Absolutely.

17 Q: How did that come about?

18 A: We have surveillance cameras throughout the inside and
19 the outside of our property, and we have a video recorder that
20 records on a constant loop. And we were able to go back to
21 about the time we thought the incident happened and were able
22 to see someone inside our building after business hours.

23 Q: Did you recognize that individual?

24 A: Not -- not at first I didn't, and when I looked at him
25 closer he looked like somebody that may have been in our

1 business before as a patron.

2 Q: Okay.

3 A: But I couldn't guarantee it because I just see so many
4 people on a day-to-day basis.

5 Q: Did he have -- would you know if he had been hired to do
6 any kind of work or maintenance?

7 A: Yes.

8 Q: And was that the case?

9 A: No.

10 Q: Did he have any reason so far as you knew as the general
11 manager to be there?

12 A: No.

13 Q: Okay. Were you able to copy that surveillance video and
14 hand it to the police?

15 A: Yes, I was.

16 Q: Were you able to do that immediately that morning?

17 A: Not immediately. We didn't have a hard drive to copy it
18 to immediately, but we were able to go obtain one from one of
19 the local stores, bring it back, get it recorded, and was able
20 to call the officer to let him know that we had it whenever it
21 was convenient for him to stop back by and pick it up.

22 Q: When did you make that phone call to?

23 A: It was mid-afternoon, around 2:30, 3 o'clock in the
24 afternoon.

25 Q: Of that same day?

1 A: Yes, sir.

2 Q: All right. And when -- during the course of the day,
3 what else -- what else did you do?

4 A: Well I had noticed the way the gentleman had left our
5 building, he actually had to kick one of the doors out to get
6 out of the building. We had found out the way he had accessed
7 the building was through a return vent on the roof. I was
8 working trying to get the door repaired, so we could actually
9 lock the building up that night. And then I actually crawled
10 up in the rafters to repair the hole in our roof, because it
11 had started raining.

12 Q: Okay. Did you find anything when you were up in the
13 rafters?

14 A: I actually found a knife in the rafters.

15 Q: I'm showing you what's already been marked and discussed
16 as state's exhibit 54. Do you recognize that?

17 A: I do, minus the pink residue on it, it's exactly what I
18 found laying on one of the rafters in our ceiling.

19 Q: Okay. So this is the knife that you found?

20 A: Absolutely.

21 **MR. TERRELL:** Your Honor, we'd ask that state's 54 be
22 moved into evidence.

23 **THE COURT:** It's admitted. Thank you.

24 **MR. TERRELL:** Thank you, Your Honor.

25 **(STATE'S EXHIBIT NUMBER 54)**

ADMITTED INTO EVIDENCE)

BY MR. TERRELL:

Q: So you found this in your rafters that morning?

A: Yes, sir.

Q: And to the best of your knowledge, it was not there at any time before that morning?

A: No, sir. It would have no reason to be there.

Q: Don't want anybody to get hurt, but -- about when in that day did you find that knife?

A: It was prior to calling the officer to come back to obtain the hard drive that we had recorded the video to. During that process, I was in the ceiling trying to repair the hole when I looked down, and when I saw it. So around the same time 2:30, 3 o'clock in the afternoon.

Q: Okay. And what did you do with that knife?

A: I immediately took, grabbed it, and put it in a plastic Ziplock bag, and I gave to the same officer that I gave the hard drive to when he arrived.

Q: And is one of your duties at the Barrel Bar as the general manager, is one of your duties general inventory?

A: Yes, sir.

Q: Were you able to tell what was taken?

A: Yes.

Q: What was taken?

A: A bottle of house rum.

1 Q: I have no further questions. Thank you very much.

2 A: Thank you.

3 **THE COURT:** You may step down. Thank you, sir.

4 **MR. TERRELL:** The state calls Officer Ammons.

5 **THE CLERK:** Please raise your right hand and put your
6 left hand on the Bible?

7 **MATTHEW RHETT AMMONS, HAVING**
8 **BEEN DULY SWORN TESTIFIES AS FOLLOWS:**

9 **THE CLERK:** Please state your name and spell your last
10 name for the Court?

11 **MR. AMMONS:** My name is Rhett Ammons. A-M-M-O-N-S.

12 **DIRECT EXAMINATION OF MATTHEW RHETT AMMONS BY MR. TERRELL:**

13 Q: Officer Ammons, where are you employed?

14 A: City of Myrtle Beach.

15 Q: What is your position there?

16 A: Patrol officer.

17 Q: And what are your general duties as a patrol officer?

18 A: Responding to calls. My unit also specializes in
19 shootings or high priority cases, interacting with lower
20 street level sales of narcotics and stuff like that.

21 Q: And were you employed in potentially the same capacity in
22 2016?

23 A: Yes, sir.

24 Q: Do you remember being asked to locate an individual back
25 in August of 2016?

1 A: Yes, sir.

2 Q: How did that come about?

3 A: Through working with numerous detectives, a lot of times
4 they would pass on information to me and a couple of guys I
5 work with in trying to locate them, if they ever have still
6 shots or video surveillance or anything like that for us to
7 try to locate them that way.

8 Q: All right. And did that happen in this case?

9 A: It did.

10 Q: And you were provided with a number of still shots; is
11 that right?

12 A: I was.

13 Q: I'm going to show you what's in evidence as state's 3, 5,
14 12 and 13. Do you recognize those?

15 A: Yes, sir. These are the photos that I was provided.

16 Q: When -- when you were provided with it, did you know --
17 did you recognize the individual?

18 A: I did not. No, sir.

19 Q: So how did you go about trying to figure who he was?

20 A: Over the years I've built a good rapport with a lot of
21 people that are locals that I unfortunately deal with in the
22 street level narcotics and homeless and different things like
23 that. So a lot of times I will reach out to those individuals
24 with the information that I'll have. Sometimes it's a hit or
25 miss; sometimes they know the people, sometimes they don't,

1 and in this case, after I showed a couple, they said they did
2 recognize him.

3 Q: Okay. And did they tell you who they recognized him as?

4 A: As Ted, is what they called him.

5 Q: Okay. And were they able to give you a location where
6 you might be able to find him?

7 A: After -- after connecting with about three or four
8 different people, they were finally able to tell me. Yes,
9 sir.

10 Q: Okay. And do you remember where that was?

11 A: I know that I -- I relayed that information to Detective
12 MacPherson, it could have been the same address that was
13 ultimately put on the search warrant.

14 Q: You mentioned the search warrant, did you go to the
15 execution of that search warrant?

16 A: Yes, sir.

17 Q: I show you state's 31 and 32?

18 A: Yes, that would be the Palmetto Vista.

19 Q: And that's the location of the search warrant?

20 A: Yes, sir.

21 Q: And is that where you were able to find this defendant?

22 A: Yes, sir.

23 Q: Were you involved in Ted, I believe is what you called
24 him, were you involved in his arrest that day?

25 A: Yes, sir.

1 Q: As part of the arrest process, did you pat him down and
2 search him?

3 A: Yes, sir. Every -- every person that goes into a patrol
4 car, they are searched, and their property is inventoried, so
5 that they can be given to the jail, so they can receive it
6 whenever they get out.

7 Q: All right. And then is that inmate property, is that
8 usually photographed?

9 A: Yes, sir.

10 Q: Okay. I'll show you what's marked for ID purposes as
11 state's 58 through 61 and ask you if you recognize those?

12 A: Yes, sir. That would be the stuff that was on his person
13 whenever he was taken into custody.

14 Q: So that's what you remember finding on Mr. Bolick that
15 day?

16 A: Yes.

17 **MR. TERRELL:** Your Honor, we'd ask that we move -- we'd
18 ask to move state's 58 through 61 into evidence?

19 **THE COURT:** They're admitted.

20 **MR. TERRELL:** Thank you, Your Honor.

21 **(STATE'S EXHIBIT NUMBERS 58 THROUGH 61**

22 **ADMITTED INTO EVIDENCE)**

23 **BY MR. TERRELL:**

24 Q: All right. We'll start with 58?

25 A: Yes, sir.

1 Q: What -- what is 58 a picture of?

2 A: A multi-tool and a small flashlight.

3 Q: And that was just on his person?

4 A: Yes, sir.

5 Q: Okay. And state's 59?

6 A: A large amount of change.

7 Q: Do you remember where that was found?

8 A: That was in one of his pockets.

9 Q: Finally, 60 and 61?

10 A: It's two of a three-knife set.

11 Q: I hand you what's been marked for identification purposes
12 as state's 57. Will you open that and see if you recognize
13 that?

14 A: Yes, this is going to be two knives and the case that
15 were found on him when he was arrested.

16 Q: The same knives from the ---

17 A: The photos.

18 **MR. TERRELL:** Your Honor, we'd ask to move state's 57
19 into evidence?

20 **THE COURT:** They're admitted.

21 **MR. TERRELL:** Thank you, Your Honor.

22 **(STATE'S EXHIBIT NUMBER 57**

23 **ADMITTED INTO EVIDENCE)**

24 **BY MR. TERRELL:**

25 Q: Are you familiar with what kind of knives these are?

1 A: Yes, sir. They're throwing knives.

2 Q: Do you have any knowledge of throwing knives?

3 A: I have a little bit. Over a little over 10 years of
4 marital arts experience, training in different tactics and
5 stuff, and those are used in at a certain point.

6 Q: And are you familiar with how a set of throwing knives is
7 generally packaged?

8 A: They're normally sold as three or four.

9 Q: I have no further questions for you. Thank you very much.

10 **THE COURT:** You may step down. Thank you.

11 **MR. TERRELL:** The state calls Adrienne Hefney.

12 **THE CLERK:** Please raise your right hand and put your
13 left hand on the Bible?

14 **ADRIENNE HEFNEY, HAVING BEEN**

15 **DULY SWORN TESTIFIES AS FOLLOWS:**

16 **THE CLERK:** Thank you. Please be seated. State your
17 name and spell your last name for the Court?

18 **MS. HEFNEY:** Adrienne Hefney. H-E-F-N-E-Y.

19 **DIRECT EXAMINATION OF ADRIENNE HEFNEY BY MR. TERRELL:**

20 Q: Agent Hefney, where are you employed?

21 A: With the South Carolina Law Enforcement Division, more
22 commonly known as SLED.

23 Q: And what is your position at SLED?

24 A: I am a forensic DNA analyst.

25 Q: What kind of training with being a forensic DNA analyst?

1 A: I have a Bachelor of Science Degree in Biology from the
2 University of South Carolina. I also have a Master of
3 Business Administration from Winthrop University. I was
4 trained on the job by a court qualified analyst, and each year
5 as a DNA analyst we are required to attend at least eight
6 hours of continuing education in the field of DNA analysis.

7 Q: Have you ever been asked to testify in court before?

8 A: I have.

9 Q: And during that testimony, have you been qualified as an
10 expert in forensic DNA analysis?

11 A: Yes, sir. I have.

12 Q: Approximately how many times?

13 A: Over 80 times now.

14 **MR. TERRELL:** Your Honor, we'd ask to move -- for the
15 Court to find Agent Hefney as an expert in the field of
16 forensic DNA analysis?

17 **THE COURT:** All right. Ladies and gentlemen, normally
18 when a person testifies that person may not give an opinion.
19 They may testify as to what they saw, they heard, they
20 smelled, things of that nature. There is an exception to that
21 rule, and that's what we call the expert witness exception.
22 If a person can demonstrate that that person has a certain
23 level of expertise in a particular art or science or
24 profession, and that person has received specialized training
25 and experience in -- in that area, the Court may determine

1 that that person may give an opinion, based upon their
2 training and expertise in that particular area, and they may
3 also give the reasons for their opinion. In this case, this
4 witness has been offered as an expert in the field of forensic
5 DNA analysis. It is my determination that she meets those
6 threshold qualifications to testify. That does not mean that
7 you have to accept her testimony. It is ultimately up to you
8 to determine whether or not you should believe her testimony,
9 accept her opinion, accept the reasons she gives for her
10 opinion. That's up to the jury to make that determination.
11 You may determine that she's not received sufficient education
12 and training in this area. You may determine that the reason
13 she gives for her opinion are not sound, and if you do, you
14 can totally reject her opinion if that's your finding. You
15 are to give an expert witness no more credibility than any
16 other witness simply because they're an expert. You will hear
17 her testimony. You have heard her qualifications, and you, as
18 the jury, will determine what weight, value, and effect, you
19 will give to her testimony. Mr. Terrell?

20 **MR. TERRELL:** Thank you, Your Honor.

21 **BY MR. TERRELL:**

22 Q: Agent Hefney, how long have you worked at SLED?

23 A: For 22 years.

24 Q: And have you been a DNA analyst the entire time?

25 A: No, sir. I started in November of 1997 as a forensic

1 technician in the DNA analysis department. In March of 1999,
2 I was promoted to DNA analyst where I have served since.

3 Q: Okay. And what is the -- just so we're all on the same
4 page, what does a DNA analyst do?

5 A: A DNA analyst is a sworn position within the South
6 Carolina Law Enforcement Division; and as an analyst, I
7 analyze biological evidence. It's evidence that was left
8 behind at a crime scene, and I make comparisons to known
9 standards. Known standards would be a buccal swab, or a -- a
10 blood standard from the victim or the subject, and/or the
11 subject that was involved in the case.

12 Q: And you brought some paperwork with you today; is that
13 right?

14 A: Yes, sir. I did.

15 Q: For Lab L-16-14250?

16 A: Yes, sir.

17 Q: And did you follow that DNA analysis analyzation process
18 in this case?

19 A: Yes, sir. I did.

20 Q: Can you tell us the two items that were asked to be
21 compared?

22 A: Yes, sir. I compared buccal swabs from Theodore Jerry
23 Bolick to a swab from scraping interior of glove.

24 Q: And each of those items of evidence will go through a
25 number of people on its way to you; is that right?

1 A: That is correct.

2 Q: I'm going to show you what's been marked as state's
3 exhibit 3 for identification purposes only. Do you recognize
4 that?

5 A: Yes, this is a chain of custody from SLED.

6 Q: Okay. So that would basically have whoever touched the
7 evidence; is that right?

8 A: Yes, sir. It's our record of who handled the evidence
9 and it traveled through our system at SLED.

10 Q: Thank you.

11 **MR. TERRELL:** Your Honor, we'd ask that state's 63 be
12 moved into evidence?

13 **THE COURT:** It's admitted.

14 **MR. TERRELL:** Thank you, Your Honor.

15 **(STATE'S EXHIBIT NUMBER 63**

16 **ADMITTED INTO EVIDENCE)**

17 **BY MR. TERRELL:**

18 Q: So we'll start with the glove. Could you tell us the
19 process that that went through to make its way to you?

20 A: Yes, sir. The ITEM I is described as one heat sealed
21 pouch containing glove, described as a single glove recovered
22 from the scene. It was received by SLED on October 13, 2016
23 and submitted by Malinda Shadoan of the Myrtle Beach Police
24 Department. She gave it to our forensic technician in our
25 evidence login department, Doris Yarbrough, who then put it on

1 the EP intake shelf, and what EP is evidence processing. So
2 it goes on an intake shelf and waits for an evidence
3 processing technician to retrieve it and analyze it. From
4 there it went to our forensic -- well it went to our evidence
5 control technician, Amy Stephens Black, who is no longer with
6 SLED, and she gave it to Courtney Thompson, who is within the
7 DNA department in our evidence processing unit. Courtney
8 Thompson would process the glove, she would do the scrapings
9 from the interior of the glove, and then return the glove to
10 the evidence control department after that.

11 Q: So you said do a scraping of the interior of the glove,
12 what -- what does that mean, what is the processing of the
13 glove like?

14 A: That is known as evidence processing, and what it is,
15 they'll do a visual examination of the glove. And when you're
16 looking for ownership of a glove, you will turn the glove
17 inside out and scrape it with a scraper and collect everything
18 you scrape from it on a piece of butcher block paper. From
19 this you'll take swabs and swab up everything she collected
20 off the paper which she scraped from the glove. And then
21 those swabs are then sent to me for DNA analysis.

22 Q: And that was done in this case; she sends the swabs to
23 you?

24 A: Yes, sir.

25 Q: All right. What happens with the rest of glove?

1 A: The glove itself is returned to evidence control to be
2 returned to the submitting agency.

3 Q: And then when the -- when the swab from the glove comes
4 to you, what do you do with it?

5 A: I make a cutting from the swabs and then start the DNA
6 analysis process.

7 Q: Moving to Item II, what was Item II?

8 A: Item II is described as one heat sealed pouch containing
9 buccal swab described as suspect DNA buccal swab standards
10 from Theodore Jerry Bolick. Date of birth 10/07/1964.

11 Q: And did that makes its way to SLED?

12 A: Yes, sir. It did. It was also brought by Ms. Shadoan of
13 the Myrtle Beach Police Department. At this time it was taken
14 by Charlotte Pitts, who was the technician in our evidence
15 control department. She placed on DNA intake shelf. From the
16 DNA intake shelf, it went to another forensic technician in
17 the evidence control department, Bethany Davidson, who gave it
18 to me.

19 Q: All right. Again, once you have the swabs is it the same
20 process regardless of where the swab came from?

21 A: Yes, sir. Well, yes, sir.

22 Q: Okay. So were you able to develop a DNA analysis of the
23 buccal swab?

24 A: Yes, sir. I analyzed the buccal swab after I analyzed
25 the cutting from the glove.

1 Q: Okay. And so once -- once you have both of them
2 analyzed, you're able to compare the two; is that right?

3 A: That's correct.

4 Q: And were you able to render any findings based on those
5 comparisons?

6 A: Yes, sir. And I'll read directly from my report and then
7 explain anything that still needs further clarification.

8 Q: If -- if we could, we can mark from you're going to read
9 from; do you have an extra copy?

10 A: No.

11 Q: This is marked as state's exhibit 64.

12 (STATE'S EXHIBIT 64 IS
13 MARKED FOR IDENTIFICATION ONLY.)

14 BY MR. TERRELL:

15 Q: Can you compare that with your paperwork, and just make
16 sure it's the same?

17 A: Yes, sir. It's the same.

18 Q: Okay. And what is state's exhibit 64?

19 A: It is a copy of my DNA report.

20 Q: And so what were your -- what were your findings of your
21 comparison?

22 A: Okay. The comparison standard was Item II, a buccal swab
23 from Theodore Jerry Bolick. The DNA profile that was
24 developed from it is suitable for use as a known standard. So
25 I developed a DNA profile to make the comparison. In Item

1 1.1, was a swab from the scraping interior of the glove. The
2 DNA profile is a mixture of at least two individuals. The DNA
3 profile of the major contributor matches the DNA profile of
4 Theodore Jerry Bolick. The probability of randomly selecting
5 an unrelated individual having a DNA profile matching the
6 major contributor to this mixture is approximately 1 in 3.6
7 nonillion. And then due to the inability to calculate a
8 statistic, no further interpretation will be offered regarding
9 the minor contributors. And what I mean by mixture, that
10 means there was two people contributing to the DNA found on
11 the interior of this glove. By major contributor, one person
12 contributed more DNA than the second person. Usually, it's
13 the person who wore the glove last, or who sloughed off the
14 most skin cells inside of that glove. And in this case, I
15 made a comparison between Mr. Bolick's DNA profile and
16 compared it against the glove as a whole -- the DNA profile of
17 the glove as a whole and saw that he matched the major
18 contributor. Once a visual match is made, then we apply a
19 statistical match to it. That just gives the evidence a
20 weight to saying that if you were to look at a nonillion
21 people, which is a lot of people, you should only expect to
22 see this DNA profile one time. And by not being able to say -
23 - give a statistic to the minor contributor, that profile was
24 so low that we couldn't give a statistic to it. It was under
25 the threshold that we use to give a statistic. So that was a

1 very minor profile.

2 Q: And what is -- what is a nonillion, can -- what does that
3 look like?

4 A: That is 1 followed by I think it's 27 groups of three
5 zeros. It's a lot. We go septillion and then octillion and
6 then nonillion. So I think it's nine groups of three zeros
7 after the one.

8 Q: So, this will be 3, 26 zeros?

9 A: Yes, sir.

10 Q: 3.6 nonillion.

11 A: Uh-huh (affirmative response).

12 Q: What -- what kind of conditions would lead to one person
13 leaving behind more DNA on a glove?

14 A: Well as I said, it just depends on how much skin cells
15 are sloughing off. If their hands are sweaty, they may leave
16 sweat behind. You can get DNA profile from that, because DNA
17 -- because skin cells will be within that sweat, and we can
18 get DNA from skin cells.

19 Q: So temperature and humidity when an individual is wearing
20 a glove could potentially have some bearing on how much skin -
21 - how much DNA is left behind?

22 A: That is correct.

23 Q: I have no further questions. Thank you, ma'am.

24 **THE COURT:** Thank you. You may step down.

25 Mr. Terrell, will you need her further?

2 **THE COURT:** All right. You're released from your
3 subpoena.

5 **MR. TERRELL:** The state calls Captain Susan Safford.

8 SUSAN SAFFORD, HAVING BEEN DULY

10 **THE CLERK:** You may be seated. If you just state your
11 name and spell your last name for the Court?

13 DIRECT EXAMINATINO OF SUSAN SAFFORD BY MR. TERRELL:

25 A: So for booking process we have copies of tickets,

1 warrants, NCIC checks, mug shots, we take pictures of any
2 scars, marks, tattoos of individuals that are booked into our
3 facility.

4 Q: And why do you -- why do you keep those records?

5 A: Identification purposes. We work with law enforcement
6 and try to help them identify whether it could be a suspect, a
7 victim, different things. We have search criteria within our
8 jail management system where we can identify people that have
9 been booked in our facility with tattoos in certain areas and
10 things of that nature.

11 Q: And did you bring some of those records into court this
12 morning?

13 A: I did.

14 Q: I'll show you what's been marked as state's exhibit 62;
15 do you recognize this?

16 A: I do. These are mug shots of Theodore Bolick on the
17 first page.

18 **MR. TERRELL:** Your Honor, we would ask that state's 62
19 be moved into evidence?

20 **THE COURT:** It's admitted.

21 **MR. TERRELL:** Would you like to see them, Your Honor.

22 **THE COURT:** No, that's all right.

23 **MR. TERRELL:** Okay.

24 **(STATE'S EXHIBIT NUMBER 62**

25 **ADMITTED INTO EVIDENCE)**

1 **BY MR. TERRELL:**

2 Q: So what are we looking at on the first page?

3 A: So the first page is just a full frontal view of a
4 mugshot and then we take one additional side mugshot as part
5 of our booking process for every inmate that's booked in. We
6 take a picture every time they get processed in.

7 Q: So every time an individual is booked in you take a new
8 mugshot, and you keep all of them; is that correct?

9 A: That is correct.

10 Q: And are you able to tell from the records you brought
11 with you this morning, when this mugshot was taken of Mr.
12 Theodore Jerry Bolick?

13 A: So that picture was taken August 29th of 2016. He
14 actually arrived at our facility August 28th of 2016 about
15 11:00 P.M. and the booking process does take some time. So
16 the picture would have been taken after midnight.

17 Q: On the second and third pages, what is on those pages?

18 A: Those are pictures of tattoos that were taken of him as
19 well.

20 Q: And this was during that same stay at J. Reuben Long; is
21 that right?

22 A: That is correct.

23 Q: And why do you -- why do you keep pictures of an
24 individual's tattoos?

25 A: Again, it's identification purposes. Again, it can be

1 used by local law enforcement to help identify. Internally we
2 use it as well if there is tattoos that we think are gang
3 related, then we'll document those. We have a gang officer at
4 the detention center as well that we look at that.

5 Q: Okay. So it's basically just for identification?

6 A: Correct.

7 Q: Okay. And how -- how would an instance come up where
8 you're asked to use those pictures?

9 A: Different scenarios. Our photo ID people have helped law
10 enforcement identify dead bodies before. They've had a tattoo
11 in a specific location. We can do a search in our system
12 based on race, gender, height, tattoo location. We've also
13 assisted if they've had a burglary or robbery, same thing,
14 identifying marks, tattoos, things like that, we can search
15 our system.

16 Q: Okay. So this is all kept in the regular course of your
17 business?

18 A: Yes, it is.

19 Q: How many pictures of tattoos did you bring with you?

20 A: I brought three.

21 Q: Three.

22 A: Uh-huh (affirmative response).

23 Q: What, if you can tell, what are they tattoos of?

24 A: One looks to be like some type of a bird with wings.

25 That one I can't really tell. It looks like there's maybe

1 some barbed wire. I can't tell if that's a skull at the top
2 of that one. And then this one looks like it has a half moon
3 in it as well.

4 Q: Okay. And on those pictures can you tell -- can you tell
5 from the record where those tattoos are located on the
6 individual?

7 A: They're on his arms, all three of them.

8 Q: Okay. I have no further questions. Thank you very much.

9 **THE COURT:** You may step down. Thank you.
10 Will you need Captain Safford?

11 **MR. TERRELL:** No, sir. I will not.

12 **THE COURT:** You're released from your subpoena, Captain.

13 **MS. SAFFORD:** Thank you.

14 **MR. TERRELL:** Your Honor, the state rests.

15 **THE COURT:** Very well. I tell you what, let's take a --
16 a just a few minutes, and then we'll come back in and do
17 closing and I will charge. Okay.

18 **REPORTER'S NOTE:** (Jury retires to jury room 10:24 A.M.).

19 **THE COURT:** Are they out?

20 **MR. TERRELL:** Yes, sir.

21 **THE COURT:** Okay. Mr. Terrell, you asked the Court to
22 take judicial notice of several facts at the beginning. Are
23 you going to move before the jury for that?

24 **MR. TERRELL:** I can, Your Honor. Yes, sir.

25 **THE COURT:** Well I think it might be the better way to do

1 the night of the 26th, the sun set at 7:48 P.M. and the sun
2 rose at 6:46 A.M. on the 27th.

3 **THE COURT:** And let me speak to you. Is that all?

4 **MR. TERRELL:** There is one more, Your Honor.

5 **THE COURT:** Okay.

6 **MR. TERRELL:** That on the morning of August 27th, 2016,
7 that just before 5 o'clock; the listed observation was at 4:53
8 A.M. The temperature was 72 degrees and the humidity was 93
9 percent.

10 **THE COURT:** Ladies and gentlemen, sometimes when a fact
11 cannot be disputed, it is recorded in the regular course of
12 business or otherwise. It is available from reliable sources.
13 The Court may simply take judicial notice of that. In this
14 case, the state has offered to the Court records concerning
15 when sunset -- when sunrise occurred and when sunset occurred
16 on the dates that these offenses were alleged to have been
17 committed. Those records are from reliable sources and have -
18 - this Court has taken judicial notice of that being the
19 correct dates and times. All right. Mr. Terrell?

20 **MR. TERRELL:** Thank you, Your Honor. So yesterday
21 afternoon I told you we were going to go quick, and we have
22 gone pretty quick. I told you that while it was going to be
23 relatively quick with the information that we were going to
24 hear from the witness stand, it was all going to be important.
25 Every one of those witnesses was necessary to get out

1 different pieces of evidence and information that I believe
2 you need to see, you need to hear, in order to make a
3 determination to be able to find this defendant guilty. As
4 His Honor informed you, the burden is on the state. We have
5 to prove to you beyond a reasonable doubt that Theodore
6 Bolick, this individual, broke in and committed three acts of
7 burglary second degree violent. Under the violent
8 classification, Judge Hyman just instructed you what that was.
9 Essentially, breaking into a building without incident with
10 the intent to commit a crime and he did so during the
11 nighttime hours. Each one of these three indictments has to
12 be proved on its own evidence.

13 As much as I tried to put it forth in an orderly fashion
14 from the witness stand, based on witness availability and we
15 had to jump around a little bit, and I apologize. All the
16 evidence came in and it's here before you. I'd like to go
17 through with you and look at it and see what we've got. We'll
18 take each of them -- each of these cases individually.

19 We'll start with the first one. The first one that
20 happened August 18th, 2016. That incident occurred at the
21 Barrell Bar. We have a video. You're able to see the
22 surveillance video and one of the angles they had inside. The
23 video from which these still shots came. You will have that
24 available to look at if you so desire, and you'll have all
25 these back there so you can compare the individual from the

1 surveillance video to the individual who is being accused.

2 What else do we see from the surveillance video? You get
3 a pretty good look at Mr. Bolick's hat, what he's wearing on
4 his head. You get a pretty good look at different angles and
5 some of what he's wearing on his hands. These gloves. You
6 see part of one of his tattoos right there. Go through them,
7 this is just one example, the tattoo on his right forearm.
8 It's there for you to compare and you decide if that's Mr.
9 Bolick. Again, not in great quality, but you were able to see
10 his tattoos. Compare that with the other pictures of the
11 tattoos that Captain Safford brought in also from his arms.

12 You heard about the search warrant for Mr. Bolick's
13 residence. You see the gloves in the surveillance video.
14 These are some of the gloves they found at his residence. You
15 look at it, you compare them. Look at the skull cap he's
16 wearing. Feel free to compare that.

17 This was found in his residence. Also you heard from
18 Doane Widenhouse this morning. What he found in the rafters
19 of the Barrel Bar when he was trying to repair the ceiling; it
20 was broken; it had been broken into. You can compare that to
21 what Mr. Bolick was arrested with on his person. The same
22 knives that you heard testimony were typically sold in packs
23 of three or four.

24 You remember just a moment ago, the Court took judicial
25 notice of sunset and sunrise the morning of the 18th. You

1 heard testimony that the time stamp from the Barrel Bar was
2 correct. You'll see it's approximately 4:43 that morning when
3 he was in there. Well before sunrise.

4 Move to the morning of the 26th, the China Chef. Again,
5 there's video. You seen it. You can watch it again if you
6 want to. A couple of the still shots they were able to get
7 from that, which Officer Ammons was able to use to try and
8 identify this defendant. Compare that with the pictures that
9 Captain Safford brought in. You'll notice he's wearing a
10 different skull cap in these pictures in the China Chef.
11 These are the photos of similar skull caps from Mr. Bolick's
12 residence.

13 This is the shoe print from off top of the China Chef
14 that was taken during -- during their investigation on August
15 26th. Inside Mr. Bolick's residence, they found a number of
16 shoes. They photographed the bottoms of them to show a
17 similar tread pattern. If you care to look at any of the
18 skull caps that were collected, they're in here. Do it,
19 compare them with the pictures from the surveillance video of
20 the China Chef.

21 Giff's Liquor store, the morning of the 27th. Going
22 backwards, I apologize. The date and time stamp. You heard
23 Ms. Jiang testify that the date was correct; the time was an
24 hour off. Anybody who remembers VCR's, camcorders, anything
25 like that, if you don't change it with daylight savings it's

1 going to an hour off half the year. She said that it says
2 6:30 on the video, but it actually would have been 5:30. The
3 morning of the 26th, sunrise was at 6:45.

4 Now, let's talk about Giff's Liquor Store. Again, an
5 individual that had no reason to be there, broke in through
6 the roof during the early morning hours. I believe he
7 testified, Mr. Giffin testified that he got a call sometime
8 between 2 and 3 in the morning, but certainly the early
9 morning hours. The sun rose on the 27th at 6:46 in the
10 morning, and this is what they found. Remember that glove;
11 they were able to send it to SLED and you heard Agent Hefney
12 this morning tell you the process of forensic DNA analysis,
13 how they scrape it, swab it and she creates a -- she develops
14 a profile and then they compare that with known standards from
15 suspects or individuals and compare the two. The chance that
16 the glove and the standards from Theodore Jerry Bolick, I
17 think she said 1 in 3.6 nonillion chance that it was somebody
18 else not Mr. Bolick as the major contributor. Now, I'm not
19 great with math and I'm not great with numbers, but that's a
20 really small chance that it's somebody else. She also said
21 that, you know, the major contributor -- she did say there was
22 a minor contributor, but she said the major contributor would
23 likely be the last person who wore it. She said the major
24 contributor, the amount of DNA they that leave behind could be
25 affected by how much that individual was sweating. You just

1 heard the Court take judicial notice of the temperature that
2 morning; low 70's, not overly hot but 93 percent humidity, and
3 you're wearing leather work gloves. I have to imagine you're
4 sweating. It's 70 degrees in here, not nearly 90 percent
5 humidity, I would imagine if you've got a glove on, you're
6 sweating.

7 What else do we know from that glove? Well, this is from
8 the search warrant in Mr. Bolick's residence. That's the
9 left-hand glove. What did they find? This is the left-hand
10 glove. This is the one they found in the residence. This is
11 the one they found in the liquor store, and they did a
12 comparison. Similar looking gloves, one is the left and one
13 is the right. One was found in the liquor store, and one was
14 found in his residence.

15 He's arrested while they're doing the -- executing the
16 search warrant. Officer Ammons testified to that. In
17 addition to having the knives on him, he had a pocket full of
18 change. So he was arrested on the 27th of August, and you
19 heard that on the morning of the 26th and 27th, the China Chef
20 and Giff's Liquor were broken into, and what was he able to
21 get? He took the cash drawers of the registers that didn't
22 have any cash in them, but they did have a substantial amount
23 of change in them.

24 Three separate burglaries, all proven through the same
25 evidence; each through its own evidence. You have this

APRIL 15, 2021 TRANSCRIPT

Pages 7-24

Pages 27-34

1 May 18th order where Judge John determined that the
2 motion to severe {sic} should be heard seven days
3 prior to trial. On that day, I argued in front of
4 Judge John that because there was three separate
5 charges, that I would need my witnesses for each
6 charge; that for me to have to subpoena all of my
7 witnesses and force them to sit through all three
8 trials would be unfair to me, because my witnesses are
9 working people with jobs. The judge said that I would
10 have -- I should have the right to know what witnesses
11 to subpoena for what day, and the Court should
12 determine should the motion to severe (sic) go
13 forward. The judge gave me seven days prior to trial
14 for that motion to be determined.

15 THE COURT: Okay.

16 MR. BOLICK: -- On July 22nd, I appeared before
17 Judge Hyman. Mr. Terrell, out of the blue blue, -- came
18 up with an order that allegedly he had Judge John --
19 he argued in front of Judge John on the date. It is
20 dated on the 5th, I think, of May or March, and then
21 the order signed on March 6th. But if you will look
22 at that order, down there it's just typed in. Even
23 Judge John -- where he usually dates it and writes his
24 code number, Judge John meticulously writes out his
25 orders in his own handwriting, but on that date, it is

1 typed. If you look at Judge John's signature, it is
2 double stroked like he don't know how to sign his
3 signature. When you look at all them other orders
4 from Judge John, every one of them is handwritten,
5 date is handwritten, his code number is handwritten.
6 As a matter of practice, Judge John handwrites all of
7 his motions.

8 Mr. Terrell produced before the Court what I
9 would allege is a fabricated motion, where he forged
10 it; or either on the alternative, he went before Judge
11 John ex parte without me and had Judge John overturn
12 his prior order. I was not there. The transcripts
13 will show -- there is no transcripts on that second
14 order. I was not there. I wasn't represented by
15 counsel. So if he did approach Judge John ex parte
16 like that, what is the conspiracy taking place?

17 THE COURT: Let me ask you this. The question
18 right now is whether to sever the trial -- whether to
19 sever your three trials back to -- one trial back to
20 three separate trials and make them try you over; is
21 that what you are asking for?

22 A Yes, sir. I didn't commit these crimes, and I
23 have irrefutable evidence.

24 THE COURT: Hold on right there. Now, if I
25 granted your motion to sever the trials and make them

1 try you over in person, who is going to represent you?
2 Are you going to represent yourself?

3 MR. BOLICK: Yes, sir.

4 THE COURT: Or do you need counsel?

5 MR. BOLICK: Because I've been locked up so long
6 and lost everything, I would need co-counsel for the
7 specific purpose of helping me subpoena evidence,
8 getting the transcripts ready, and preparing and
9 having the evidence I need to represent myself and
10 prove my innocence and prove the conspiracy that this
11 man has done. I mean, Your Honor, I can show you
12 right now in one case, it is a burglary case on a
13 liquor store, Myrtle Beach Police found a variety --
14 garden variety of blue denim gloves. They found it in
15 the liquor store. That piece of evidence alone
16 standing by itself is what I was charged with that
17 crime.

18 Here is the kicker. I'm held in jail on
19 August 27th. I'm put in jail; never allowed to see
20 a judge. I'm held with no bond for four months. I
21 finally get in front of a judge. He gives me a
22 \$35,000 bond. I immediately post bond to find out
23 Myrtle Beach Police have threatened my witnesses and
24 ran them out of the hotel I lived in and worked in.

25 THE COURT: Hold on a minute. I have to solve

1 one problem at a time. You want me to appoint
2 co-counsel? This is important to understand. If I
3 grant your motion -- because usually you need a lead
4 counsel. If I appoint a lawyer to represent you, if
5 you are lead counsel and he only helps you get in
6 evidence and subpoena witnesses, he needs to
7 understand his role. Many times, if he disagrees how
8 it ought to go and how it ought to happen, then I
9 don't want to get in a middle of a trial and we have
10 this issue. So he can advise you -- if you are lead
11 counsel and pro se; if you mess up, it is your neck.
12 If you are going to take his advice for it, then he
13 has got to make the calls on what comes in and how it
14 is cross-examined and how it is not; you understand?

15 MR. BOLICK: Yes, sir, Your Honor. And to
16 relieve you and to prove that I know what I'm doing,
17 Your Honor, my name is Theodore Williams before I
18 moved to the state of South Carolina. The chief
19 United States attorney for North Carolina is currently
20 Ripley Rand. In North Carolina I picked -- six times
21 I picked the jury and represented myself, back to
22 back, in felony cases. Each case I faced a habitual
23 felon charge on top of the conviction. Judge Ripley
24 Rand, at the end of my last trial, said he ordered my
25 transcript to teach the law students of the value of

1 being prepared for trial, that my closing arguments
2 was one of the best he had ever heard, and that what I
3 had done in practicing law was unprecedented. Marcus
4 Jimmison reported this in the 2008 Charlotte News and
5 Observer, Theodore Williams fighting to clear his
6 name, and it covered the entire front page. You can
7 Google it and read it and that will give you my
8 credentials.

9 THE COURT: I'm not questioning your credentials.
10 You have a Constitutional right to represent yourself,
11 and I'm willing to give you that right, but you've
12 asked for co-counsel. I want to be sure that your
13 co-counsel that is appointed understands his role. If
14 you are lead counsel and make the call, you can't PCR
15 him if you get convicted and mess up.

16 MR. BOLICK: You are exactly right.

17 THE COURT: If he's only there to help you with
18 Rules of Evidence and only there to help you get
19 evidence and subpoena witnesses, that is one thing;
20 but if he's going to be in that limited role, he knows
21 what that role is.

22 If it is a situation that you disagree with
23 him -- and I want it clear now -- you will take the
24 lead, and it is your responsibility; is that right?

25 MR. BOLICK: Everything I asked him to subpoena

1 and have prepared for me and get to court for me, I
2 will write him a letter and send a copy to the clerk
3 so there is no doubt, no question.

4 THE COURT: Now, sometimes he can't do what you
5 ask.

6 MR. BOLICK: He can explain it.

7 THE COURT: And sometimes you ask him to subpoena
8 witnesses, and he may not be able to find those
9 witnesses. He can issue subpoenas, but they may be
10 gone. That problem occurs on both sides of the table;
11 you understand that?

12 MR. BOLICK: Yes, sir.

13 THE COURT: So that will have to be addressed at
14 trial time, but you can't give him a list of witnesses
15 ten minutes before the trial expecting him to produce;
16 you understand that?

17 MR. BOLICK: Yes, sir.

18 THE COURT: Okay. Now, I guess do you have any
19 law that allows you to try these three instances
20 together?

21 MR. TERRELL: Yes, sir. I was prepared with that
22 the morning the trial was to begin. Essentially, the
23 -- as I explained, with the three instances being held
24 close together proved by the same evidence of the same
25 type of stores, same things were stolen, it looks like

1 they were -- the businesses was going through the same
2 thing -- same manner. Evidence linking Mr. Bolick to
3 each one of the crimes was found at each one of the
4 places.

5 THE COURT: What case are you quoting?

6 MR. TERRELL: Sorry.

7 THE COURT: I thought that case all occurred the
8 same day. You have a case that occurred on three
9 different days?

10 MR. BOLICK: While he looks for that, Your Honor,
11 I'll refer you to State versus Middleton. This is
12 where a man escaped from prison, broke into a house,
13 he raped and murdered a woman. The next day he broke
14 into another house, rape and murdered another woman.
15 On the third day, got caught trying to rob a store.
16 South Carolina Supreme Court ordered that to try them
17 cases together would prejudice his rights; they were
18 not. And I would also -- State versus Tate on
19 forgeries. I've never found a case to where you can
20 do this with a burglary, and I have been researching
21 for over a year.

22 THE COURT: I understand, and I'm familiar with
23 the Middleton case. I'm familiar with a number of
24 cases that deal with this, but I'm not familiar with
25 any that allows you to do it on separate days, but I

1 don't know everything.

2 MR. BOLICK: I have 11 cases here from 1985 to
3 2000 from the Supreme Court in South Carolina where
4 they plainly say there are four reasons that you can
5 do that. Excuse me, Your Honor, I will read you
6 verbatim each one of these cases alleged --

7 THE COURT: We had a case in the last five years,
8 but I thought it occurred back-to-back in Columbia.

9 MR. BOLICK: Both the South Carolina and the
10 Supreme Court say there are four basic requirements
11 for charges for separate indictments to be joined;
12 that is that the charges must arise out of a single
13 chain of circumstances; charges must be proven by the
14 same evidence; charges must be the same general
15 nature, and no substantial right of the defendant can
16 be violated. I will give this Court -- if you will
17 show him that page -- all 11 cases right there --

18 THE COURT: I'm familiar with that. I thought it
19 was out of Columbia, out of Five Points, where the
20 Supreme Court allowed it, but it was a chain of events
21 that happened back-to-back-to-back.

22 MR. BOLICK: These did not. Actually, there is
23 almost a month difference in the dates of occurrences.

24 THE COURT: In your case?

25 MR. BOLICK: Yes, sir.

1 THE COURT: Do you agree with that, sir?

2 MR. BOLICK: One of them happened on one day, one
3 happened on another day, and I think one of them
4 happened 14 days prior to that. It was all within the
5 month.

6 MR. TERRELL: I'm sorry, Your Honor. One was
7 August 27th. This one was August 18th. And this
8 one was August 26. So it was one, and then a week
9 later there were two back-to-back.

10 The case law I think he has -- Mr. Bolick has the
11 elements that allow you to enjoin a case substantially
12 correct. It is a single chain of circumstances, which
13 we would argue that if not all three of them, then at
14 least the second two could be tried together as they
15 were back-to-back nights.

16 THE COURT: But there is a gap in between. In
17 that case that -- I'm trying to remember the facts. I
18 think it was in Five Points or somewhere where a group
19 of people were smoking crack and went out stealing or
20 robbed somebody, get another one and another one. It
21 was all one high, back-to-back-to-back. The Supreme
22 Court allowed that case, but I've never known them to
23 allow cases on separate days. I may have missed it,
24 but I've been doing this since 1983, and I haven't
25 seen one yet that allows it. I was a prosecutor for

1 25 years. But if you found one, I learn something
2 every day and I'll be glad to look at it.

3 MR. BOLICK: I would love to see it myself. I
4 tried hard with Westlaw, even Google.

5 DEPUTY: Do you want this paper?

6 MR. BOLICK: It gives you the 11 cases.

7 THE COURT: I know. I haven't looked at those
8 cases much.

9 MR. BOLICK: Starting 1985.

10 THE COURT: My wife was a witness in State v.
11 Tucker; that was a death penalty case that occurred in
12 Sumter or Calhoun County.

13 MR. BOLICK: State versus Tate was where a man
14 forged a check, the same type of check twice, but he
15 did it on different days, and the Court of Appeals
16 wouldn't let that one. Just like I explained with
17 Middleton, that has to be the most outrageous thing.
18 If ever a case would have been able to be joined
19 together, it would be State versus Middleton.

20 THE COURT: If I grant your motion to sever this
21 case and start over and try you again, and they can
22 try you on all three --

23 MR. BOLICK: Yes, sir.

24 THE COURT: Are there any other issues that I
25 need to deal with? Will this be ready to go to trial?

1 If they decide to make you a plea offer, are they to
2 make it to you, or your attorney?

3 MR. BOLICK: Your Honor, I will say this
4 respectively. He can keep his pleas {sic}. What I
5 have lost in this time, I'm going to teach Mr. Terrell
6 a lesson.

7 THE COURT: That's just normal protocol, to make
8 you a plea offer. If you are going to reject, that's
9 fine; he won't waste his time. He will just tee it up
10 for trial. If he can find me a case that I'm wrong
11 --

12 MR. TERRELL: Your Honor, I was prepared for this
13 argument the morning of trial.

14 THE COURT: Well, if I don't grant the motion,
15 you won't have a trial, right? So if you want to
16 argue it in front of whatever trial judge, but the
17 question is whether I'm going to give him a new trial
18 or not.

19 MR. TERRELL: That is a motion -- that is one of
20 his motions, is for a new trial. One of those is
21 based on --

22 THE COURT: Let me ask you one thing. It appears
23 from what you told me that he was here the day before
24 trial?

25 MR. TERRELL: Yes, sir.

1 THE COURT: So he had clear notice of trial, so
2 notice of trial is not an issue?

3 MR. TERRELL: No, sir.

4 MR. BOLICK: Your Honor, I beg to differ. If you
5 look at them orders, I was given notice by what I was
6 aware of, I would have a hearing seven days before
7 trial on that motion to severe {sic}. Out of the
8 clear blue, he fabricates the judge's order and brings
9 it into the courtroom. I can't say that he did that
10 for sure, but that is what I truly believe; or he went
11 before Judge John with ex parte communication. And
12 then when we go back, Your Honor, to the original
13 motion to dismiss for prosecutorial misconduct is when
14 they locked me up on August 27th, never let me see a
15 judicial official, took me straight to J. Reuben Long,
16 held me in jail until December 5, '17. Finally, they
17 took me in front of a judge and gave me a bond. And
18 then for me to get out and find out that the Myrtle
19 Beach Police had been to the hotel where I worked and
20 threatened my alibi witnesses, witnesses that plainly
21 when the officer came and asked me about that day, she
22 said, Where were you on this day? Monique plainly
23 told that officers right there, He was with me in my
24 house. It is on video.

25 THE COURT: Okay. I can grant a motion for a new

1 trial and let the trial judge determine whether to
2 sever your trial or not. If that is what the State
3 wants me to do, I can rule on the severance motion,
4 whatever. I think he's entitled to a new trial
5 because of that. I, personally, don't think you can
6 try them together. With the law I know, you can't.
7 There may be some cases out there that I'm unaware of
8 that the Supreme Court addressed this, because I have
9 not studied it, other than by doing this for a long
10 time. I always took the position that if it happened
11 on different days, if it weren't a chain of events
12 that even could have gone over into the next day, like
13 it happened at 11 o'clock. I never had a judge let me
14 do it before, and I never let anyone do it, but I may
15 be wrong.

16 MR. TERRELL: Your Honor, there was -- I guess it
17 is more of a procedural thing. First off, I could go
18 downstairs and try to find that case law quickly; I
19 don't think it should take me too long.

20 MR. BOLICK: I have all of that.

21 MR. TERRELL: Excuse me. With that said, we were
22 prepared to argue this motion the morning of trial.
23 When he didn't show up, and the motion was dismissed,
24 on that day I was prepared to argue in front of the
25 judge. If he told me just try one and sever it, we

1 would have tried one.

2 THE COURT: Well, clearly -- you may be able to
3 try two under your scenario, but I don't know that you
4 can try all three. You may think you can, but I don't
5 think so. So he gets a new trial, and the trial judge
6 can determine whether you can try two together, one
7 separate, or all three together.

8 MR. TERRELL: Correct. That motion to sever was
9 dismissed before the Court. There is no motion to
10 sever. There is a motion for a new trial based on
11 joinder.

12 THE COURT: I understand that, but the Court of
13 Appeals came back for a record, I assume. I guess the
14 Court of Appeals came back for some record, because
15 he's appealed it to the Court of Appeals. You all
16 tell me that they sent it back to have a record as to
17 what was done.

18 I guess the situation is if I rule, you got
19 whatever record, and we can put anything on the record
20 you want to, and it goes back to the Court of Appeals.
21 The question is whether double jeopardy will attach.
22 And, of course, he's been tried once and convicted,
23 and then it gets set aside, you can try him again.

24 MR. BOLICK: For prosecutorial misconduct.

25 THE COURT: That is a whole other ball game.

1 MR. TERRELL: Which I do need to put on the
2 record to protect myself: This has been investigated
3 by ODC, and they found it baseless, just so Your Honor
4 is aware.

5 THE COURT: I agree; that is up to them. I don't
6 find any prosecutorial misconduct. I'm dealing with
7 the law before me. I know he made that argument, and
8 he can make that to ODC. That is something I don't
9 deal with. That is totally up to them. I'm trying to
10 deal with his Constitutional rights.

11 MR. BOLICK: In all fairness, I've petitioned the
12 South Carolina Supreme Court for writ of certiorari,
13 because while I was being held in jail and wouldn't
14 hear my motion for mistrial, they wouldn't hear my
15 motion for a new trial. I filed writ of habeas corpus
16 with the Court of Appeals. The Court of Appeals
17 remanded it and sent it back to me saying, You haven't
18 appealed, you can't. I said, No, the writ of habeas
19 corpus don't say I have to have an appeal pending.

20 THE COURT: I understand, but that isn't before
21 me today. My deal is just whether you get a new trial
22 or not. Then, there is some record that if I'm wrong,
23 they can appeal me to the Court of Appeals. If they
24 say, Nope, he doesn't get a new trial, the facts are
25 on record. I'm just saying whatever facts you want

1 the Court of Appeals to consider on this record, you
2 better put them in. It just appears to me that the
3 fact that -- if you would have been tried with one, I
4 would have let that stand. I just don't think -- and
5 I may be wrong -- that they could try you on those
6 three indictments. Maybe on two together if they were
7 back-to-back time and other facts I hadn't considered.
8 But one that is a week earlier, I just don't think the
9 Supreme Court, based on all of the prior case law,
10 that they can do that.

11 I don't know that Judge Hyman ever ruled on that,
12 because once you didn't show back up, the motion was
13 dismissed and things went on. So I don't know that
14 there ever was any ruling by any judge on the circuit
15 level on that issue, and I guess that is what they
16 wanted me to do.

17 MR. TERRELL: It may just be a procedural thing
18 more than anything. I'm not entirely sure it is
19 appropriate to order a new trial based on what is
20 essentially after discovered evidence or difference of
21 opinion on what may constitute grounds for severance;
22 I'm not sure that's before the Court.

23 Now, if the Court of Appeals takes it up, they
24 may very well agree with you and Mr. Bolick and say
25 they should have been severed and send it back for a

1 new trial.

2 THE COURT: So what does the Court of Appeals
3 want me to decide? I thought that is what they wanted
4 me to decide and to have some record.

5 MR. BOLICK: If I may, just like State versus
6 Tate, at the end of the trial, a motion for a mistrial
7 is usually granted at the end of the trial before the
8 judgment or after, but at that time. Your Honor, I
9 made this motion on April 19th -- I turn around --
10 of 2020. I turned around and filed the motion for a
11 new trial on June 6th of 2020. I was brought before
12 Judge Seals.

13 THE COURT: And the judge ruled on that?

14 MR. BOLICK: No. He refused to even allow me to
15 speak. He didn't inquire as to my right to counsel.
16 He basically humiliated me. Mr. Terrell and
17 Mr. Stinko {sic} and Judge Seals laughed like a bunch
18 of girls while I was being bum-rushed out of the
19 courtroom giggling at me. He said, If you don't like
20 it, appeal. Well, I did, Your Honor, and here we are.

21 THE COURT: I'm supposed to hear a motion to
22 reconsider, motion for mistrial, motion for
23 appointment of counsel, so.

24 MR. BOLICK: I have manifested where Judge
25 John --

1 THE COURT: You made a motion to reconsider? And
2 I assume that is a motion to reconsider the sentence?
3 Or what is the motion to reconsider for?

4 MR. BOLICK: Judge, on September 16th when I --
5 I was brought before -- September 16, 2020,
6 Mr. Terrell had me brought in front of Judge Williams
7 Seals. I was brought into the courtroom. I spoke in
8 front of Judge Seals. I tried to inform him that I
9 had a motion for mistrial, motion for a new trial that
10 I wish to be heard on. I'm only here to read this
11 judgment, and that is his exact words and the way he
12 spoke to me. When I said, Your Honor, I haven't been
13 heard at no time in this; could I please be allowed to
14 be heard? He said, You have five minutes. I said,
15 Your Honor, the United States Supreme Court -- I got
16 that out of my mouth, he rudely interrupted me, he
17 read the judgment to me and had me escorted out of the
18 courtroom. Mr. Terrell, Mr. Stinko {sic} and Judge
19 William Seals started laughing, and Judge William
20 Seals said, If don't like it, appeal. He didn't even
21 consider me having the right to counsel on appeal. I
22 had to twice file the appeal to get it heard.

23 THE COURT: The motion I have before me from the
24 Court of Appeals is a motion to reconsider, a motion
25 for a mistrial, and appointment of counsel. I've

1 ~~THE COURT: That may take awhile. I'll let them~~
2 ~~take you back because they can't take you until they~~
3 ~~decide what to do. The Solicitor has to decide what~~
4 ~~he will do, whether he will try the case, dismiss,~~
5 ~~offer you a plea. I'm not --~~

6 MR. BOLICK: ~~In his best interest, I would advise~~
7 ~~him to dismiss it and save his companions that he has~~
8 ~~conspired with.~~

9 THE COURT: I understand, but he will do his job.
10 You do whatever you think is proper, but threatening
11 won't accomplish anything. You may end up getting
12 tried three times and looking at a whole lot more
13 time; you understand? You could be looking at 45
14 years; you understand that?

15 MR. BOLICK: Yes, sir.

16 THE COURT: Okay. Anything else you want to put
17 on the record? You have ten days -- both sides -- to
18 make a motion for me to reconsider. So if you think
19 I'm wrong on this mistrial, file anything you want to
20 in ten days. After ten days, I can't change it.

21 MR. TERRELL: Yes, sir.

22 MR. BOLICK: Will you have the clerk send me a
23 copy of the order to 4848 Gold Mine Highway, Kershaw,
24 South Carolina so that I can get a copy of this order?

25 THE COURT: Okay. Yes, sir.

1 MR. BOLICK: Thank you. And God bless, Your
2 Honor.

3 THE COURT: Yes, sir.

4 MR. TERRELL: Will he have an attorney, or will
5 he be pro se?

6 MR. BOLICK: I will be lead counsel.

7 THE COURT: But you are going to have an
8 attorney. Sometimes it is hard for them to contact
9 you. Your court appointed attorney is who? Who is
10 his attorney?

11 MR. TERRELL: He does not have one.

12 THE COURT: I thought Steven John appointed him
13 someone?

14 MR. TERRELL: No. He was adamant to go forward
15 without an attorney.

16 MR. BOLICK: I want co-counsel simply to help me
17 subpoena.

18 THE COURT: So I'll appoint someone from the
19 Public Defender's Office to help you; you understand
20 that?

21 MR. BOLICK: I'll write whatever I request them
22 to do and give them case law why they have to do that.

23 THE COURT: I understand. But sometimes they
24 can't do what you say and some other judge has to deal
25 with you; understand?

1 MR. BOLICK: Yes, sir. Yes, sir. Yes, sir.
2 They should be able to inform me whatever.

3 THE COURT: You all can -- instead -- you want to
4 deal with his attorney, or straight with him? It may
5 be easier to deal with his attorney with any
6 communications you have.

7 MR. TERRELL: If those are my only two options, I
8 prefer an attorney.

9 THE COURT: I understand.

10 MR. TERRELL: Now, in his numerous motions he is
11 very clear that he believes that a conflict of
12 interest exists between the Public Defender's Office
13 and him. He is adamant, and has been since day one,
14 that the Public Defender's Office, in any capacity,
15 not represent him. Are we talking about hybrid
16 representation that South Carolina doesn't recognize,
17 or are we talking about limited --

18 MR. BOLICK: I'll solve it. I'll waive my
19 conflict of interest with the Public Defender's Office
20 on the point that they are appointed solely to help me
21 prepare subpoenas and get evidence before the Court.

22 THE COURT: I understand. But I will tell you
23 this: They may quit. If they do, some judges will
24 probably let them. Because you can't -- if you put
25 them in a position that they can't do what you asked

1 them to do, then you are going to be by yourself.

2 MR. BOLICK: Yes, sir.

3 THE COURT: You all, anything else you want to
4 put on the record?

5 You understand you don't get to pick your
6 attorney? If the Public Defender's Office thinks they
7 have a conflict with you, I'll appoint a 609 attorney.

8 MR. BOLICK: Please put that counsel is to
9 assist, and that I'm lead counsel.

10 THE COURT: Well, that's going to be up to the
11 trial judge. I was trying to work out something to
12 get through this case, but I've had counsel in the
13 past who simply sit back there during trial and assist
14 you in legal arguments and paperwork, but that
15 attorney doesn't get up and address the Court; you
16 have to do all of that. That attorney is not
17 addressing the jury, does not handle witnesses, that
18 attorney is not talking to the jury. That attorney
19 simply gives you legal advice of evidentiary issues
20 and procedural issues.

21 MR. BOLICK: Your Honor, I promise you, if you
22 read the 2008 Charlotte article I referred to, I know
23 how to call my witnesses and lay foundation for
24 evidence, question witnesses. I am very familiar with
25 proper courtroom decor {sic}.

1 MR. TERRELL: We would object that on procedural
2 grounds that this is a motion that should have been
3 heard by the trial judge, or a motion that should have
4 been heard by the judge who unsealed the sentence.

5 THE COURT: You all asked me to deal with the
6 attorney issue, and I did. Because, technically, I
7 can follow the Supreme Court order and leave this
8 alone.

9 MR. TERRELL: I mean the motion for a new trial
10 and reconsideration; I was going back to that.

11 THE COURT: Oh, I'm sorry.

12 MR. TERRELL: Those were motions that should have
13 been heard and were appropriately addressed ahead of
14 time.

15 THE COURT: I agree, but the Court of Appeals
16 sent it back. What am I supposed to do? They sent it
17 back and said put something on the record. That's
18 what I thought I did. I don't know what else to do
19 with it.

20 MR. BOLICK: In rebuttal, please listen to me, on
21 September 17, when Mr. Terrell called me before Judge
22 Seals, my judgment had not been opened. It had not
23 been read. That was the perfect time for my motion
24 for mistrial or my motion for new trial to be heard,
25 and he, by not saying anything that day and allowing

1 -- he waived that argument.

2 MR. TERRELL: I'm just trying to preserve it,
3 that's it.

4 THE COURT: I understand, and it is preserved.
5 If you have -- you have ten days if you think I'm
6 wrong, and I may be.

7 MR. BOLICK: You're not.

8 THE COURT: All the law I know, I just didn't
9 think you could do that, but there may be something I
10 missed. But no other judge I know of has ruled on
11 that issue, and so I think -- I think in the interest
12 of fairness, you have to start over and try him with
13 him present.

14 MR. TERRELL: If I recall the case law correctly,
15 what I can remember is, essentially, that no set time
16 frame has been established as long as it could be
17 proved by the same --

18 THE COURT: Right. And you are right, but the
19 fact --

20 MR. TERRELL: That was my argument.

21 THE COURT: I think you are right, because I
22 remember it was a series of events between smoking
23 crack and committing crimes. It was a series. They
24 never stopped. They go get high, steal money, come
25 back, robbed money, come back and get high again. So

1 they did a number of crimes, but it was all
2 continuously getting high, stealing more money. The
3 Supreme Court ruled on that. They didn't set a period
4 of time; they left that door opened. So, you know, I
5 may be wrong, but I think a week apart is clearly too
6 far, in my reading of the case that I thought they
7 intended the fact that these people were committing
8 crimes of getting high, stealing. And I agreed, I
9 thought they were right.

10 MR. BOLICK: Furthermore, there was no evidence
11 of getting high or codefendants. There is nothing.
12 And one more thing --

13 THE COURT: That is not before me.

14 MR. BOLICK: -- when I was carried to the
15 Department of Corrections, the Sheriff's Office kept
16 all my property, all of my discovery. I had disks.
17 He gave me a video where one of the culprits has a
18 tattoo on his lower back, which I don't, never have.
19 All of that evidence the sheriff destroyed, and so I
20 would have to make a new motion for discovery and have
21 him provide --

22 THE COURT: Do you know anything about that?

23 MR. TERRELL: About the sheriff destroying his
24 evidence? No.

25 THE COURT: Or any evidence not turned over?

1 MR. TERRELL: He's gotten everything multiple
2 times.

3 MR. BOLICK: I can have my sister write an
4 affidavit that she called the Sheriff's Department
5 multiple times trying to have them send my property,
6 which was my evidence, my discovery, disclosure by
7 him, send it to her, that she was willing to pay for
8 it. I got Major Johnson, Joe Johnson --

9 THE COURT: What is the list of evidence that you
10 claim hasn't been returned?

11 MR. BOLICK: Everything he gave me. I'm not
12 allowed to have CDs.

13 THE COURT: He can give that again, if you don't
14 have it, if you tell me you left it at the jail.

15 MR. BOLICK: Yes, and the jail destroyed it.
16 They are agents of the state; I can't control them.

17 THE COURT: Your attorney -- that is one of the
18 things he can do. If you don't have it, they can give
19 it to you again.

20 MR. BOLICK: Thank you, Your Honor.

21 THE COURT: Okay.

22 MR. BOLICK: You have a blessed day. God bless
23 you. Right is right. No apology for being right.

24 THE COURT: I understand. I might be wrong.

25 MR. BOLICK: I've been practicing law for 44-some

JUNE 8 and 9, 2021 TRANSCRIPT

Pages 27-36

Pages 41-48

Pages 51-54

Pages 59 and 60

1 ~~facts. He chose not to, Your Honor. He didn't even choose to~~
2 ~~bring the transcript here. Now, he wanting to come back and~~
3 ~~offer this Court a bunch of falsehoods, a bunch of lies, which~~
4 ~~I have evidence right now to move into motion in this Court to~~
5 ~~allow me to put in this evidence and testimony that they are~~
6 ~~lying. And I can prove it beyond any doubt of this Court.~~
7 ~~The businesses were not broken into through air conditioning~~
8 ~~and if the Court listened closely that is the only thing that~~
9 ~~they can even say that is the same in each case.~~

10 ~~THE COURT: Hold on a minute. Let me stop you right~~
11 ~~there. How do you know the businesses weren't broken in by~~
12 ~~the air conditioner?~~

13 ~~MR. BOLICK: Because it's right here in the police~~
14 ~~report, Your Honor. It's right here in the police report.~~
15 ~~One of them was broken into in a vent; the other was broken~~
16 ~~into a van vent; only one of them was broken in through the~~
17 ~~air conditioner. It's right here in the police reports.~~

18 ~~THE COURT: I understand, but you don't think the~~
19 ~~transcript of the trial and what was testified before the jury~~
20 ~~is what the jury made their decision in, and not necessarily~~
21 ~~what's in the police report. The police report is not~~
22 ~~necessarily evidence.~~

23 ~~MR. BOLICK: If I could ask the Court to look at this,~~
24 ~~please?~~

25 ~~THE COURT: Is it a police report?~~

1 ~~MR. BOLICK: Yes, sir.~~

2 ~~THE COURT: But if it's --- but that's not even admissible~~
3 ~~in trial.~~

4 ~~MR. BOLICK: Your Honor, the places were not broken into~~
5 ~~through the air conditioner.~~

6 ~~THE COURT: I understand that, and I'm just asking you~~
7 ~~how you know that, and there's only two ways you know that.~~

8 ~~MR. BOLICK: No, because it says it in the police report,~~
9 ~~Your Honor.~~

10 ~~THE COURT: But the police report is not evidence.~~

11 ~~MR. BOLICK: Right, and they haven't presented any~~
12 ~~evidence that it was broken in through the air condition and~~
13 ~~they haven't given me a chance to confront it, refute it, or~~
14 ~~dispute it.~~

15 ~~THE COURT: You had a chance to confront it and refute it~~
16 ~~and you left.~~

17 ~~MR. BOLICK: Your Honor ---~~

18 ~~THE COURT: You had a chance to represent yourself in the~~
19 ~~trial, but you chose not to be here.~~

20 ~~MR. BOLICK: Your Honor, please ---~~

21 ~~THE COURT: I'm listening. I'm just telling you.~~

22 ~~MR. BOLICK: I was trying to make it to trial that day.~~
23 ~~I got sick. I was suffering from opiate withdrawal. I got~~
24 ~~off the bus at the Walmart bathroom because I had defecated~~
25 ~~myself, and I went into the Walmart to get clean. I began~~

1 getting sick. I went back home. The state never called me
2 all the times like they did. I heard -- the next thing I
3 heard is that my face is on the news. For a year and a half I
4 appeared in court. Every two weeks I was subpoenaed. I was
5 subpoenaed to be here two weeks. It was creating havoc in my
6 life. The first time I didn't show up, they rush it to trial.
7 He fabricates the Judge's order to do so. He fabricated Judge
8 John -- he forged Judge John's signature on an Order to do so.

9 **THE COURT:** Okay.

10 **MR. BOLICK:** The state's arguments, Your Honor, I'm -- I'm
11 -- what they're asking you to consider is fact; it's not fact,
12 and then the cases they're giving you.

13 **THE COURT:** They're just -- they're talking about the
14 case law.

15 **MR. BOLICK:** The case they're giving you. Okay. Your
16 Honor, can I go through those with you?

17 **THE COURT:** What I need you to deal with is his motion
18 that asks that I reconsider and then whatever motions you made
19 before Judge John -- Judge Seals, I'm sorry.

20 ~~**MR. BOLICK:** First of all, Your Honor, if you look at the~~
21 ~~state's motion to reconsider today, I'm chained up so please~~
22 ~~bear with me. The first thing, the first one he filed here,~~
23 ~~April 23rd. This motion plainly says that my motion for~~
24 ~~mistrial and motion for a new trial was filed subsequent to --~~
25 ~~Your Honor, I'm having a hard time. Please bear with me.~~

1 ~~That they were filed subsequent. However, I'd ask the Court~~
2 ~~to plainly look at my motion for mistrial. Can I have~~
3 ~~somebody~~

4 ~~THE COURT: The motion you filed for mistrial, I've~~
5 ~~already heard that and granted it.~~

6 ~~MR. BOLICK: And it was filed on April 22nd?~~

7 ~~THE COURT: Okay.~~

8 ~~MR. BOLICK: 2019. Excuse me, Your Honor, 2020, April~~
9 ~~19th, that is five months before Judge Seals opened my~~
10 ~~indictment -- opened my sentence. My motion for mistrial, my~~
11 ~~motion for new trial, it was filed June 15th, 2020. That's~~
12 ~~three months before Judge Seals opened my motion.~~

13 ~~THE COURT: Okay.~~

14 ~~MR. BOLICK: Now, this is the previous established law~~
15 ~~that the trial is not complete until the judgement is entered~~
16 ~~and the Supreme Court of South Carolina decided that in Lytle~~
17 ~~v. Miller in 1930, and that's L-Y-T-L-E v. Miller 157 volume~~
18 ~~of the South Carolina Court of Appeals, Supreme Court Report,~~
19 ~~page 332. And it also says a sealed sentence does not become~~
20 ~~the judgment until it is opened and read to the defendant.~~

21 ~~THE COURT: Okay.~~

22 ~~MR. BOLICK: So therefore, my trial was not over until~~
23 ~~Judge Seals opened my sealed sentence.~~

24 ~~THE COURT: Okay.~~

25 ~~MR. BOLICK: All right. I made my motion for mistrial~~

1 ~~and my motion for new trial before that judgment was open.~~

2 ~~THE COURT:~~ Okay.

3 ~~MR. BOLICK:~~ However, and -- and in the case of the State,
4 ~~v. Smith and it's volume 276, South Carolina Supreme Court,~~
5 ~~page 498.~~

6 ~~THE COURT:~~ Okay.

7 ~~MR. BOLICK:~~ The motions were sent, and they were stamped
8 ~~and clocked, but my Judge chose not to hear them for some~~
9 ~~reason.~~

10 ~~THE COURT:~~ I understand, but I heard them.

11 ~~MR. BOLICK:~~ You heard them. Yes, sir, after --

12 ~~THE COURT:~~ And I granted them.

13 ~~MR. BOLICK:~~ And they -- and they -- and they are
14 ~~hollering that my motions were made subsequent; they're not~~
15 ~~posttrial.~~

16 ~~THE COURT:~~ No. They're saying I was wrong, and that's
17 what I'm trying to figure out, and they may be right.

18 ~~MR. BOLICK:~~ Your Honor, they're trying to say that I
19 filed my motions post, but I didn't.

20 ~~THE COURT:~~ They're not -- they're not arguing about your
21 motions. They hadn't told me one thing you filed your motions
22 wrong. They simply told me that the case law is evolved since
23 what I thought it was, and that now in fact, it was a proper
24 joinder and that I should -- and I should reconsider my
25 motion.

1 **MR. BOLICK:** Your Honor, may I, if I look -- if I look at
2 the case of *State v. Beekman*, Your Honor, this is a sexual
3 molestation case, a child perversion where a man, he -- he
4 molested a brother and sister. The thing it was though, he
5 did it in the same home. He did it in the same home under the
6 same pretext that we're going to watch some television he
7 molested these two children. That's *State v. Beekman*. It had
8 nothing to do with a burglary.

9 When we look at *State v. Cutro*, the shaken baby syndrome.
10 The lady killed two babies shaking them to death in her own
11 home care, in the same home care, the same, not similar, the
12 same. When we go to *Simmons*, that was two burglaries that
13 were committed at the same time, just about the same night at
14 the same place, at the same time. You go to *State v. Tucker*,
15 that's where they were trying to evade the police over three
16 days. It was the chain of circumstances.

17 **THE COURT:** I know all about Mr. Tucker.

18 **MR. BOLICK:** Okay. In *State v. McGaha*, that was the two
19 charges over a 17-month span and it happened in the same home.
20 The mother was the same, was testify in the state's case. The
21 only thing that they're even alleging that is the same in this
22 case is they were all broken into through the air conditioner.
23 Even that it would be similar and not the same, because that
24 would be three separate air conditioners. Your Honor, and
25 that is not even the fact. I give you my word as a man that

1 the police reports say that isn't a fact. Even when they gave
2 me the discovery and the pictures, if I would have -- if he
3 would have brought them officers to testify to that on the day
4 of the mistrial, it's something I had waited for for a year.
5 Something that they, the state she's arguing seven years, Your
6 Honor. This case happened in 2019. If I count right, that's
7 two years. They hollering I waited for over a year to be
8 getting caught. It was less than ten months, Your Honor. I
9 filed my motion for mistrial in April. I was tried in July,
10 2019. Everything that they're telling you is false. They had
11 the chance to bring this and prove it as evidence on April
12 15th. He chose not to. Now he's trying to circumvent my
13 right to confront any evidence he had to prove this, my right
14 to prove to this Court that that's not true, that he's lying.
15 He has been lying. He's acted maliciously and vindictively
16 since the outset of this case. The order on the motion to
17 sever, even in his own motion, Your Honor, let me go through
18 this motion, please. This is what he wants the Court to make
19 a decision on. If you will look here where it says trial
20 history of the case, if you'll look down here, the defendant
21 filed a motion to sever the crimes. Then he goes on and he
22 basically wanted to argue that I was never heard about the
23 motion to sever, prior to July 23rd. However, if you look at
24 Judge John's Order dated May 18th of 2018, he clearly tells
25 him to look at State v. Simmons, you can't try these cases

1 ~~together, and he gets that from my brief of law that I argued~~
2 ~~that day, but he don't want the Court to hear it that he was~~
3 ~~advised not to do this. In fact, instead of listening to~~
4 ~~Judge John and using his sense, he's going to forge the~~
5 ~~Judge's order right there, signed Judge John's name to it; he~~
6 ~~knows he did it. If I'm lying, he can bring Judge John and~~
7 ~~I'll stand and testify under oath he did it. That would give~~
8 ~~him a chance to charge me with perjury, or he can bring Judge~~
9 ~~John in here and let Judge John tell you he signed this order.~~
10 But Judge John won't. He wants to make this thing about all
11 my allegations, Your Honor, well little bekownst to him,
12 Judge John is the one that told on him because when the Court
13 of Appeals had ordered my transcripts on my writ of
14 certiorari, Mr. Terrell, in his devious little way, he stuck
15 that motion for mistrial, and he stuck that motion for new
16 trial, he pulled them out of the file and sent the file to the
17 Supreme Court. It was Judge John. I have the order right
18 here, Your Honor. Give me just one minute. Judge John was
19 the one who sent the order to the Supreme Court and told them
20 and if you'll give me -- I'm sorry, Your Honor, please bear
21 with me. Thank you very much. Please give me just a minute,
22 Your Honor, and be patient with me, please. I do have the
23 order.

24 **THE COURT:** And this order you're looking for is Judge
25 John's Order?

1 **MR. BOLICK:** Yes, sir. The Judge -- Judge John sent the
2 Supreme Court an order letting them know that my motion for a
3 mistrial, my motion new trial, all that had been filed. Your
4 Honor, he keeps saying in his motion, I filed it subsequent to
5 being tried. He never says a date. He never says a date. He
6 says I filed it subsequent after Judge Seals made his ruling,
7 after he opened my thing. ~~He keeps saying that I made these~~
8 ~~motions subsequent to Judge Seals opening my sealed sentence.~~

9 **THE COURT:** ~~So was that --- why is that important?~~

10 **MR. BOLICK:** ~~Because by me, then technically, the trial~~
11 ~~had not ended until my sentence, my sealed sentence was opened~~
12 ~~and read.~~

13 **THE COURT:** ~~Okay. So assuming all of that is true and~~
14 ~~you file a motion. Nobody has told me that the motion should~~
15 ~~not be considered because it was not timely filed. I have not~~
16 ~~heard that from anybody. So you filed a motion for Judge~~
17 ~~Seals to reconsider and grant you a new trial and a mistrial.~~
18 ~~You filed the same motion and I ended up hearing it, and I~~
19 ~~granted it.~~

20 **MR. BOLICK:** Yes, sir.

21 **THE COURT:** And maybe I granted it premature, I don't
22 know. I had not the benefit of all this case law, and so
23 because it had come in a situation that I didn't give him a
24 chance to totally present his case, as he asked me to, because
25 he wasn't -- he didn't think that motion was coming up and he

1 wasn't prepared to argue it. So after I gave him ten days, as
2 anytime I issue an order, I usually give somebody ten days to
3 reconsider, and usually in a criminal case I lose jurisdiction
4 after ten days. I granted him ten days for me to reconsider.
5 He filed that motion within the ten day period for me to
6 reconsider saying that I was wrong, and now he's presented his
7 argument and brief that I -- that I was wrong, that the case
8 law has changed, and it's evolved now based on these facts,
9 that Judge Hyman was correct and that this case was and could
10 be joined under South Carolina law.

11 **MR. BOLICK:** Your Honor, if I may ---

12 **THE COURT:** So when you filed your motions doesn't really
13 matter.

14 **MR. BOLICK:** Okay.

15 **THE COURT:** So what I need to know from you, if any
16 counterargument you have as to why the joinder is not proper
17 and you gave that to me in the beginning. You said it was
18 wrong, the facts were not similar enough to be tried together
19 and you should have been tried separately.

20 **MR. BOLICK:** Yes, sir. Your Honor ---

21 **THE COURT:** So that's what I got to rule on. What other
22 motions, once I rule on this, what other motion had you made
23 in front of Judge Seals that needs to be ruled on for the
24 Court of Appeals? No matter I go the Court of Appeals, I
25 assume, is going to look at this again.

1 **MR. BOLICK:** Your Honor, I did not make a motion for
2 Judge John to recuse himself. I believe Judge John felt the
3 motion to recuse himself because I put it before the Supreme
4 Court about Mr. Terrell forging his signature on this order,
5 and about being tired ---

6 **THE COURT:** What makes you think that he forged his
7 signature?

8 **MR. BOLICK:** Well, Your Honor, if you would you look at
9 the signatures, if you'll look at the signature, on all the
10 orders of all of Judge John's orders. First of all, Judge
11 John in his order appeared, he refers to himself as Judge
12 Steven John, not Steven H. John. Here, all Steven John's
13 orders are handwritten, Your Honor. They're all handwritten.
14 He's got a fairly neat and legible handwriting and he
15 handwrites them. Judge's code is all the same, they're all
16 handwritten. The dates are all handwritten. And when you
17 look at this order, Judge John signs his signature so much, he
18 doesn't have to double stroke, and look like somebody is on a
19 copying machine trying to copy a machine.

20 **THE COURT:** So wait a minute. So you take the position
21 based on your analysis of it that Judge John's order is
22 forged. You don't have any other evidence except for you
23 looking at the Orders and the fact some of them are
24 handwritten and some of typed.

25 **MR. BOLICK:** And the fact because I was never present

1 during any hearing when this order was issued. I was not
2 present. The state cannot produce a transcript where I was
3 present when this was ever heard. In fact, Your Honor, when
4 you look at it ---

5 **THE COURT:** What does that order say though that's
6 pertinent in this case?

7 **MR. BOLICK:** Can I ---

8 **THE COURT:** I need somebody to hand it to me.

9 **MR. BOLICK:** I'd have the Court first look at Judge
10 John's original order on May.

11 **THE COURT:** Okay.

12 **MR. BOLICK:** And then -- and then the second order, and
13 if the Judge needs more orders for comparison, I have them. I
14 have plenty. And the reason the Judge, we argued that day on
15 May 18th, and I argued before the Judge and said, Your Honor,
16 I says I need to know for what day to subpoena what witnesses.
17 I need to be heard on this motion to sever before we try it.
18 It would be unfair to me to make me subpoena all the people
19 from all three cases, my alibi witnesses that I can contact
20 and everything and have them just sitting here through three
21 trials, and we would hear the motion to sever before trial.
22 The Judge granted me, okay, he said he warned the state with
23 *State v. Simmons*, and says we'll give you seven days before
24 trial to have your motion to sever heard. Well, on July 22nd,
25 I appeared in Court, and Mr. Terrell out of the blue appears

1 up with that order supposedly signed by Judge John. Now, the
2 same -- the same circumstances that existed on May 18th, exist
3 on July 22nd. And I'm thinking why would the Judge just all
4 of a sudden do that because the same argument holds true. I
5 would need to know evidence, what witnesses to have on what
6 day. That did not change. But all of a sudden, Mr. Terrell
7 appears in front of Judge Hyman with that order when none of
8 the facts have changed, no reason for Judge John to have
9 changed that order, and he never did -- I never was heard, and
10 Judge John I don't think, I believe he's just got as much as -
11 - I never accused him of wrong, I think he's integrative Judge
12 who has integrity. That Judge did not have an ex parte
13 communication with him and issue that order. And therefore, I
14 believe Mr. Terrell forged the order. Mr. Terrell sure has
15 been moved to Georgetown for something, and it ain't because
16 of a promotion.

17 **THE COURT:** Well, all these orders are continuing the
18 case to be heard by the Trial Judge.

19 **MR. BOLICK:** Exactly, but it's seven days before trial.
20 The trial commenced the next day, July 23rd. He went right
21 without me. What I'm saying, Your Honor, Judge John ordered
22 to give me seven days before trial. Seven days before trial
23 for my motion to sever to be heard. On July 22nd Mr. Terrell
24 appears with that Order and goes forward immediately with the
25 trial on July 23rd.

1 **THE COURT:** He just said this motion needs to be heard at
2 least a week prior to trial. Okay.

3 **MR. BOLICK:** Now, look at the forged order.

4 **THE COURT:** Motion to sever is continued to the
5 discretion of the Trial Judge. The previous language
6 necessitating a severance hearing one week prior to trial, is
7 removed and hereby no longer required.

8 **MR. BOLICK:** Why would he do that ex parte and why with
9 the facts not changing, the facts remained the same ---

10 **THE COURT:** I understand, but -- but Judge John didn't
11 hear the motion to sever. He didn't hear your side of it, and
12 he didn't hear the state's side of it.

13 **MR. BOLICK:** He pretty much did, Your Honor, he just
14 didn't make a ruling. He heard the entire argument. He heard
15 the entire argument of my motion to sever, I have a copy of it
16 if you'll give me a minute. It had a brief of law, and it's -
17 --

18 **THE COURT:** But you given all that brief. You need to
19 tell me now. You claim the trial should have been severed.
20 They claim the trial was properly joined. You made the motion
21 to sever the trial which was supposed to be heard in front of
22 Judge Hyman. You were supposed to be back the next morning to
23 completely hear that trial and let Judge Hyman rule on whether
24 to join the case or sever the case. And then whatever he
25 ruled, if he ruled to join it, you were to proceed with all

1 three cases; if he severs the case, the case would have tried
2 you on any one of them and they could have tried you on all
3 three of them, and ultimately put you in a situation if they
4 convict you on all three of them of potentially looking at
5 life without the possibility of parole. They ended up trying
6 them all together, which is to your benefit, at least as
7 that's concerned. At least as far as what you were looking at
8 on three strikes. But, you know, you weren't here and you've
9 told them you were trying to get on the next bus. That's what
10 they tell me and you missed both buses. Now, you tell me that
11 you weren't on the bus, that you were in the Walmart bathroom
12 because you were sick because you were coming down off of
13 opioids.

14 **MR. BOLICK:** Yes, sir. That's what had been my
15 allegation the whole time. So that is the reason I did not
16 appear for trial that day, and they went forward with the
17 trial without me and without counsel.

18 **THE COURT:** Okay. So the question is whether they
19 probably -- whether Judge Hyman probably joined these cases
20 and the trial was appropriate or whether he didn't?

21 **MR. BOLICK:** Your Honor, Judge John did not move on it.

22 **THE COURT:** I don't -- Judge John's is not before me. I
23 was dealing with Judge Hyman. And Judge John didn't rule on
24 it. If Judge John had ruled on it, we wouldn't be here.

25 **MR. BOLICK:** Judge Hyman didn't rule on it.

1 **THE COURT:** Well, and that's the whole issue that I've
2 got to look into. But I ruled on it and they say I was wrong,
3 and I might have been wrong, and that's what I'm trying to
4 figure out now.

5 **MR. BOLICK:** May I ask you to look at the state's own
6 motion here. When he said all defendant's pretrial motions
7 were dismissed by this Court citing Bolick's absence for
8 failure to argue.

9 **THE COURT:** And I've got a copy of it.

10 **MR. BOLICK:** He said that, and the very next sentence
11 though he contradicts himself just like he does here, Your
12 Honor, when you go down here. I want to show this on the
13 factual background down here when we're getting here to page
14 2.

15 **THE COURT:** Okay.

16 **MR. BOLICK:** I want the Court to look at how he's trying
17 to manipulate the Court. Here at first it starts off on
18 August 18th, 2016, in the nighttime early hours of the
19 morning, the Barrel Bar and Restaurant located at 2303 South
20 Kings Highway on the south end of Myrtle Beach was
21 burglarized. The suspect entered the business through the
22 rooftop air conditioning system and dropped down into the
23 building from the ceiling. Now, this is where it gets scary,
24 surveillance video from the China Chef. Now, if the Court
25 would believe Mr. Terrell, the China Chef video surveillance

1 is in the Barrel Bar and Grill. Why would that be? But then
2 it goes on, why would the China Chef have their surveillance
3 set up in the Barrel Bar and Grill; these are two different
4 restaurants. The restaurant is one; he didn't make that
5 argument, but then he goes on how he the burglar done this,
6 and he argues the similarities from the video. Well, the
7 video from the China Chef had nothing to do with the Barrel
8 Bar and Grill.

9 **MR. TERRELL:** That was a scrivener's error on my part.

10 **MR. BOLICK:** There's many more throughout this transcript
11 and throughout this motion, Your Honor. That's like when he
12 hears that Judge John has recused himself because of the
13 motion I made. No, sir, he's not. I've not made no motion
14 for Judge John to recuse himself. I did make one for Judge
15 Seals.

16 **THE COURT:** Did you -- did you file a grievance against
17 Judge John?

18 **MR. BOLICK:** I filed a grievance on Mr. Terrell for
19 forging Judge John's order.

20 **THE COURT:** Okay.

21 **MR. BOLICK:** Your Honor, I object to even on this motion
22 here, I called that man everything but a child of God. I'm
23 not going to lie about that, Your Honor. I'm not, I have,
24 I've said some bad stuff to him.

25 **THE COURT:** I understand.

1 **MR. BOLICK:** He made me pretty angry. He has lied. He
2 has continued to lie, but that doesn't change the facts of
3 this case.

4 **THE COURT:** I understand. I think I've got a pretty good
5 grasp on the facts of the case. I just need to -- to
6 reconsider my motion and either my motion stands and you get a
7 new trial, or you don't get a new trial. And whichever way,
8 however I rule, both of you have a right to appeal me to the
9 Court of Appeals and Supreme Court. He's made this motion,
10 he's presented the law and his argument, and I'm going to take
11 it and read his brief again, and read this transcript, and
12 read whatever you want me to read and I'm going to rule.

13 **MR. BOLICK:** Your Honor, if I may, may I go through this
14 motion with you and show you exactly what the discrepancies I
15 have with it.

16 **THE COURT:** Okay. And in fact, he may have typo in here.
17 He just gives me a general layout of the facts; it's not
18 necessarily evidence that was presented in the trial. He's
19 saying there's a similarity in the facts that the burglar who
20 burglarized these three places all went through the roof air
21 condition, and you're telling me that it was one air condition
22 and one fan and one something else.

23 **MR. BOLICK:** Yes, one of them I'm unsure.

24 **THE COURT:** Well, they all on the roof, but you're going
25 based on a police report that's not evidence.

1 the same place, Your Honor.

2 **THE COURT:** I understand. And I'm going to read all
3 those again and see if there's any distinction between those
4 cases and your case. And I'll make my ruling because, you
5 know, when I make my ruling the Supreme Court is going to
6 decide whether I got it right or wrong. And I don't like them
7 to ever -- I never liked to see the word reversed by my name.
8 I do the best I can with what I got, and I'm going to do that
9 again. So I'll read all these cases and consider whatever you
10 want me to, and I understand your argument that whoever
11 burglarized it didn't come through the air conditioner, and it
12 may have been a return fan, or it may have been a vent or
13 whatever. I can get the transcript if that becomes an issue
14 and I can see what they testified to, but I understand. So
15 you got any other arguments or motions that I need to decide
16 on? Because once I decide this, you know, whichever way I go
17 either one of you have a right to appeal it, and we'll see
18 whether I got it right or not.

19 **MR. BOLICK:** Your Honor, at the time, I'm being tortured
20 in this jail.

21 **THE COURT:** Well you're the one that wanted to come to
22 jail. You wanted me to get you out of prison and send you to
23 jail. I can send you back to prison.

24 **MR. BOLICK:** Your Honor, I asked for a bond. I don't
25 want to go to prison, I want what is fair.

1 **THE COURT:** I understand, and I'm going to rule, but I'm
2 not going to give you bond right now because the problem is
3 you had a chance to appear to court, you didn't show up and
4 you went to North Carolina. So it, you know ---

5 ~~**MR. BOLICK:** Your Honor, I want the Court to look at why~~
6 ~~do they keep saying it took a year for me to be captured and~~
7 ~~seven years later; does that make their argument any better on~~
8 ~~their basically false statements before this Court.~~

9 ~~**THE COURT:** I understand.~~

10 ~~**MR. BOLICK:** When does this Court make them stop lying?~~

11 **THE COURT:** Well, you claim you were in the Walmart
12 throwing up, but when you got out of Walmart you should have
13 come.

14 **MR. BOLICK:** Your Honor, by the time I got home and got
15 sick, I was --- I mean, I'm not going to lie. When I come to
16 Court that day, and I seen Mr. Terrell had produced that order
17 that I wasn't there and everything, I got nervous, and at the
18 time I had an opioid problem. I had an opioid problem from
19 where I blew off my four fingers, I broke both my ankles and
20 heels at the same time. I broke my fibula and then I broke my
21 femur, and this is all in a short time and then they cut me
22 straight off my medication. I had a problem with opioids, but
23 never did I have to go steal for them. Your Honor, I've
24 worked since I've been there. I come to this beach ten years
25 and you can ask the solicitor in Myrtle Beach, the City

1 Attorney, Joy Young, ever since she's known me I've worked my
2 butt off. I've got off when I had two broke feet, I got up
3 and painted a fence for a place to live. I ain't never had to
4 break into no place. I consider myself an intelligent man.

5 **THE COURT:** Well, you are because you're representing
6 yourself, and you have put out a lot, you know, if you had
7 made some different choices in life you might have made a good
8 attorney.

9 **MR. BOLICK:** That's a lot of ifs, Your Honor. There's no
10 if that I did do these crimes and the state hasn't been fair
11 with me about it. The state has continued to -- and for me to
12 sit here and watch them continue to make these false
13 allegations to the Court against me, and to falsify the actual
14 evidence. That's unfair, Your Honor.

15 **THE COURT:** I understand, and I've heard what you said.
16 I will go find some quiet place and read all this again and
17 let y'all know something in the next day or two.

18 **MR. BOLICK:** Your Honor, can I make one more objection?
19 I object to the state's memorandum of law, because the state
20 in the motion, in their motion, the original reason he was
21 going to file the motion to reconsider is because you didn't
22 grant the mistrial. That was his first argument. I mean that
23 was his second argument. That's what it plainly says.

24 **THE COURT:** I understand what he said. He said I got it
25 wrong, and he might be right.

1 **MR. BOLICK:** And then he said I filed my motion
2 subsequent to being sentenced, which is also wrong.

3 **THE COURT:** And that -- I -- your motion was filed and I
4 ruled on it. When you filed it doesn't have anything to do
5 with my ruling, I promise you.

6 ~~**MR. BOLICK:** And then turned around and he comes to Court~~
7 ~~with all this what he alleges to be facts, but they are not~~
8 ~~facts, and he had his chance on April 15th to show this Court~~
9 ~~they were.~~

10 **THE COURT:** I understand that, and he wasn't prepared
11 then and I probably cut him off and I probably shouldn't have
12 ruled to let him to do that, but --

13 ~~**MR. BOLICK:** Well, he scheduled the hearing.~~

14 ~~**THE COURT:** I understand. But it was your motion I was~~
15 ~~dealing with and I don't know -- I don't think he thought that~~
16 ~~we would hear that in total, but I had given him ten days and~~
17 ~~allowed him to do it, he's done it, I've heard from you, and~~
18 ~~I've heard from him, and I will go decide whether I was right~~
19 ~~or wrong, whether the law has evolved to a point that they~~
20 ~~could join this case and try you all together, or whether in~~
21 ~~my opinion, the case should have been severed. And I'll rule~~
22 ~~the best I can and let you --~~

23 ~~**MR. BOLICK:** I would object to the Court considering~~
24 ~~anything he says as evidence.~~

25 ~~**THE COURT:** And it's on the record that you objected, and~~

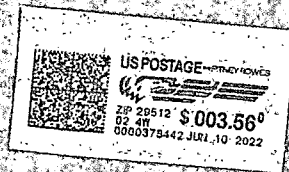
1 ~~give you a chance to talk when I'm finished?~~

2 They all involved burglary seconds in the three
3 situations. They were businesses close to each other, two of
4 them in the same mall, one of them was relatively close. And
5 the other evidence that was introduced in this case, the
6 gloves, the knives, the skull cap, the DNA. And one of the
7 other things that I looked at, in one of the cases, one of the
8 burglary cases did involved DNA and that was a situation that
9 the state had your DNA on one of the gloves left at the crime
10 scene which is probably as of strong evidence that the state
11 can have in any particular case because DNA seems to be the
12 best science we have out there right now. And the other two
13 cases were circumstantial, but the case with the DNA was
14 extremely strong. And then the question -- I think the real
15 question is whether the jury in listening to the facts of the
16 case are prejudiced in the face that the state is using the
17 shotgun approach in trying to get all of the cases in front of
18 the jury to prejudice them and if he did one he must have done
19 the other one. But in this situation I think most of the
20 evidence of the two burglaries that were circumstantial would
21 probably come in with the one with the DNA through Lyle and
22 Perry. So I don't think that you were overly prejudiced by
23 all three of them being tried together. Judge Hyman had the
24 ability to hear all of the evidence in this case and rule upon
25 that. And the fact that you didn't show up and you made a

1 motion to sever the case, that you'd abandoned that motion and
2 he ruled on that. And so even if you (inaudible) like the 403
3 analysis, the prejudicial effect or the probative effect, the
4 fact in this case that there was DNA in that one case and all
5 of the other similarities that went along with this, I'm going
6 to reconsider my motion and grant the state's motion. I think
7 I got it wrong the first time. I did not have the ability the
8 first time to look at the law, to look at the facts, and to
9 look at the circumstances surrounding this case. And so I'm
10 going to deny your motion for a new trial and a mistrial and
11 return the verdict from Judge Hyman. Now, I'll be glad to
12 hear from you.

13 ~~MR. BOLICK: Your Honor, as I told you earlier, they can~~
14 ~~in here yesterday, they gave a bunch of half-truths, a bunch~~
15 ~~of lies in order to get this Court to change its decision,~~
16 ~~They have not presented one bit of evidence to support their~~
17 ~~lies, not one, not one that I have seen. They didn't present~~
18 ~~any evidence on April 15th. They come in here yesterday with~~
19 ~~a bunch of lies and a bunch of half-truths. For instance, the~~
20 ~~DNA in the glove, he told you it was my DNA. Did he tell you~~
21 ~~the DNA report said there were multiple people's DNA in that~~
22 ~~glove, mine being the majority which would be something~~
23 ~~similar to like maybe I lost the glove, Your Honor, which is~~
24 ~~what happened. And somebody else picked that glove up and~~
25 ~~used it instantly to do this crime because it was an~~

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