

STATE OF SOUTH CAROLINA

RECEIVED

COURT OF APPEALS

APR 05 2023

SC Court of Appeals

Appeal from Horry County
Larry B. Hyman Jr., Circuit Court Judge
Appellate Case No. 2020-001497

The State

Respondent

V.

Theodore Jerry Bolick

Appellant

AMENDED RECORD ON APPEAL

Theodore J. Bolick pro se
Evans Correctional Inst
610 Highway #9 West
Bennettsville S.C. 29512

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Exhibit 1

Pg 5

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF _____
STATE _____

VS.

Theodore Jerry Bolick

AKA:

Race: WHITE Sex: M Age: 54

DOB: 10-07-1964 SS#: 240-25-0246

Address: 2600 S Ocean Blvd #206

City, State, Zip: Myrtle Beach, SC 29577-4756

DL#: 0102081033 SID#: SC01958321

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Burglary, 2nd Degree, Violent (after 06/20/85) (0-15)

INDICTMENT/CASE#: 2016GS2604947

A/W#: 2016A2620602250

Date of Offense: 8/27/2016

S.C. Code § 16-11-0312(B)

CDR Code #: 0086

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-11-0312(B) of the S.C. Code of Laws, bearing CDR Code # 0086

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

SC100776

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 12 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient: _____

*Fine:

§14-1-206 (Assessments 107.5 %)	\$	
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
Proviso (Public Def/Probation)	\$500	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§50-21-114(BU) (Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$3.75

TOTAL \$128.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (04/2018)

Obtain GED ☐Attend Voc. Rehab. or Job Corp. ☐

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ 25.00 beginning 10/16/2022

\$ _____ paid to Public Defender Fund

Other:

Sealed Sentence
Open and read on 9/14/2020

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge

Judge Code:

Sentence Date:

2152

7/24/19

pa. 1

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

County

VS.

Theodore Jerry Bolick

AKA:

Race: WHITE Sex: M Age: 54

DOB: 10-07-1964 SS#: 240-25-0246

Address: 2600 S Ocean Blvd #206

City, State, Zip: Myrtle Beach, SC 29577-4756

DL#: 0102081033 SID#: SC01958321

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Burglary, 2nd Degree, Violent (after 06/20/85)

in violation of § 16-11-0312(B) of the S.C. Code of Laws, bearing CDR Code # 0086

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

SC100776

- Terrell, III, Thomas Groom

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 12 days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUPTotal: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:	\$	
§14-1-206 (Assessments 107.5 %)	\$	
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
Proviso (Public Def/Probation)	\$500	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	\$ 37.5

TOTAL

\$ 128.75

Clerk of Court/ Deputy Clerk

Court Reporter:

Rence Elvis

Grace Hurley

SCCA/217 (04/2018)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016GS2604953

A/W#: 2016A2620602251

Date of Offense: 8/26/2016

S.C. Code § : 16-11-0312(B)

CDR Code #: 0086

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSObtain GED ☐Attend Voc. Rehab. or Job Corp ☐

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ 25.00 beginning 10/16/2020\$ paid to Public Defender Fund

Other:

Sealed Sentenceopened & read 9/16/2020

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge

Judge Code:

Sentence Date:

2152

7/24/19

STATE OF SOUTH CAROLINA

Exhibit 3

COUNTY OF
STATE

VS.

Theodore Jerry Bolick

AKA:

Race: WHITE Sex: M Age: 54

DOB: 10-07-1964 SS#: 240-25-0246

Address: 2600 S Ocean Blvd #206

City, State, Zip: Myrtle Beach, SC 29577-4756

DL#: 0102081033 SID#: SC01958321

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Burglary, 2nd Degree, Violent (after 06/20/85) (0-15)

in violation of § 16-11-0312(B) of the S.C. Code of Laws, bearing CDR Code # 0086

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45

w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

SC100776

Terrell, III, Thomas Groom

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 12 days/months/years or ☐ under the Youthful Offender Act not to exceed - years and/or to pay a fine of \$ -; provided that upon the service of - days/months/years and/or payment of \$ -; plus costs and assessments as applicable*; the balance is suspended with probation for - months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUPTotal: \$ - plus 20% fee: \$ -

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:	\$
§14-1-206 (Assessments 107.5 %)	\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100
§14-1-211(A)(2) (DUI Surcharge)	\$100
§56-5-2995 (DUI Assessment)	\$12
§56-1-286 (DUI Breath Test)	\$25
Proviso (Public Def/Probation)	\$500
§14-1-212 (Law Enforce. Funding)	\$25
§14-1-213 (Drug Court Surcharge)	\$150
§50-21-114(BUI Breath Test Fee)	\$50
§56-5-2942(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	\$375

TOTAL

\$128.75

Clerk of Court/ Deputy Clerk

Court Reporter:

Renee Elvis

Grace Hurley

SCCA/217 (04/2018)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016GS2605081

A/W#: 2016A2620602245

Date of Offense: 8/18/2016

S.C. Code § : 16-11-0312(B)

CDR Code #: 0086

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

7/24/19

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. ☐

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ 25.00 beginning 10/16/2032

\$ - paid to Public Defender Fund

Other: Sealed sentence

opened and read 9/16/2020

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge

Judge Code:

Sentence Date:

2152

7/24/19

Pg 3

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

ORDER IN A CRIMINAL CASE
WARRANT(S) 2016A2620602245, 2250, 2251

IN THE COURT OF GENERAL SESSIONS

INDICTMENT(S): 2016GS2605081
2016GS2604947, 2016GS2604953

State of South Carolina

THEODORE JERRY BOLICK
DEFENDANT(S)

This form order
submitted by:

Attorney for : ☐ State ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE

- ☐ DECISION BY THE COURT AFTER HEARING. This action came to a hearing before the court. The issues have been heard and a decision rendered. ☐ See below for additional information.
- ☐ DECISION BY THE COURT AFTER STATUS CONFERENCE. This case came for a status conference before the court. The status of this case and pending issues in this case were discussed and a decision rendered. ☐ See below for additional information.

☒

MOTION: MOTION FOR MISTRIAL
MOTION FOR NEW TRIAL
MOTION FOR STANDING AND CONTINUED OBJECTIONS
MOTION FOR APPOINTED COUNSEL
MOTION FOR TRANSCRIPTS
MOTION TO RECONSIDER

☐ GRANTED ☐ DENIED ☐ CONTINUED ☐ WITHDRAWN

☐ WITHDRAWN BY MOVING PARTY:

Signature of Moving Party

☒ OTHER:

FILED
2020 NOV -3 AM 11:30
CLERK OF COURT
HORRY COUNTY, SC

IT IS ORDERED AND ADJUDGED: ☐ See Order of the Court below ☐ See attached order
☐ Formal Order to follow; to be prepared by: ☐ State ☐ Defendant ☐ Other:

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk :

All pending motions are Dismissed until the jurisdiction is returned to the Court by the Appellate Court.

Exhibit B B

Exhibit ~~B B~~

Pg 9

The South Carolina Court of Appeals

The State, Respondent,

v.

Theodore Jerry Bolick, Appellant.

Appellate Case No. 2020-001497

ORDER

After reviewing the parties' appealability memoranda, this appeal is held in abeyance and the case is remanded to the circuit court for consideration of all outstanding motions, including the Motion to Reconsider, Motion for Mistrial, and Motion for the Appointment of Counsel. Respondent shall provide this court with status updates every thirty days until the motions are resolved.



FOR THE COURT

Columbia, South Carolina

cc:

Theodore Jerry Bolick, 384070
Alan McCrory Wilson, Esquire
Thomas Green Terrell, III, Esquire
William M. Blitch, Jr., Esquire
Robert Michael Dudek, Esquire
The Honorable Steven H. John
The Honorable Renee Elvis

FILED
Feb 05 2021

~~pg 5~~

~~40 of 42~~

40 of 42

16-4947

~~FILED~~
Pg 10

STATE OF SOUTH CAROLINA
COUNTY OF Horry

ORDER IN A CRIMINAL CASE
WARRANT(S) 2016A2620602245, 2250-51

IN THE COURT OF GENERAL SESSIONS

INDICTMENT(S): 2016GS2605081, 2016GS2604947
2016GS2604953

State of South Carolina

THEODORE JERRY BOLICK
DEFENDANT(S)

This form order submitted by: Thomas Groom Terrell, III
Assistant Solicitor

Attorney for : ☒ State ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE

☒ **DECISION BY THE COURT AFTER HEARING.** This action came to a hearing before the court. The issues have been heard and a decision rendered. ☐ See below for additional information.

☐ **DECISION BY THE COURT AFTER STATUS CONFERENCE.** This case came for a status conference before the court. The status of this case and pending issues in this case were discussed and a decision rendered. ☐ See below for additional information.

☒ **MOTION: MOTION FOR NEW TRIAL**

☒ GRANTED ☐ DENIED ☐ CONTINUED ☐ WITHDRAWN

☐ WITHDRAWN BY MOVING PARTY:

Signature of Moving Party

☐ OTHER:

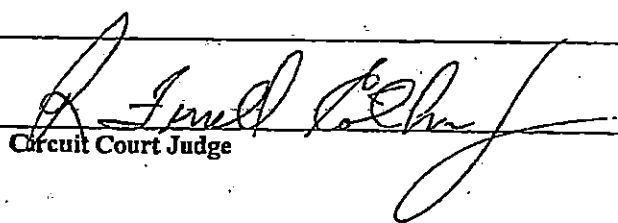
2021 APR 19 AM 8:15

FILED

IT IS ORDERED AND ADJUDGED: ☐ See Order of the Court below ☐ See attached order
☐ Formal Order to follow; to be prepared by: ☐ State ☐ Defendant ☐ Other:

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.
Additional Information for the Clerk :


Circuit Court Judge

2144
Judge Code

4-16-21
Date

du 8

For Clerk of Court Office Use Only

This judgment was entered on the 19 day of April, 2021 and a copy mailed first class or placed in the appropriate attorney's box on this 19 day of April, 2021 to attorneys of record or to parties (when appearing pro se) as follows:

Thomas Groom Terrell, III
ATTORNEY(S) FOR THE STATE

Pro Se
ATTORNEY(S) FOR THE DEFENDANT(S)

Renee N. Elms
CLERK OF COURT

Court Reporter:

2021 APR 19 AM 8:15

FILED

Exhibit 4

Pg 12

STATE OF SOUTH CAROLINA
COUNTY OF Horry

ORDER IN A CRIMINAL CASE
WARRANT(S) 2016A2620602245, 2250-51

IN THE COURT OF GENERAL SESSIONS

INDICTMENT(S): 2016GS2605081, 2016GS2604947
2016GS2604953

State of South Carolina

THEODORE JERRY BOLICK
DEFENDANT(S)

This form order submitted by: Thomas Groom Terrell, III
Assistant Solicitor

Attorney for: ☒ State ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE

- ☒ DECISION BY THE COURT AFTER HEARING. This action came to a hearing before the court. The issues have been heard and a decision rendered. ☐ See below for additional information.
- ☐ DECISION BY THE COURT AFTER STATUS CONFERENCE. This case came for a status conference before the court. The status of this case and pending issues in this case were discussed and a decision rendered. ☐ See below for additional information.
- ☒ MOTION: MOTION FOR MISTRIAL
- ☒ GRANTED ☐ DENIED ☐ CONTINUED ☐ WITHDRAWN
- ☐ WITHDRAWN BY MOVING PARTY: _____
Signature of Moving Party
- ☐ OTHER: _____

IT IS ORDERED AND ADJUDGED: ☐ See Order of the Court below ☐ See attached order:
☐ Formal Order to follow; to be prepared by: ☐ State ☐ Defendant ☐ Other: _____

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.
Additional Information for the Clerk: _____

Circuit Court Judge

2144
Judge Code

4-18-21
Date

Pg 13

For Clerk of Court Office Use Only

This judgment was entered on the 19 day of April, 2021 and a copy mailed first class or placed in the appropriate attorney's box on this 19 day of April, 2021 to attorneys of record or to parties (when appearing pro se) as follows:

Thomas Groom Terrell, III
ATTORNEY(S) FOR THE STATE

Pro Se
ATTORNEY(S) FOR THE DEFENDANT(S)
Bene N. Elin
CLERK OF COURT

Court Reporter:

FILED
2021 APR 19 AM 8:15

Pg. 11

Exhibit 5 - ment E Pg 14

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

STATE OF SOUTH CAROLINA)

-VS-

THEODORE BOLICK)
DEFENDANT)

IN THE COURT OF GENERAL SESSIONS
OF THE FIFTEENTH JUDICIAL CIRCUIT

ORDER TRANSFERRING CUSTODY

2016-GS-26-05081

2016-GS-26-04947

2016-GS-26-04953

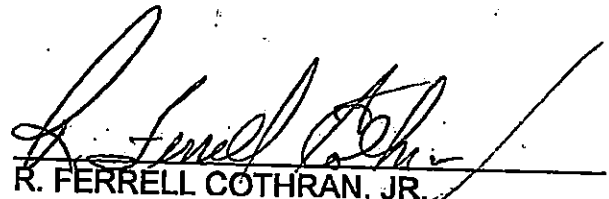
Exhibit

On July 24, 2019, a jury convicted the Defendant, who was tried in his absence, of three counts of Second Degree Burglary (Violent). He was sentenced to twelve years on each indictment, with the sentences to run concurrent.

After his conviction, the Defendant filed a Motion for a Mistrial. This Court heard and granted the Defendant's motion on April 16, 2021. As the Defendant's motion was granted, his sentences are vacated. It is therefore ordered that the Defendant be released from the custody of the South Carolina Department of Corrections. The Defendant shall be transported to the J. Reuben Long Detention Center in Horry County, South Carolina, and

IT IS SO ORDERED.

DATED: 5-11-21
MANNING, SOUTH CAROLINA


R. FERRELL COTHAN, JR.
PRESIDING JUDGE
COURT OF GENERAL SESSIONS
FIFTEENTH JUDICIAL CIRCUIT

FILED
HORRY COUNTY
2021 MAY 20 A 11:16
RENEE N. ELYS
CLERK OF COURT
HORRY COUNTY, SC

Pg 12
~~pg 12~~

Exh. Exhibit 7

Pg 15

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

IN THE COURT OF GENERAL SESSIONS
15TH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)

ORDER OF RECONSIDERATION

V.)

Indictment no: 2016GS2604947, 953, 5081

THEODORE JERRY BOLICK,)
DEFENDANT)

FILED
HARRY COUNTY
2021 JUN 10
REHEE H. LINDS
CLERK OF COURT
HORRY COUNTY, S.C.

Exhibit

After hearing from the State and the Defendant, and following careful and extensive reconsideration of the issues, the State's Motion for Reconsideration is Granted.

This Court granted to the State a rehearing requesting the Court to reconsider its orders of April 16, 2021, granting Defendant's Motion for a Mistrial and Defendant's Motion for a New Trial. This hearing was held on June 8, 2021, on the specific issue of joinder where the Court was more completely apprised of the facts and circumstances of the case at bar as well as the evolving case law on which the State relies to support a consolidated trial.

The original decision to grant these motions was based on the State's decision to consolidate three separate burglaries from three separate dates over a nine day period into one trial. In order to prevail on a claim of misjoinder, the defendant must show that consolidation was improper and that he was unfairly prejudiced by the evidence of multiple crimes presented to the jury. This Court has considered the factors necessary for appropriate joinder as being where the crimes (1) arise out of a single chain of circumstances or transactions, or are connected crimes closely related in kind, place, and character; (2) are proved by the same evidence; (3) are of the same general nature; and (4) where no real right of the defendant has been prejudiced. While the facts here do not show a single, unbroken chain of events in a strict sense, they are certainly connected crimes closely related in kind, place, and character where within only a nine day period, three separate but related businesses were all burglarized in the same, undeniably unique manner. A substantial portion of the evidence across the three cases would be essentially the same. The crimes are not just of the same general nature, but are the same crimes. Finally, because this Court feels the evidence of all three crimes would be allowed in under Lyle and its progeny, to include the recent guidance given by our Supreme Court in Perry, Durant, and Cotton, the Defendant cannot show he was prejudiced by the introduction of evidence of all three burglaries.

This Court finds that joinder by the State was not improper.

This Court finds that the Defendant has not established unfair prejudice because of a consolidated trial.

284 The Defendant's Motion to Reconsider or Consider was Granted previously to the extent that Defendant was asking this Court to Consider his Motion for a Mistrial and Motion for a New Trial which he filed prior to his sentence being unsealed; both of those motions have been heard, reconsidered, and for the reasons explained below, denied.

Pg 13

Pg 16

The Defendant's Motion for a Mistrial is hereby Denied.

This Court finds that Defendant's absence during the course of his trial was voluntary and no reason to grant a mistrial.

There is no evidence of misconduct by the prosecutor or the various members of the judiciary and this Court finds none.

The Defendant's Motion for a New Trial is hereby Denied.

This Court finds that Defendant's absence during the course of his trial was voluntary and no reason to grant Defendant a new trial.

Having now denied Defendant's Motion for a New Trial and Defendant's Motion for a Mistrial, this Court must now reach a decision on Defendant's other outstanding post-trial motions as ordered by the Court of Appeals. This Court rules as follows:

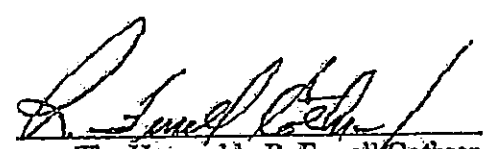
The Defendant's Motion for Appointment of Counsel is hereby Denied as an issue for the Court of Appeals to grant or deny for assistance in his appellate process.

Attorney Jonathan Hiller is hereby Relieved as Counsel. Counsel may be appointed at the appellate level.

The Defendant's Motion for Transcripts is hereby Denied.

BE IT SO ORDERED.

CERTIFIED COPY
RENEE N. ELYS
CLERK OF COURT
HORRY COUNTY, SC


The Honorable R. Ferrell Cothran
Circuit Court Judge

This 10 day of June, 2021
Conway, South Carolina

FILED
HORRY COUNTY
2021 JUN 10 P 4:26
RENEE N. ELYS
CLERK OF COURT
HORRY COUNTY, SC

Pg 14

Pg 17

STATE OF SOUTH CAROLINA
COUNTY OF Horry

ORDER IN A CRIMINAL CASE
WARRANT(S) 2016A2620602245, 250-1

IN THE COURT OF GENERAL SESSIONS

INDICTMENT(S): 2016GS2604947, 53, 5081

State of South Carolina

THEODORE JERRY BOLICK
DEFENDANT(S)

This form order submitted by: Thomas Groom Terrell, III Assistant Solicitor	Attorney for : ☒ State ☐ Defendant
	or ☐ Self-Represented Litigant

DISPOSITION TYPE

- ☒ DECISION BY THE COURT AFTER HEARING. This action came to a hearing before the court. The issues have been heard and a decision rendered. ☐ See below for additional information.
- ☐ DECISION BY THE COURT AFTER STATUS CONFERENCE. This case came for a status conference before the court. The status of this case and pending issues in this case were discussed and a decision rendered. ☐ See below for additional information.
- ☒ MOTION: Motion for New Trial
- ☐ GRANTED ☒ DENIED ☐ CONTINUED ☐ WITHDRAWN
- ☐ WITHDRAWN BY MOVING PARTY: _____
Signature of Moving Party
- ☐ OTHER: _____

2021 JUN 10 PM 1:21

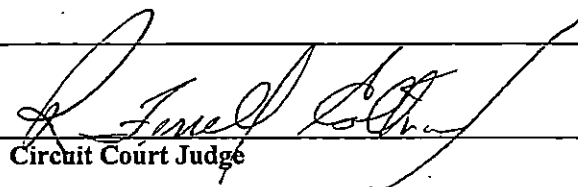
FILED

IT IS ORDERED AND ADJUDGED: See Order of the Court below See attached order

☒ Formal Order to follow; to be prepared by: ☒ State ☐ Defendant ☐ Other: _____

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.
Additional Information for the Clerk : _____


Circuit Court Judge

2144
Judge Code

6-10-21
Date

For Clerk of Court Office Use Only

Pg 18

This judgment was entered on the 10th day of June, 2021 and a copy mailed first class or placed in the appropriate attorney's box on this 10th day of June, 2021 to attorneys of record or to parties (when appearing pro se) as follows:

Thomas G. Terrell, III

Theodore Bolick

ATTORNEY(S) FOR THE STATE

ATTORNEY(S) FOR THE DEFENDANT(S)

Renee Elvis

CLERK OF COURT

Court Reporter:

FILED
2021 JUN 10 PM 1:21
CLERK OF COURT
HONORABLE COURT

pg. 16

STATE OF SOUTH CAROLINA
COUNTY OF Horry

ORDER IN A CRIMINAL CASE
WARRANT(S) 2016A2620602245, 250-1

IN THE COURT OF GENERAL SESSIONS

INDICTMENT(S): 2016GS2604947, 53, 5081

State of South Carolina

THEODORE JERRY BOLICK
DEFENDANT(S)

This form order submitted by: Thomas Groom Terrell, III
Assistant Solicitor

Attorney for : ☒ State ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE

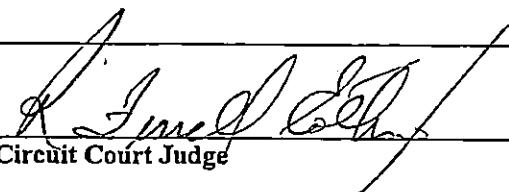
- ☒ DECISION BY THE COURT AFTER HEARING. This action came to a hearing before the court. The issues have been heard and a decision rendered. ☐ See below for additional information.
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- ☒ MOTION: Motion for Mistrial
- ☐ GRANTED ☒ DENIED ☐ CONTINUED ☐ WITHDRAWN
- ☐ WITHDRAWN BY MOVING PARTY: _____
Signature of Moving Party
- ☐ OTHER: _____

FILED
2021 JUN 10 PM 1:21
CLERK OF COURT
Horry County, SC

IT IS ORDERED AND ADJUDGED: ☐ See Order of the Court below ☐ See attached order
☒ Formal Order to follow; to be prepared by: ☒ State ☐ Defendant ☐ Other: _____

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.
Additional Information for the Clerk : _____


Circuit Court Judge

2144
Judge Code

6-10-21
Date

For Clerk of Court Office Use Only

Pg 20

This judgment was entered on the 10th day of June, 2021 and a copy mailed first class or placed in the appropriate attorney's box on this 10th day of June, 2021 to attorneys of record or to parties (when appearing pro se) as follows:

Thomas G. Terrell, III

ATTORNEY(S) FOR THE STATE

Theodore Bolick

ATTORNEY(S) FOR THE DEFENDANT(S)

Renee Elais

CLERK OF COURT

Court Reporter:

FILED
2021 JUN 10 PM 1:21
CLERK OF COURT
HONOLULU, HAWAII

Pg 18

STATE OF SOUTH CAROLINA
COUNTY OF Horry

ORDER IN A CRIMINAL CASE
WARRANT(S) 2016 A2620602245, 250-1

IN THE COURT OF GENERAL SESSIONS

INDICTMENT(S):

2016 G52604947, 4953, 5081

State of South Carolina

THEODORE JERRY BOLICK
DEFENDANT(S)

This form order
submitted by:

THOMAS GIBSON TERRILL, III
ASSISTANT SOLICITOR

Attorney for : ☒ State ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE

☒ **DECISION BY THE COURT AFTER HEARING.** This action came to a hearing before the court. The issues have been heard and a decision rendered. ☐ See below for additional information.

☐ **DECISION BY THE COURT AFTER STATUS CONFERENCE.** This case came for a status conference before the court. The status of this case and pending issues in this case were discussed and a decision rendered. ☐ See below for additional information.

☒ **MOTION:** STATE'S MOTION FOR RECONSIDERATION

☒ GRANTED ☐ DENIED ☐ CONTINUED ☐ WITHDRAWN

☐ WITHDRAWN BY MOVING PARTY:

Signature of Moving Party

☐ OTHER:

IT IS ORDERED AND ADJUDGED: ☐ See Order of the Court below ☐ See attached order

☒ Formal Order to follow; to be prepared by: ☒ State ☐ Defendant ☐ Other: _____

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk : _____

R. Terrell
Circuit Court Judge

2144
Judge Code

6-10-21
Date

For Clerk of Court Office Use Only

~~Pg 21~~
Pg 22

This judgment was entered on the 10th day of June, 2021 and a copy mailed first class or placed in the appropriate attorney's box on this 10th day of June, 2021 to attorneys of record or to parties (when appearing pro se) as follows:

Thomas G. Terrell, III

Theodore Bolick

ATTORNEY(S) FOR THE STATE

ATTORNEY(S) FOR THE DEFENDANT(S)

Renee Elvis

CLERK OF COURT

Court Reporter:

FILED
2021 JUN 10 PM 1:25
CLERK OF COURT
HONOLULU, HAWAII

Pg 20

Exhibit 1

Exhibit
Pg 23

STATE OF SOUTH CAROLINA COURT OF GENERAL SESSIONS
COUNTY OF HORRY FIFTEENTH JUDICIAL CIRCUIT
Case No. 5: 2016A2620602245;
2250; 2251

STATE OF SOUTH CAROLINA

MOTION FOR MISTRIAL

VS.

THEODORE TERRY BOLICK

FILED
2020 APR 22 AM 9:12
CLERK OF COURT
HON. J. B. BOWEN, JR.

NOW COMES Defendant, Theodore Bolick pro se and hereby moves this Honorable Court to declare a mistrial in the above captioned cases. In support of said motion Defendant shows unto the Court as follows:

1. That on July 23rd 24, 2019 a trial in the above captioned matters was commenced;

2. The Defendant was not present at the start of the trial; nor had the Defendant voluntarily waived his right to be at said trial;

3. Subsequently, a jury was selected by the State, the State presented evidence, and the jury found the Defendant guilty;

4. The Defendant was absentia from the beginning through the end of said trial;

5. The Defendant was denied the opportunity

confront his accusers, compel witnesses in his behalf, or present evidence in his behalf;

6. This pretext of a fair trial was orchestrated and initiated by Assistant Solicitor Thomas Terrell III maliciously and punitively in retaliation for the Defendant's successful litigation against the Myrtle Beach Police Department and the Horry County Sheriff's Department, and part of an ongoing conspiracy between Solicitor, Thomas Terrell III, Myrtle Beach Police Officers, and Judge Ohavesia dating back to 2016.

CONSTITUTIONAL LAW

The "Sixth Amendment rights of accused in all criminal prosecutions to be informed of nature and cause of accusation, to be confronted with witnesses against him, to have compulsory process for obtaining witnesses in his favor and to have assistance of counsel for his defense are part of the "due process of law" that is guaranteed by Fourteenth Amendment to defendants in the criminal courts of state. Faretta V. California 422 U.S. 806 (1975).

"Where provision of Bill of Rights of federal Constitution is fundamental and essential to fair trial, it is made obligatory on states by Fourteenth Amendment." Gideon V. Wainwright, 372 U.S. 335 (1963)

"Under Fourteenth Amendment, accused has privilege to be present in person during prosecution for felony whenever his presence has a reasonably substantial relation to fullness of opportunity to defend against the charge." *Snyder v. Com. of Mass.*, 291 U.S. 97 (1934)

Therefore, at least as far back as 1910 the United States Supreme Court has recognized the the Sixth Amendment right to be present at trial is made applicable to all states and territories through the Fourteenth Amendment's "Due Process" and "Supremacy" clauses.

LEGAL ARGUMENT

The mere fact that the Defendant, a layman at law, with a simple seventh grade education would even have to make this motion or argument in law before a veteran Circuit Court Judicial Official is by nature suspect in itself and cause for alarm and concern in a legally trained mind, and makes the allegations of a full fledged conspiracy all the more likely.

For well over 100 years, "it is well settled that... at common law the personal presence of the defendant is essential to a valid trial and conviction on a charge of felony... If he is absent, ... a conviction will be set aside." W. Mikell, *Clark's Criminal Procedure* 49.2 (2d ed. 1918) (hereinafter Mikell)

Accord *Goldin*, Presence of the Defendant Read-
 ition of the Verdict in Felony Cases, 16 Colum. L.
 Rev. 18, 20 (1916); F. Wharton, Criminal Pleading
 and Practice 398 (9th ed. 1889) (hereinafter *Wharton*);
 1 J. Bishop, New Criminal Procedure 178-179 (4th ed. 1895)
 (hereinafter *Bishop*), and cases cited therein. The right
 generally was considered unwaivable in felony
 cases *Mikell* 492; 1 *Bishop* 175 and 178. This canon
 was premised on the notion that a fair trial
 could take place only if the jurors met the defendant
 face-to-face and only if those testifying against
 the defendant did so in his presence. See *Wharton*
 392; 1 *Bishop* 178. It was thought "contrary to the
 dictates of humanity to let a prisoner waive that
 advantage which a view of his sad plight might
 give him by inclining the hearts of the jurors to
 listen to his defence with indulgence." *Ibid.*,
 quoting *Price v. Commonwealth*, 18 Pa 103, 104 (1851).

The United States Supreme Court still feels this
 way today. Federal Rule of Criminal Procedure 43
 prohibits trial in absentia of defendant who is not
 present at beginning of trial. *Crosby v. U.S.* 506
 U.S. 255 (1993). It was also decided in *Crosby* the
 distinction in between "flight before and during
 trial is rational, marking point at which costs
 of delaying trial are likely to increase and help-
 ing to insure that any waiver is knowing and
 voluntary."

Crosby is almost identical to the case at hand.
Crosby the petitioner attended various preliminary
 proceedings, but failed to appear at the beginning
 of his criminal trial. The defendant, Mr. Bolick

in the case at hand did exactly the same thing and failed to appear on the day his trial was to begin.

Even in Diaz V. United States, 223 U.S. 442, 32 S.Ct. 250, 56 L.Ed. 500 (1912) the Supreme Court recognized the distinction between flight before the commencement of trial, and flight after the trial has begun, Id., 457, 32 S.Ct. 254, quoting Falk V. United States, 15 App.D. 454 (1899); cert denied, 181 U.S. 618, 636, 21 S.Ct. 923, 45 L.Ed. 1030 (1901).

Although in Crosby it was argued that his position rested not on the express provisions of F.R.C.P. Rule 43, but solely on the maxim *expressio unius est exclusio alterius*. The Court disagreed stating it was not necessary to invoke that maxim in order to conclude that Rule 43 does not allow full trials in absentia. However, the Supreme Court has invoked that maxim in Facetta V. California, 422 U.S. 806 (1975); Gideon V. Wainwright, 372 U.S. 335 (1963); Snyder V. Com. of Mass., 291 U.S. 97 (1934); See also Hoft V. People, 110 U.S. 574 (1884); Lewis V. U.S., 146 U.S. 370 (1892); Brooks V. Tennessee, 406 U.S. 605 (1972); Ferguson V. State of Ga., 365 U.S. 570 (1961); and Powell V. State of Alabama, 287 U.S. 45, 69, 53 S.Ct. 55, 64, 77 L.Ed. 158.

Therefore, a defendant's right to be present during trial is so embedded in the law that for a licensed attorney or practicing judicial official to feign ignorance to this right, and to convict a defendant absentia is suspect,

that it shocks the conscience.

Further, in the instant case the defendant has alleged prosecutorial and judicial misconduct from the out-set of his arrest in 2016 V.I.A. two separate petitions for Writ of Habeas Corpus, both filed in Horry County Circuit Court, and an "unverified" Second Subsequent Motion to Dismiss For Prosecutorial and Judicial Misconduct, neither of which has been properly adjudicated. With that in mind, this absentia conviction certainly stands out and gives compelling reasoning to be seriously considered and investigated for widespread and far reaching corruption and broad sweeping constitutional violations.

Furthermore, this absentia conviction brings into question the integrity and the independence of the judiciary. It questions a judicial official's ability to maintain professional competence in judicial administration, and his ability to comply with the law, Canon Code of Judicial Conduct, 1 and 2. Moreover, this absentia conviction questions the Judge's ability to be faithful to the law, and the ability to accord every person who is legally interested in a proceeding a full right to be heard according to law. It manifests ex parte communications concerning the pending proceeding between the Judge and Solicitor Thomas Terrell III. Finally, the absentia conviction manifests the Judge's inability to observe the standards of fidelity and diligence that apply to a judge, or the ability

take or initiate appropriate disciplinary measures against a judge or lawyer for unprofessional conduct, Canon Code of Judicial Conduct 3 A and B.

CONCLUSION

WHEREFORE: Defendant prays as follows:

1. That a mistrial be declared in the foregoing captioned cases;
2. That any order on any pretrial motions in this case be declared ab initio, (void);
3. That defendant be allowed to verify and have notarized the Second Subsequent Motion To Dismiss For Prosecutorial and Judicial Conduct;
4. That this Court adhere to its duties as set forth by Canon's Code of Judicial Conduct 3 B 3 and report Thomas Terrell III for his unprofessional conduct, or either conceit entering into a malicious and vindictive campaign to unfairly prosecute and convict the defendant in retaliation for his litigious nature conspiratorially; and;

5. Any and all other action this Court
deems appropriate and necessary

Respectfully Submitted

This day of April, 2020

Theodore I Bolick

811 New Century Dr

Asheboro NC 27805

APR 11 2020 AM 9:10
HONORARY COURT CLERK
ELIAS

VERIFICATION

I Theodore Bolick do hereby verify that
all statements made in the foregoing
Motion For Mistrial are true and accurate
to the best of my knowledge and belief

This 11th day of April, 2020

T Bolick

Signed and Subscribed

Before Me

This 19th day of April, 2020

Notary Michael L. Hys

My Commission Expires 1-13-2025

County Randolph

certificate of Service

I hereby certify I placed a copy of same
in the U.S. Mail Postage prepaid addressed as
follows:

Solictor Thomas Terrell III

1301 Second Ave

Cowboy S.C. 29526

8 Pg 28

This 19th day of April 2020
Theodore Bolick

FILED
2020 APR 22 AM 9:18
HELEN H. ELVIS
CLERK OF COURT
HOLLY COUNTY, SC

STATE OF SOUTH CAROLINA COURT OF GENERAL SESSIONS
 Horry County FIFTEENTH JUDICIAL CIRCUIT

CASE NO, S 2016A2620602245;
 2250; and 2251

STATE OF SOUTH CAROLINA

SUPPLEMENTAL PLEADING
 AND MOTION FOR MISTRIAL

THEODORE J. BOLICK,
 Defendant

NOW COMES: Defendant, Theodore Bolick pro se and in an abundance of caution hereby submits for viewing and consideration this Supplemental Pleading And Motion For Mistrial. In support of submission Defendant shows unto the court as follows:

I. THE STATE WILL NOT BE PREJUDICED

On July 23, and 24, 2019 the State procured through Solicitor, Thomas Terrell III called for trial the above three cases. The Defendant was tried in his complete absence and without counsel. Furthermore, the above three cases, from three separate indictments were all joined for trial in front of one jury even though there was absolutely no evidence that

the charges arose out of a single chain of circumstances, not a single piece of evidence was the same in either case, the crimes were not of same general nature because all three businesses were distinctly different type businesses, and the Defendant's right to a fair trial were severely prejudiced, as a result of this hoax of a trial, Defendant was found guilty and a Judgment was sealed on July 24, 2019.

On or about April 19, 2020 Defendant filed a pro se Motion For Mistrial alleging that on July 23, and 24, 2019 Defendant suffered serious medical issues which prevented his ability to appear for trial, and therefore, Defendant's absence from trial was not willful or voluntary.

On or about June 6, 2020 Defendant filed a pro se Motion For New Trial alleging that his absentia conviction was unconstitutional, and that the joinder of the three separate indictments for trial were unconstitutional.

Neither the Motion For Mistrial nor the Motion For New Trial have been adjudicated on the merits or facts. Further, the State as of the date of this writing have not responded to either motion, and therefore cannot in good faith argue that it would be prejudiced by this Supplemental Pleading.

In fact, on September 12, 2022 the State by

and through Thomas Terrell III had Defendant brought before Judge William Seals for the opening of the sealed Judgment. At that time, Thomas Terrell III and Judge William Seals did conspire through ex parte communication to deny the Defendant the due process and equal protection of the law, and through a meeting of the minds refused to allow the Defendant to speak, refused to allow the Defendant to be heard on the Motion for Mistrial or the Motion For New Trial, and refused to consider appointing Defendant Counsel for the hearing. Instead Judge William Seals plainly stated that he was there only to read the Judgment, and then began to mock me in open court, telling me to appeal, and joined solicitors Thomas Terrell III and Mr. Steenko in laughing at the Defendant as he signaled the bailiffs to remove me from the court-room.

Since this time the Defendant and the state by and through Assistant Deputy Attorney General, William M. Blitch Jr. argued by brief before the South Carolina Court of Appeals that the case needed to be remanded back to Circuit Court for consideration of all outstanding motions. On February 5, 2021 the S.C. Court of Appeals issued an Order remanding the case to Circuit Court for

consideration on all outstanding motions.

II THE JOINDER OF THE THREE SEPERATE CHARGES CONTAINED IN THREE SEPERATE INDICTMENTS FOR ONE SINGLE TRIAL IN FRONT OF ONE JURY IN THIS CASE WAS UNCONSTITUTIONAL, AND SO OUTRAGEOUSLY VINDICTIVELY, AND MALICIOUSLY DONE WITH THE SOLE INTENT TO CONFUSE THE JURORS AND PREJUDICE THE DEFENDANT THAT IT AMOUNTS TO PROSECUTORIAL MISCONDUCT

The Defendant in this case is a 56 year old male with a formal seventh grade education, and absolutely no training in law. However, the Defendant through a little legal research was able to discover that the law which governs the joinder of charges in the state of South Carolina is so well established and embedded in the law that only a complete and utter buffoon could not comprehend or understand it. For Solicitor General Terrill III to stand in court and allege that he did not know what he was doing and die on July 22, and 24, 2019 is tantamount to him saying he has absolutely no business practicing law because he is

~~Dras V. D.S., 331 F.2d 85-89-90 (4th Cir 1964)~~
 disgrace to the profession, and a danger to
 the state and its citizens.

Both the South Carolina Supreme Court and the
 Court of Appeals have set forth with unwavering
 clarity on multiple occasions the four basic
 requirements for joining separate charges
 from separate indictments for trial... 1)
 charges must arise out of a single chain of
 circumstances; 2) charges must be proved
 by the same evidence; 3) charges must be
 of the same general nature; and 4) no real
 right of the defendant can be prejudiced. See
State V. Tallett, 430 S.C. 438 (2020); State V. Davis,
 422 S.C. 472 (2018); State V. Beekman, 416 S.C. 632
 (2016); State V. McGaha, 404 S.C. 289 (2013);
State V. Rice, 368 S.C. 610 (2007); State V. Smith,
 322 S.C. 107 (1996); State V. Tucker, 324 S.C. 155
 (1996); State V. Jones, 325 S.C. 310 (1996); State
V. Anderson, 318 S.C. 395 (1995); and finally,
 if not most importantly State V. Tate, 286 S.C.
 462 (1985).

With this clearly being the well established
 law, then it is irrefutable the joinder of the
 Defendant's three cases for trial prejudiced
 the Defendant's right to a fair trial and the
 Defendant's conviction is unconstitutional.

In fact, the Defendant calls Mr. Thomas
 Terrell III out by way of this motion, and

and before the courts to state for the record one single piece of evidence that was the same in either case. Moreover, Defendant again challenges Mr Thomas Terrell III to state one single piece of evidence of any type that these crimes arose out of a single chain of circumstances.

Facts are Mr. Thomas Terrell III cannot in good faith provide either as can be easily manifested by the record, and it therefore becomes obvious why Judge William Seals and Thomas Terrell III conspired through ex parte communication to deny the Defendant a fair hearing on his Motion For Mistrial and Motion For New Trial on September 16, 2020. This allegation by the Defendant is also supported by Senior Assistant Deputy Attorney General, William M Blitch's arguments made on January 14, 2021, and the Order from the Court of Appeals dated February 5, 2021 remanding this case back to Horry County Circuit for consideration on these outstanding motions.

The Defendant's conviction is so outlandish and unconstitutional in that he was convicted absentia without representation, and completely unrelated indictments were

improperly joined for trial over Defendant's objections, arguments, and Motion To Sever. The trial was fundamentally unfair, and the conspiratorial actions by Judge Seals and Solicitor Terrell to prevent the Defendant from being heard in post trial motions is appalling and reflects grossly on the States reputation.

III CONCLUSION

WHEREFORE: Defendant prays:

1. The Court allow this supplemental pleading for mistrial;
2. Grant the Defendant an evidentiary hearing so that Defendant may provide testimony and documentary evidence as to all allegations contained in this motion;
3. Declare the Defendant's conviction unconstitutional
4. Any and all other action this court deems just and necessary

Respectfully Submitted

This 28th day of February 2021
Theodore Bolick prose
Sycamore B-18
4648 Goldmine Hwy
Kershaw, S.C. 29067

CERTIFICATE OF SERVICE

I hereby certify a copy of the foregoing
Supplemental Pleading And Motion For Mistrial
was placed in the U.S. Mail postage pre-paid
and addressed as follows:

Solicitor Thomas Trench III
P.O. Box 1276
Conway, S.C. 29528

Theodore Bolick
February 26, 2021

STATE OF SOUTH CAROLINA COURT OF GENERAL SESSIONS
HARRY COUNTY FIFTEENTH JUDICIAL CIRCUIT
CASE NO. S 2016A 2620602245,
2250, and 2251

STATE OF SOUTH CAROLINA

MOTION FOR NEW TRIAL

VS.

THEODORE Jerry Bolick,
Defendant

2020 JUN 15 PM 2:08
FILED
CLERK OF COURT
HARRY COUNTY SC

NOW COMES Defendant, Theodore Bolick pro se
and hereby moves this Honorable Court for a new
trial. In support of said motion Defendant shows
unto the Court as follows:

SUMMARY OF CASE

On July 23, 2019 the above captioned cases
were called for trial. Defendant failed to appear
due to a serious medical issue. The cases
were joined for trial, and the trial was had in
the Defendants absence. Defendant was
found guilty and the Judgment was sealed.

QUESTIONS OF LAW

A. WAS DEFENDANT'S OPIOID WITHDRAWAL A SERIOUS MEDICAL ISSUE?

On July 23, 2019 Defendant was in route to the courthouse when he began to suffer opioid withdrawal. This serious medical issue did prevent Defendant from attending his trial. The courts have recognized withdrawal as a serious medical issue. Lawcaster v. Monroe County Ala., 116 F. 3d 1419, 1426 (11th Cir 1997); Kelly v. County of Wayne, 325 F. Supp 2d 788, 792 (E.D. Mich 2004); Gonzalez v. Cecil County Md. 221 F. Supp 2d 611, 616 (D. Md. 2002); U.S. ex rel. Walker v. Fayette County Pa. 599 F. 2d 573, 575-76 (3d Cir 1979); Palmiana v. Garraby, 443 F. Supp 956, 989 (D. R.I. 1977); and Feelker v. Outagamie County, 394 F. 3d 510, 513 (7th Cir 2005).

B. DID DEFENDANT'S ABSENTIA CONVICTION VIOLATE DEFENDANT'S FOURTEENTH AMENDMENT RIGHTS?

In Diaz v. U.S., 223 U.S. 442 (1912) the U.S. Supreme Court upheld his conviction because Diaz absented himself from the trial after it had begun. However, the court stated, "It is the right of the defendant in cases of felony... to be present at all stages of the trial, especially

at the rendition of the verdict."

The Supreme Court in Crosby v. U.S. 506 U.S. 455 (1993) expressly recognized the difference between "flight before and flight during a trial." The court stated "If a clear line is to be drawn marking the point at which the cost of delay are likely to outweigh the interests of the defendant and society in having the defendant present, the commencement of trial is at least a plausible place at which to draw that line."

In Hopt V. People, 110 U.S. 574 (1884) a case cited in Crosby the Supreme Court, "Held that to be present before the triers was a right of the accused which could not be waived." The court in Hopt also stated, "challenges of proposed jurors, in felony cases, must be had in the presence as well of the court as of the accused, and such presence of the accused cannot be dispensed with."

In another case referred to in Crosby the Supreme Court of Pennsylvania in Price V. Com, 18 Pa 103 stated, "It is not competent to try a prisoner for a felony in his absence, even with the consent of his attorney."

Moreover, in Snyder V. Com of Mass. 291 U.S. 97 (1934) the Supreme Court held,

"Under Fourteenth Amendment accused has privilege to be present during prosecution for felony whenever his presence has a reasonably substantial relationship to the lack of opportunity to defend against the charge."

It was also stated, "Every criminal defendant is privileged to testify in his own defense, or to refuse to do so" by the Supreme Court in Harris V. New York, 401 U.S. 222 (1971).

Therefore if stare decisis is to be maintained the absentia conviction in the case at hand is definitely unconstitutional.

C. DID JOINDER OF THE CASES PREJUDICE DEFENDANTS RIGHT TO A FAIR TRIAL?

In the instant case three separate burglaries which occurred on three separate dates, at three separate locations, in three separate types of business were joined for trial. Further, not one single piece of evidence in either case was used in any of the other cases; nor was any evidence the same in either case. The state was simply allowed to join the cases, and the cumulative

evidence in all three cases, as scarce as it was, cumulated in the jurors minds.

See United States V. Halper, 590 F.2d 422, 430 (2d Cir 1978)

In State V. Simmons 573 S.E. 2d 25 (2002) the court stated, "conversely, offenses which are of the same nature, but which do not arise out of a single chain of circumstances and are not provable by the same evidence may not properly be tried together. See also State V. Jones, 325 S.C. at 315, and State V. Middleton, 288 S.C. 21, 479 S.E. 2d 692.

In the case at hand the State was able to use the evidence of all three cases together in their cumulative effect to get the jury to infer a criminal disposition on all counts. The court in United States V. Fautz 540 F.2d 733, 736-38 (4th Cir 1976) held that to be unconstitutional. See also United States V. Gregory 369 F.2d 185, 189 (D.C. Cir 1966).

Therefore, the trial court clearly abused his discretion by allowing the State to join these cases for trial and prejudiced the Defendants right to a fair trial.

ARGUMENT

When considering the record in these cases from the outset and in its entirety, it is clearly manifested something is amiss. (See Defendant's Notice And Motion For Standing And Continued Objections). To view and recognize the abuse of discretion by the trial judge in these matters is frightening. To make matters worse and further suspect is that this same judge also abused his discretion in Bolick V. Thompson, 2016CP267053 when he dismissed Defendant's Petition For Writ of Habeas Corpus as moot so belatedly and untimely that it is almost laughable if it wasn't so serious.

When viewing all the abnormalities in the cases at hand, it is manifested that there are tyrants and despots in the mix of Horry County's local government. The vindictive and malicious prosecution of the Defendant is simply outrageous. The continued blatant disregard for the Defendant's constitutional rights is broad sweeping and absolutely flagrant. The despots and tyrants have and continue to act with impunity. The Defendant is left wondering how long the laws and constitutions of this state and country will be ignored by the good men who swore to uphold

them. Has Horry County in all its glamour as an independent republic become a despotism to be feared and despised. Defendant prays not and also prays that he will find an ally in truth, justice, and respect for the law as it is written. O

The Defendant under the name of Theodore Jerry Williams has faced and defeated this type adversity in the state of North Carolina in the past. (See State v Williams, 186 N.C. App. 233 (2007), and again State v Williams, 190 N.C. App. 301 (2008) appeal denied 362 N.C. 628 (2008) unanimous en banc decision). However, it cost the Defendant several years of his life incarcerated before he was able to expose the tyrants and despots in those despotisms.

The Defendant prays this will not be the case in South Carolina. That a God fearing, law abiding person will interpose and say enough is enough.

CONCLUSION

WHEREFORE: Defendant prays as follows:

1. Declare the trial that took place in the Defendant's absence on July 23 and 24, 2019 to be in violation of

the Defendant's rights protected by the Sixth and Fourteenth Amendments;

2. Order a new trial or outright dismissal of the charges all together;

3. Any and all other action this court deems just and necessary.

2020 JUN 15 PM 2:00
FILED
CLERK OF COURT
JULY 15 2020

Respectfully Submitted
This 6th day of June, 2020
Theodore Bolick
4150 J. Reuben Long Ave.
Conway, S.C. 29526

CERTIFICATE OF SERVICE

I hereby certify a copy of the foregoing Motion For New Trial was placed in the U.S. Mail postage prepaid addressed as follows:

Solicitor Thomas Terrell III
P.O. Box 1276
Conway, S.C. 29528

This 8th day of June, 2020
Theodore Bolick

STATE OF SOUTH CAROLINA GENERAL SESSIONS COURT
 HORRY COUNTY FIFTEENTH JUDICIAL CIRCUIT
 Case No.s 2016A26202245
 2250; and 2251

STATE OF SOUTH CAROLINA

VS

MOTION TO RECONSIDER
 OR CONSIDER

THEODORE BOLICK,

Defendant

FILED
 HORRY COUNTY
 2020 SEP 24 A 8:39
 RENEE N. ELYS
 CLERK OF COURT
 HORRY COUNTY, SC

Now COMES Defendant, Theodore Bolick pro se and hereby moves this court to consider the previously filed Motion For Mistrial and Motion For New Trial in the above captioned cases. In support of said motion Defendant shows as follows:

1 Defendant was tried in his complete absence without counsel on July 23 and 24, 2019

2. Defendant filed a pro se Motion For Mistrial on or about the 19th day of April, 2020

3. Defendant filed a pro se Motion For New Trial on or about June 8, 2020

4 That on September 16, 2020 Judge Sealé unsealed the Judgment in case, but steadfastly refused to allow Defendant to speak or be

heard on the Motion For Mistrial or the Motion For New Trial, He actually signaled the Bailiff's to remove the Defendant from the courtroom when the defendant was trying to explain that these motions had been filed and were ripe for adjudication

5. Judge Seale abuse his discretion, and refused to hear defendant.

6 Both motions were ripe for judgment pursuant to State V. Thompson, 355 S.C. 255, 580 S.E.2d 131 (Ct. App. 2003), and State V. Robertson, 354 S.C. 638 S.E. 2d 93 (S.C. App 2006). However, being a willing participant in a vicious conspiracy to retaliate against the defendant for the filing of Civil Rights Complaints against Sheriff Phillip Thompson and many subordinates, willfully refused to hear the motions with the malicious intent to deny the defendant the due process of law.

WHEREFORE Defendant prays his Motion For Mistrial and Motion For New Trial be properly adjudicated so as to prevent the manifest miscarriage of justice

Respectfully Submitted
This 18th day of September, 2020
4344 Broad River Rd
Columbia, S.C. 29210

CERTIFICATE OF SERVICE

I Theodore Bolick hereby certify a copy of the foregoing Notice of Appeal, Request For Transcripts, And Appointment of Counsel, along with the Motion To Reconsider or consider was placed in the U.S. Mail, postage prepaid addressed

Office of the Solicitor
Thomas Terrell III
P.O. Box 1276
Conway S.C. 29528

FILED
HORRY COUNTY
2020 SEP 24 A 8:39
RENEE M. ELYS
CLERK OF COURT
HORRY COUNTY, SC

This 18th day of September, 2020
Theodore Bolick

Pg 51

Exhibit 6

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

IN THE COURT OF GENERAL SESSIONS
15TH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA

NOTICE OF MOTION AND MOTION
FOR RECONSIDERATION

V.

Indictment no: 2016GS2604947, 953, 5081

THEODORE JERRY BOLICK
DEFENDANT

Exhibit

PLEASE TAKE NOTICE that the State of South Carolina, will move before the Court of General Sessions, on such date and time as the Court may provide, for reconsideration of the Court's grant of Defendant's Motion for a Mistrial.

Defendant Theodore Jerry Bolick was tried and convicted for three charges of Burglary, 2nd Degree (Violent) in his absence in July 2019. The Court sealed his sentence and issued a bench warrant for his arrest. He was arrested in North Carolina on his Bench Warrant and brought back to Horry County for the unsealing and imposition of his sentence. His sentence was unsealed and Defendant subsequently filed, amongst other things, a Motion for Mistrial. This Motion was heard by the Honorable R. Ferrell Cothran, Jr. who granted Defendant's motion.

The State moves this Court, specifically Judge Cothran, to reconsider his grant of Defendant's Motion for a Mistrial. The State can and will demonstrate good cause as grounds for this motion.

Respectfully Submitted,


Thomas Groom Terrell, III
Assistant Solicitor
Fifteenth Judicial Circuit of South Carolina

FILED
HORRY COUNTY
JENEE H. ELYS
CLERK OF COURT
APR 23 P 2:02
HORRY COUNTY, SC

Pg 49
110

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

IN THE COURT OF GENERAL SESSIONS
15TH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)

SUPPLEMENTAL NOTICE OF MOTION AND
MOTION FOR RECONSIDERATION

V.)

Indictment no: 2016GS2604947, 953, 5081

THEODORE JERRY BOLICK)
DEFENDANT)

PLEASE TAKE NOTICE that the State of South Carolina, will move before the Court of General Sessions, on such date and time as the Court may provide, for reconsideration of the Court's grant of Defendant's Motion for a New Trial in addition to the Defendant's Motion for a Mistrial.

On April 16, 2021, this Court heard and ruled on Defendant's outstanding motions. On April 19, 2021, when the orders were clocked with the Clerk of Court, it became clear for the first time that this Court did not grant Defendant's Motion for Mistrial, thereby possibly allowing for a new trial, but it also granted Defendant's Motion for a New Trial! Due to substantial confusion during and following the in-court hearings as to what was ruled on, on what grounds the motions were granted, and the procedural consequences it has on the case, the State is also requesting reconsideration this Court's grant of the Motion for a New Trial.

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The State moves this Court, specifically Judge Cothran, to reconsider his grant of Defendant's Motion for a Mistrial and Defendant's Motion for a New Trial. The State can and will demonstrate good cause as grounds for this motion.

Respectfully Submitted,


Thomas Groom Terrell, III
Assistant Solicitor
Fifteenth Judicial Circuit of South Carolina

FILED
HORRY COUNTY
2021 APR 29 A 10:37
RENEE N. ELYS
CLERK OF COURT
HORRY COUNTY, SC

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF HORRY)	15 TH JUDICIAL CIRCUIT
STATE OF SOUTH CAROLINA)	
)	MEMORANDUM SUPPORTING STATE'S
)	MOTION FOR RECONSIDERATION
)	
V.)	Indictment no: 2016GS2604947, 953, 5081
)	
THEODORE JERRY BOLICK,)	
DEFENDANT)	
_____)	

When granting Defendant's motions for a mistrial and a new trial, this Court allowed the State to present an argument for reconsideration. The State's primary grounds urging reconsideration fall into two categories: procedural and factual. The granting of Defendant's Motion for Mistrial at this post-conviction stage is procedurally improper on a number of grounds. Factually, the decision on whether to allow joinder was in the discretion of the trial judge who did not abuse his discretion in allowing the State to join the charges. Joinder is appropriate for these charges given the specific set of facts linking these crimes. For these reasons and the explanation which follows, the State urges this Court to reconsider its granting Defendant's Motion for Mistrial and Defendant's Motion for a New Trial.

Relevant Trial History of the Case

Defendant was arrested and charged with three counts of burglary for breaking into three separate businesses in the nighttime hours on three separate days over a nine-day span. The State moved the court to join the three burglaries into one trial by calling all three to trial the week of July 22, 2019. The Defendant had filed a Motion to Sever the crimes into three different trials. This motion, along with other pre-trial motions filed by the Defendant were to be heard the morning of July 23, 2019. The Defendant was notified of this in person in the courtroom on July 22, 2019, and told to return to the courtroom the following morning for the pretrial motions and start of the trial. The court was also prepared to address the matter concerning the notice Defendant was to be given regarding which charge(s) would be called and tried. Notably, the State was prepared to go forward with trial whether or not the court severed the charges. When the Defendant was late for the designated time to begin on July 23, 2019, telephone contact was established with the Defendant who informed the court that he was in Myrtle Beach, that he had missed his bus, and that he was waiting for the next bus to bring him to Conway. After consulting the bus schedule, a Deputy was sent to the Conway bus terminal to await Defendant's scheduled arrival. Bolick was on neither that bus nor the following bus that arrived from Myrtle Beach. Law Enforcement was also requested to check the Myrtle Beach bus terminal for Defendant which yielded negative results. Additional attempts to establish contact with Defendant were unsuccessful. With the waiting jury panel in mind, the court decided to pick a jury without the Defendant so the selected jurors could go to lunch and the remaining jurors could be excused. Prior to swearing the impaneled jurors, the issue of Defendant's motions were addressed to the court in the Defendant's absence. All Defendant's pretrial motions were dismissed by the court citing Bolick's absence and failure to argue and



advance them. Without the benefit of the transcript (which has been requested, though not yet received), it is impossible to be sure whether the original trial judge ruled on the record as to the merits of joinder or only dismissed Defendant's motion when he failed to appear to argue the motion.

Defendant was subsequently tried and convicted in his absence. The sentence was sealed and a bench warrant was ordered for his arrest. Eventually, Law Enforcement arrested the defendant in North Carolina on his bench warrant. Defendant filed numerous motions. He was brought before the Court who unsealed and imposed the defendant's sentence of 12 years concurrent on all three burglary convictions. Defendant appealed his conviction and filed additional motions. After considering the issue of appealability, the Court of Appeals remanded the case to the Circuit Court to rule on Defendant's outstanding motions before the Court of Appeals would address any issues raised on appeal.

The original trial judge has retired. The Chief Judge for Administrative Purposes of General Sessions for the Fifteenth Judicial Circuit recused himself following claims of misconduct levied by this defendant against him. The Circuit Court judge who unsealed Defendant's sentence likewise has since recused himself following Defendant's formal complaints against him. The Court of Appeals asks this Court to sit in the place of the trial judge on ruling on Defendant's post-trial motions.

One of these outstanding motions was a motion for a mistrial based on the trial proceeding in the defendant's absence and on allegations of judicial and prosecutorial misconduct. In a supplemental pleading to this motion for a mistrial, Defendant raises the issue of consolidation of the charges into one trial as evidence of such prosecutorial and judicial misconduct.

A second motion was a motion for a new trial based on Defendant's claim that his absence was involuntary and on whether or not the trial court abused its discretion by allowing the consolidation of three charges of Burglary, 2nd Degree (Violent) into one trial.

This Court granted Defendant's Motion for a Mistrial and Motion for a New Trial relying on what it perceives as improper joinder.

I. JOINDER

A. Factual Background

The facts of the burglary crime spree are as follows:

On August 18, 2016, in the nighttime early hours of the morning, the Barrel Bar restaurant, located at 2303 S. Kings Hwy on the south end of Myrtle Beach was burglarized. The suspect entered the business through the roof-top air conditioning system and dropped down into the business from the ceiling. Surveillance video from the China Chef shows a suspect, visually physically consistent with Theodore Bolick, with long hair, wearing a skull cap style bandana and work gloves, search the bar area and the back room. The burglar is seen to be wearing a glove on each hand and has what appears to be a third glove sticking out of the back waistband of his shorts. The surveillance video shows the suspect examine the cash registers behind the bar and attempting to break into the ATM machine in the barroom. The cash drawers were locked up in a safe in the office. A green handled "Zombie Killer" throwing knife was found up the air duct near where entry was made from the ceiling. The evidence shows that the suspect made his exit through the back door of the business.

On August 26, 2016, in the nighttime early hours of the morning, the China Chef restaurant, located at 1470 S. Kings Hwy on the south end of Myrtle Beach was burglarized. The suspect

entered the business through the roof-top air conditioning system and dropped down into the business from the ceiling. Surveillance video from the China Chef shows a suspect, visually physically consistent with Theodore Bolick, with long hair, wearing a skull cap style bandana, search the area of the front counter and the side rooms. The suspect takes the cash drawer toward the back of the business, returns to the counter to pick up approximately \$30 of miscellaneous change that was knocked to the floor, knocks other miscellaneous items to the ground, and leaves the video frame heading toward the back of the business. The evidence shows that the suspect made his exit through the back door of the business.

On August 27, 2016, in the nighttime early hours of the morning, Giff's Liquors, located at 1490 S. Kings Hwy on the south end of Myrtle Beach was burglarized. The suspect entered the business through the roof-top air conditioning system and dropped down into the business from the ceiling. The cash drawer from the register was taken from the store that contained maybe \$20-\$30 in change as the cash had been removed from the drawer and placed in an envelope in the office. A right hand work glove was found in the back room of the store that was not there at closing a few hours before the burglary. This glove was sent to SLED where it was examined for DNA. Theodore Bolick was determined by SLED to be the major contributor of DNA to the inside of that glove. The evidence shows that the suspect made his exit through the back door of the business.

On August 27, 2016, using photographic stills from the surveillance videos of the Barrel Bar burglary and the China Chef burglary, Bolick was identified and named a suspect. A search warrant was executed at the motel room where he was living at the time at 2600 S. Ocean Blvd on the south end of Myrtle Beach, South Carolina. Located during the search of the motel room were multiple skull cap style bandanas matching the ones shown in the surveillance videos. One of these bandanas found has the same eagle design on it as the one the burglar is wearing in the surveillance video of the Barrel Bar. Also located was a left hand work glove that matches in shape, style, size, and wear indicators the right hand glove found on the scene at Giff's Liquors.

Bolick was located and arrested during the search of his motel room. Found on his person at the time of his arrest were two green-handled "Zombie Killer" throwing knives matching the kind of knife found in the ceiling of the Barrel Bar right after the burglary. Evidence introduced at trial shows that these throwing knives are sold as a set of three. Also located with Bolick during his arrest was a pocket full of loose miscellaneous change.

B. Joinder in South Carolina

Charges can be joined and tried together where they arise out of a single chain of circumstances, are proved by the same evidence, are of the same general nature, and no real right of the defendant has been prejudiced. State v. Tucker, 324 S.C. 155, 478 S.E.2d 260 (1996). The Court of Appeals restricted joinder to offenses that are of the same nature which arise out of a single chain of circumstances and are proved by the same evidence indicating those that are not may not properly be tried together. State v. Rice, 368 S.C. 610, 629 S.E.2d 393 (App. 2006).

Offenses are considered to be of the same general nature where they are interconnected. Conversely, offenses that are of the same general nature, but which do not arise out of a single chain of circumstances and are not provable by the same evidence may not be properly tried together. State v. Rice, 368 S.C. 610, 629 S.E.2d 393 (App. 2006).

The Court has repeatedly diverged from a restrictive reading of the "single chain of circumstances" language, where in Beekman it indicated joinder is appropriate for crimes that involve connected transactions closely related in kind, place, and character. State v. Beekman, 415 S.C. 632, 785 S.E.2d 202 (2016).

The phrase "a single chain of circumstances" has been interpreted by our Supreme Court courts to include crimes that involve connected transactions closely related in kind, place, and character. State v. Beekman, 415 S.C. 632, 785 S.E.2d 202 (2016). Indeed, the Supreme Court found no abuse of discretion in denying a motion to sever charges involving the deaths two victims of Shaken Baby Syndrome even though the charges stemmed from different occurrences nearly nine months apart precisely because the deaths were closely related in kind (deaths of infants), place (deaths occurred at the same daycare facility), and character (Shaken Baby). State v. Cutro, 365 S.C. 366, 618 S.E.2d 890 (2005).

From the many instances of divergence, it is apparent that the "single chain of circumstances" language when determining joinder is far less influenced by the length of time between events than by their connectedness.

i. Time Between Crimes Not Dispositive

The time between joined crimes is a consideration of the trial courts in regards to joinder but it is not the determinative factor. There are numerous examples of South Carolina courts determining joinder is appropriate for crimes happening in rapid succession to one another thereby satisfying the "single chain of circumstances" requirement. See, e.g., State v. Simmons, 352 S.C. 342, 573 S.E.2d 856 (App. 2002) (holding that two separate burglaries that happened the same night at approximately the same time are properly joined), State v. Tucker, 324 S.C. 155, 478 S.E.2d 260 (1996) (ruling joinder appropriate on three groups of charges over a six day period of time where the latter two sets of charges were burglaries that occurred in successive days while attempting to evade capture for the first set of charges).

Conversely, there are instances where similar charges on successive days were determined to not "arise out of the same transaction" and, thus, misjoined in a single trial. See, e.g., State v. Middleton, 288 S.C. 21, 339 S.E.2d 692 (1986) (rejecting the state's "crime spree" argument for joinder where appellant escaped from prison on day one, raped and murdered one victim on day two, similarly raped and murdered a second victim on day three, and attempted to rob a grocery store on day four).

There are also numerous examples of substantial time elapsing between crimes where our courts have upheld consolidated trials. See, e.g., State v. Rice, 368 S.C. 610, 629 S.E.2d 393 (App. 2006) (upholding joinder of a murder charge and a trafficking charge from six weeks after the murder where the trafficking arrest arose out of the investigation of the murder); State v. Beekman, 415 S.C. 632, 785 S.E.2d 202 (2016) (affirming appropriateness of joinder of a CSC with a Minor charge with victim one twice in eight months and a single Lewd Act against a second victim); State v. Cutro, 365 S.C. 366, 618 S.E.2d 890 (2005) (agreeing that the "Shaken Baby" deaths of two victims in the defendant's care nine months apart are properly consolidated in a single trial); Greenville v. Chapman, 210 S.C. 157, 41 S.E.2d 865 (1947) (determining joinder was appropriate on multiple counts of milk adulteration over a nineteen month period of time); State v. McGaha, 404 S.C. 289, 744 S.E.2d 602 (App. 2013) (ruling that two criminal sexual conduct with a minor charges involving two different victims over a 17 month span are proper for consolidation); State v. Jones, 325 S.C. 310, 479 S.E.2d 517 (App. 1996) (approving joinder of sexual abuse charges ten months apart with different victims).

While not controlling precedent on this Court, the Federal court system uses a similar "same act or transaction" language when evaluating the propriety of joinder. Fed. R. Crim. P. 8(a). Like South Carolina precedent, the time between charges is a factor, but by no means dispositive on the issue. Compare U.S. v. Hawkins, 776 F.3d 200 (4th Cir. 2009) (acknowledging a temporal relationship between a carjacking charge and a felon in possession of a firearm charge separated by

three weeks though holding it insufficient to sustain joinder because the crimes were not logically related), with U.S. v. Rousseau, 257 F.3d 925 (9th Cir. 2001) (approving joinder of two distinct counts of possession of a firearm by a felon nearly six and a half months apart).

Ultimately, courts are much more concerned with the connectedness of the crimes than the elapsed time between charges. Two charges can be "identical" and still not "related" for the purposes of joinder. E.g., State v. Tate, 286 S.C. 462, 334 S.E.2d 289 (App. 1985) (where without reference to the length time between charges, a forged government check passed at a liquor store in February and a different forged government check passed at a different liquor store in May by the same individual is insufficient to sustain a motion for consolidation because the evidence is proffered and supported the by testimony of different witnesses). This seems especially true for cases where the State seeks joinder of similar crimes based on a uniquely identifiable pattern of conduct. See Chapman, 210 S.C. at 161 (disfavoring the "inflexible application" of a "restrictive meaning" of "same transaction" where the charged conduct is instead a series of identical transactions proved by the testimony of the same witnesses and the respective dates are the main differences in the various counts); Cutro, 365 S.C. at 375 (holding multiple "Shaken Baby" deaths, while nine months apart, are nonetheless properly consolidated because they "clearly fit within the Lyle categories for common scheme or plan" and "are similar in kind, place, and character").

Our Supreme Court has declined to mandate severance and outright rejected a "restrictive reading of the phrase 'a single chain of circumstances'" in Beekman, 415 S.C. at 636. Beekman was convicted of first-degree criminal sexual conduct with a minor on his stepson and lewd act upon a child on his stepdaughter. The offenses occurred a different times within an eight-month period. The Beekman Court acknowledged that the crimes Beekman was charged with "did not arise out of a single, isolated incident" but rather "arose from, in substance, a single course of conduct or connected transactions." Id. The Court goes on to evaluate a litany of cases where joinder was properly allowed even in the absence of evidence of a single chain of circumstances "when the crimes involve[ed] connected transactions closely related in kind, place, and character." Id. Noting the "same time period" to be an eight-month span and the "same modus operandi" to be the stepchild and stepfather watching television together when the transgression occurred, the court found the same degree of interconnectedness sufficient to approve joinder in Tucker, Jones, McGaha, and Cutro. Supra.

In rejecting Beekman's assertions that the charges are distinct crimes not supported by the same evidence because different testimony would be required for each child, the Court redirected the analysis to the "glaring similarities" between the offenses explaining that a rule strictly requiring all charges be proved by completely identical evidence is "nowhere to be found in our precedents." Id. at 638.

Case	Joined Crimes	Elapsed Time	Proper?	Notes
Cutro (2005)	Shaken Baby Death Shaken Baby Death Shaken Baby Assault	9 months	Yes	Acquitted of the Assault – no prejudice
Rice (2006)	Murder Drug Trafficking	6 weeks	Yes	Res gestae
Simmons (2002)	Burglary Burglary	Minutes	Yes	No prejudice even with a Directed Verdict on 2 nd Burglary charge
Greenville v. Chapman (1947)	23 Counts of Milk Adulteration	19 months	Yes	

Tate (1985)	Forgery Forgery	3-4 months	No	No connection between the 2 other than the defendant and the charge
Middleton (1986)	Escape Rape & Murder Rape & Murder Att. Armed Robbery	4 days	No	
Jones (1996)	Sex Abuse Sex Abuse	10 months	Yes	Different Victims Same M.O.
Beekman (2016)	CSC Minor Lewd Act	8 months	Yes	Different Victims Closely connected transactions & great overlap of evidence
McGaha (2013)	CSC Minor (x2) Lewd Act (x2)	17 months	Yes	Different Victims
Herry (1996)	Arson (x2) False Insurance Claim	Hours	Yes	Charges Interconnected Same Evidence
Tucker (1996)	Burglary & Murder Burglary Burglary	4 days	Yes	Subseq. Burgs committed to evade capture
Tallent (2020)	CSC Minor 1 st Deg. CSC Minor 2 nd Deg. Lewd Act Cont Del Minor (x2)	Several Years	Yes	Logical Relationship between charges and no prejudice
Smith (1995)	ABHAN Homicide by Child Abuse	1 month	No	Different evidence No <u>Lyle</u> similarities
Hawkins (4 th Cir. 2009)	Carjacking Felon in Poss.	3 weeks	No	Crimes not logically related
Rousseau (9 th Cir. 2001)	Felon in Poss. Felon in Poss.	6 ½ months	Yes	

In the present case, three burglaries spanning nine days is by no means dispositive when questioning the appropriateness of joinder. Courts of all levels have found joinder appropriate when the time between charges is substantially greater than the nine days at issue here. Where the eight-month time span is considered the “same period of time” in Beekman, the nine-day time span regarding the burglaries at issue here can certainly be seen at least as worthy of consolidation based on time alone.

Where this Court saw nine days with time between crimes as a bar to joinder because it may not satisfy the “single chain” prong, the appropriate analysis as undertaken in Beekman, digs deeper to examine similarities in kind, place, and character of the offenses charged. As in Beekman, there are “glaring similarities” between the three burglaries at issue here that simply cannot be overlooked. As it relates to the same kind, all three crimes are burglaries of businesses in the food and beverage industry that occurred at approximately the same time with the same goal in mind. All businesses were in the same place all being within three-quarters of a mile on the same road in the south end of Myrtle Beach, South Carolina, and two were literally a part of the same building being different establishments in the same strip mall. In regards to the same character, the three offenses all show signs of the same modus operandi: all three buildings were accessed in an extremely

unique manner with the offender gaining access to the roof, cutting into the rooftop HVAC system, crawling through the air vents, dropping into the business, taking or attempting to take the money holders in the business, and breaking out the back door: not the typical smash-and-grab offense but a carefully devised plan.

As discussed in Beekman, the fact that additional witnesses may need to be called to establish the separate elements of the various offenses does not mean that the crimes are not provable by the same evidence. As Beekman clarifies, "for joinder of related offenses, our appellate courts have recognized that there may be evidence that is relevant to one or more, but not all, of the charges" and that "by arguing that the evidence of multiple crimes may not merely overlap but must be wholly identical to warrant consolidation" is an incorrect reading of controlling, established precedent. 415 S.C. at 638-9. The vast majority of the evidence presented for the burglaries for which Defendant was convicted would be the same outside of the additional victims to establish the additional crimes because the same detectives and officers and crime scene and evidence personnel would be required for each charge to say, largely, the same thing. Additionally, the body of evidence for each charge is so intertwined with the evidence gathered during the arrest and search warrant of the Defendant's property that the full probative value of the evidence collected can only be realized after a full disclosure of all of the evidence.

ii. Analysis

This burglary crime spree spanning nine days involves interconnected offenses that are closely related in kind, place, and character. All three burglarized locations are on the south end of Myrtle Beach; indeed, they are all within $\frac{3}{4}$ of a mile. The three businesses are all located on the same street. Two of the businesses are located in the same strip mall, two doors apart, sharing the same roof (notable given the means of entry). The distance is only slightly more than half a mile from Defendant's motel room to the nearest burglary. The burglar avoided the more numerous business locations on "the strip" (Ocean Boulevard) and opted instead for businesses on South Ocean Highway where there would be far less possibility of meeting with an unwary tourist or local law enforcement known to increase their presence along the beach front road.

All three burglaries share the same modus operandi indicative of an ongoing common scheme or plan – a single chain of circumstance. All three locations are businesses which would be closed and vacant during the pre-dawn hours of night. These are not run-of-the-mill smash-and-grab jobs, but significantly more intricate. All businesses were entered through the air unit on the roof where the suspect was able to cut his way into the unit and gain access to the business through the duct work in the ceiling. He then dropped down into the business and searched for what he likely hoped would be easy, readily available money. The cash drawers he was able to find, he took the drawer with its contents out of the business. He did not take accessible electronics or other valuables - just whatever money he was able to find leaving the rest behind. Each business was exited through the back door, even when other avenues of escape were available.

Due to the unique nature of the burglaries and the closeness in proximity, the burglaries were all assigned to the same detective with the Myrtle Beach Police Department. As a result, the same key officers were involved in investigating all three burglaries as well as conducting the search warrant and perfecting the arrest of the defendant to include the same Crime Scene Investigators, the same street crimes officer who was using the available surveillance images to identify the suspect, and the same evidence custodian.

All three burglaries are furthermore proved by the same evidence stemming from the execution of the search warrant. A match to the glove left at the liquor store was found in the defendant's room. The skull cap style bandana defendant is seen wearing in the surveillance video

from the bar is found in the defendant's room. The different skull cap style bandana defendant is seen wearing in the surveillance video of the restaurant matches the style of other bandanas found in the defendant's room.

The defendant's arrest occurred at the execution of the same search warrant. Booking records indicate that Defendant was arrested with two green-handled "Zombie Killer" throwing knives in his pocket. These knives come as a set of three and they match the third knife found in the ceiling at the point of entry of the Barrel Bar. Defendant was also arrested with a pocket full of miscellaneous loose change. A substantial amount of loose change was stolen the morning of Defendant's arrest from Giff's Liquor as well as the morning prior to Defendant's arrest from the China Chef restaurant.

	Barrel Bar	China Chef	Giff's Liquors	Search	Arrest
Burglary, 2 nd Degree (Violent)	X	X	X		
Pre-dawn Nighttime Morning	X	X	X		
Vic - Food & Beverage Industry	X	X	X		
Business off Ocean Hwy	X	X	X		
South End of Myrtle Beach	X	X	X	X	X
Within ¾ Mile	X	X	X		
Within 1 ½ Mile	X	X	X	X	X
Same Strip Mall		X	X		
Rooftop Entry	X	X	X		
HVAC Entry	X	X	X		
Moved in through Ducts	X	X	X		
Drop in through ceiling	X	X	X		
Cash Register Targeted	X	X	X		
Entire Till Taken		X	X		
Change Taken		X	X		X
Surveillance Video	X	X			
Similar Physical Characteristics	X	X			X
Work Gloves	X (Seen)	X (Seen)	X (Left Behind)	X	
DNA Evidence			X	X	
"Zombie Killer" Knife	X				X
Skull Cap Bandana	X	X		X	
Exit Through Back Door	X	X	X		
Lead Detective	X	X	X	X	X
Crime Scene Investigator	X	X	X	X	
Evidence Custodian	X	X	X	X	X
Street Crimes Officer	X	X		X	X

II. DEFENDANT'S MOTION FOR MISTRIAL

The defendant moved for a mistrial advancing theories of an improper *trial in absentia* and of prosecutorial and judicial misconduct. The Court granted Defendant's Motion for a Mistrial

specifically without a finding of misconduct by any party and without finding any impropriety in the trial going forward in the Defendant's absence. The State urges reconsideration of this grant.

A. DEFENDANT'S ABSENCE AT TRIAL

As his *trial in absentia* is cited by Defendant as for grounds for both the Mistrial and the New Trial motions, and both of these motions were granted (albeit on other grounds), it should be addressed.

The Sixth Amendment to the Constitution affords criminal defendants the right to be informed of the nature and the cause of the accusations against him and to be confronted with the witnesses against him. From this language comes the defendant's right to be present at trial. A person indicted for felonies may voluntarily waive his right to be present and may be tried in his absence upon a finding by the court that he received notice of his right to be present and that a warning was given that he could be tried in his absence if the defendant does not then show up to court. SCRCrimP 16.

In this case, Defendant was present at the beginning of the term of court on July 22, 2019. He was told on the record by the Court that his case was being called the following morning on July 23. He was told what time to be back in the courtroom. He was informed that his motions would be addressed prior to the case being called. He was once again advised of his Faretta warnings, that he had ample and direct notice of the call of his case, and that failure of him to appear would result in the trial going forward in his absence. He once again was offered counsel which he once again declined.

As noted above, Defendant was aware of his trial as late as the morning the trial was set to begin when he misinformed the Court that he was on his way to Conway. It was not until he filed his motions after being arrested on his bench warrant that he began alleging "medical conditions," "opioid withdrawal," dope sickness, or any other excuse for his absence. A defendant's presence at trial is a right which can be waived through conduct. Notice at the time of trial that his absence was involuntary or due to circumstances beyond his control would certainly have been reason to postpone or continue the trial. There was none of that in this case. Defendant knew when to be in court, knew the dangers of self-representation, and knew that the trial would go forward in his absence if he didn't show up. Knowing all of this, he chose to misinform the trial court about his whereabouts and his intentions, chose not to answer or return phone calls from court personnel, chose to not get in contact with the court in anyway, and chose to leave the area. He apparently made no attempt to contact the court to offer excuse or justify his absence until he was arrested out of state on his bench warrant more than a year after his conviction.

Defendant knew he was going to trial. He knew the charges the State intended to call to trial. He knew he would have the opportunity to be heard on his motions and contest those charges being tried together. He knew where he needed to be and he knew when to be there. He knew that not showing up would not continue the case and that he would be tried in his absence. Defendant voluntarily waived his right to be present at trial, to confront the witnesses against him, and to present a case if he so desired. He knew all of this and he, instead, chose to skip town and avoid trial. Therefore his voluntary waiver of these not grounds upon which a mistrial or a new trial should be granted.

B. JUDICIAL AND PROSECUTORIAL MISCONDUCT

In addition to his absence at trial, the second ground Defendant cites in his motion for a mistrial is judicial and prosecutorial misconduct. Without getting too deep into Defendant's

outlandish false allegations, he argues that he is the victim of some far-reaching judicial conspiracy seeking to destroy him since his arrest on these charges in August 2016. He has strung together half-truths with untruths, concocted fabrications, levied baseless accusations, and told outright lies as "evidence" that such a conspiracy exists between myself and other members of law enforcement, corrections, and the judiciary. See Attachment A.

Defendant cites what he views as improper joinder of his three burglary charges as proof that such a conspiracy exists between (at least) myself, the State, the trial judge, and the resident Chief Judge for Administrative Purposes of General Sessions.

The Office of Disciplinary Counsel has investigated Defendant's claims on numerous occasions and found no evidence of misconduct or wrong-doing existed. See Attachment B. Also, this Court declared that it was specifically not finding any instances of misconduct. Indeed, Defendant's complaints appear to be little more than inappropriate, often vile, and overt attempts to intimidate the State and Law Enforcement into dismissing the charges against him or to make money through frivolous lawsuits. See Attachment C. With no evidence of gross misconduct, neither prosecutorial nor judicial, as alleged by the defendant, this should not be grounds upon which to grant a mistrial.

C. MISTRIAL

With both arguments advanced by the defendant as grounds for a mistrial found lacking, there exists no ground raised by the Defendant on which to declare a mistrial in this case. Rather, this Court looked to the consolidation of the three burglary charges into one trial and found error rising to the level necessitating a grant of a mistrial. Presumptively, this Court believes that improper evidence was submitted for the consideration of the jury rising to the level of gross misconduct by the prosecutor which prevented the jury from reaching a fair, unbiased verdict.

The power of the trial judge to declare a mistrial "ought to be used with the greatest caution and for plain and obvious causes stated into the record by the judge." State v. Prince, 279 S.C. 30, 32-33, 301 S.E.2d 471, 472 (1983). A mistrial is an extreme measure to be taken only where an incident is so grievous that the prejudicial effect can be removed no other way. State v. Tisdale, 338 S.C. 607, 527 S.E.2d 389 (App. 2000). A trial court will look to instances of gross misconduct by the party looking to introduce the evidence. A mistrial is typically reserved for gross, incurable injustices levied on either party during a trial. A post-trial motion for a mistrial is properly granted only when there is some sort of misconduct concerning a party or a juror. As it does not deal with a mistrial based on juror conduct or other similar evidence coming to light post-judgment, but rather on conduct of a party or introduction of evidence at a trial, the appropriate time to deal with the issue would be when the gross misconduct or introduction occurs. As that never occurred during the trial, it should not be allowed after the conviction.

Defendant's Motion to Sever was a pre-trial motion that was properly dismissed when he did not appear at the call of his case to argue said motion. Post-trial, a motion to sever charges is inappropriate. The Defendant voluntarily waived his constitutional rights to be present and to have counsel who could object at trial on his behalf. As noted above, Defendant was aware of the State's intent to call three charges to trial. Defendant was afforded ample opportunity to be heard on both the substance of the Motion to Sever and the related notice issue prior to his trial; an opportunity he forfeited through his willful failure to appear to court for his trial. An objection to joinder and the introduction of evidence of multiple charges was never raised at trial and is thereby not preserved as an appropriate issue on which to grant a mistrial. See McCrary v. State, 249 S.C. 14 at 38, 152 S.E.2d 235 at 247 (1967) (holding that a "defendant has no inalienable right to require that he be tried separately under each indictment, the matter of consolidation or severance being entrusted to

the discretion of the trial judge" before confirming that a "defendant ha[s] the right ... to object to the consolidation ... but that right can be waived").

Moreover, in the instant case, the original trial judge found no gross misconduct or improper introduction of evidence to order a mistrial from the bench. The propriety of the introduction of evidence does not change based on who is present in the courtroom. Showing up post-conviction to argue does not make evidence more or less proper, nor does it render permissible conduct impermissible. If the introduction of the evidence were so improper as to warrant a mistrial, a mistrial would have been ordered at its introduction from the original trial judge, regardless of whether the defendant was there to object to it. As the trial court found no such issue and allowed the State to proceed with a consolidated trial, that decision should not be disturbed by this Court. See State v. Council, 335 S.C. 1, 515 S.E.2d 508 (1999) (ordering or refusing a mistrial is in the trial judge's discretion and it will not be disturbed without abuse of discretion amounting to an error of law). As the trial judge did not see reason to grant a mistrial based on joinder from the bench, where none was asked for during the trial, nor at the call of the case, nor at the introduction of the evidence, this Court is essentially being asked to find that the trial judge committed an error of law in not declaring a mistrial from the bench. The trial judge committed no error in law in allowing the State to proceed without objection, so his refusal should stand.

To allow Defendant to prevail on a post-conviction argument that a mistrial that might have been granted at trial had he not waived his rights to be present and to object timely to the introduction of evidence, rewards the Defendant for not showing up to his trial and fleeing and wastes this Court's precious limited resources; essentially, doing so would afford the defendant another first bite of the metaphorical apple not available to defendants who appear for their trials.

Because Defendant's failure to appear for his trial was willful and voluntary, because there exists no gross misconduct by the State or the trial judge, because the evidence was never objected to at trial, and because the evidence was not improperly submitted to the jury at the trial, the post-trial motion for a mistrial should not be granted. The State respectfully urges this Court to reconsider its grant of Defendant's Motion for Mistrial.

III. DEFENDANT'S MOTION FOR NEW TRIAL

The defendant moved for a new trial advancing theories of an improper *trial in absentia* and improper joinder. A Circuit Court judge has the authority to order a new trial in cases which have been tried to a jury for reasons for which new trials have usually been granted. S.C. Code of Laws, § 17-23-110. The Court granted Defendant's Motion for a New Trial. The State urges reconsideration of this grant.

A. DEFENDANT'S ABSENCE AT TRIAL

See above. The same reasons prevent Defendant from using his voluntary absence at trial as actionable grounds for a mistrial should hold equally as true with regards to a motion for a new trial.

B. IMPROPER JOINDER

The second reason advanced by Defendant in support of his Motion for a New Trial is that the trial court wrongly allowed the charges to be tried together. South Carolina leaves the decision of whether to join charges to the discretion of the trial judge after motion by one party. State v. Blakely, 402 S.C. 650, 742 S.E.2d 29 (App. 2013). The State sought consolidation of the charges into one trial. The Defendant opposed joinder and filed a Motion to Sever the charges. Defendant

was noticed his severance motion would be heard the morning of trial and failed to appear. See above. His Motion to Sever was dismissed and the State was granted leave to proceed with a consolidated trial.

The Court of Appeals remanded this case to have all Defendant's motions heard and ruled on in the Court of General Sessions. One of those motions is this Motion for a New Trial. The appellate court seemingly asked this Court to sit as the trial judge and rule on these motions.

It is error of law for a trial judge *sua sponte* to grant a new trial on a ground waived by the Defendant. State v. Dicapua, 383 S.C. 392, 585 S.E.2d 303 (2009). In Dicapua, the Defendant waived objection to the introduction of a videotape into evidence at the trial. Then Dicapua was convicted and sentenced. Following the imposition of the sentence, the trial judge vacated the conviction and the sentence and ordered a new trial on the ground that he found the introduction of the videotape evidence to be inappropriate for multiple reasons.

Similarly, in the instant case, the Defendant voluntarily waived his objection to the joinder of the three burglaries into one trial, was convicted by the jury, and sentenced by the judge. Now, Defendant asks this Court to grant to him precisely what the trial court could not: a new trial. If it would have been error of law for the original trial judge to vacate the sentence and grant a new trial due to evidence coming in to which the Defendant did not object (as Dicapua holds) this Court, sitting as the trial court and ruling on this motion, could not and should not do so, either. See Dicapua at 398-9, 294 (reasoning that "to affirm the grant of a new trial on a waived issue in a criminal case would lend [the Supreme Court's] imprimatur to a trial court's impromptu grant of post-conviction relief").

In tasking this Court with ruling Defendant's outstanding post-trial motions, it stands to reason that the Court of Appeals was not shirking its responsibility and asking this Court to decide an appellate issue by reaching the merits of joinder. The trial court has, at least implicitly, already made the determination that joinder was not improper in permitting the case to get to the current stage; had it deemed otherwise, it likely would have ordered a mistrial (see above) at the appropriate time at the introduction of the evidence.

In the unlikely event that the Court of Appeals is asking this Court to sit as a one-man appellate court and rule on the merits of joinder, the question then becomes not whether joinder is proper but, more accurately, whether the Circuit Court Judge presiding over the trial abused his discretion as the trial judge in allowing the State to present the three charges to the jury in a single trial. The State argues joinder of the three charges was proper given the facts of the case as discussed above and that the trial judge acted within his discretion in allowing joinder of the three charges.

C. NEW TRIAL

The Defendant's voluntary waiver of his right to be present at trial has been addressed. His absence is neither reason for a mistrial nor reason for a new trial. Defendant has a right to be at his trial but he is not required to be at his trial if he so chooses. The trial was allowed to go forward in his absence after a finding that he had notice and made the decision not to be present. Being convicted while he exercises his right not to be at his trial is not grounds for a new trial.

When the defendant failed to appear, he waives a number of his protected rights, such as the right to confront accusers. He similarly waives any direct challenge he might have to the admission of evidence or testimony. The trial judge is then bound to ensure only that fairness is preserved and that the defendant is not prejudiced through his absence. Indeed, the trial court instructed the jury not to take his absence as evidence of his guilt. Joinder is proper given the facts of this case tying

the crimes together or, at least, it was arguably proper. The trial judge did not abuse his discretion by allowing the joinder of the three charges or by allowing evidence that was not objected to at trial.

Because Defendant's absence is no cause for a new trial, because it would amount to an error of law for the trial court to grant a new trial on the grounds of admitting evidence that was never objected to at trial, and because joinder is appropriate given these facts and the trial court did not abuse its discretion by permitting consolidation, there is no ground on which to order a new trial in this case. The State respectfully urges this Court to reconsider its grant of Defendant's Motion for a New Trial.

IV. ADDITIONAL CONSIDERATIONS

A. Defendant was not Unfairly Prejudiced by a Joint Trial

i. Lyle / 404(b) Evidence

The final requirement to consider when determining to allow joinder is that consolidation of different charges at the same trial cannot prejudice any real right of the defendant. State v. Tate, 286 S.C. 462, 334 S.E.2d 289 (App. 1985). To be entitled to a mistrial, "a defendant must show both error amounting to absolute necessity and resulting prejudice." Simmons, 352 S.C. at 354, 573 S.E.2d at 862. Defendant asserts that he was prejudiced in his trial because the jury heard evidence of all three burglaries and issued a verdict of guilt not based on the weight evidence, but rather on unduly prejudicial propensity considerations. McGaha directly analyzed the "propensity to commit similar crimes" argument Defendant argues in the case at bar. Supra. McGaha was tried and convicted at a joint trial of sexual assault of two different victims at various times during a seventeen month period. His argument on appeal was that the trial court improperly joined the different cases involving the different victims into one trial. He argued, ultimately unsuccessfully, that he was prejudiced in a joint trial because, he contended, the evidence of the other charges improperly revealed his propensity to commit similar crimes. Affirming that no substantive rights were prejudiced at a joint trial, the McGaha Court explained that "in cases where defendant argues prejudice from the admission of evidence of the other charges tried in the same case, our courts have analyzed whether evidence of one or more charges would be admissible in a trial involving only the other charge." Id., at 298, 606. In McGaha, at a trial involving one victim, the State would have been allowed to introduce the evidence of the sexual molestation of the second victim under Rule 404(b), SCRE, to show a common scheme or plan. Id., at 298, 607. Upon a showing that the crime and the proffered 404(b) evidence are logically connected by sharing a close degree of factual similarity, the evidence would be allowed in a separate trial. As the jury would have heard substantially the same evidence in a severed trial as they heard in a joint trial, no substantive right of the defendant was prejudiced.

In analyzing specifically what is necessary for common scheme or plan evidence to be admitted, our Supreme Court just recently clarified that "there must be something in the defendant's criminal process that logically connects the other crimes to the crime charged" such as "the same particularly unique method of committing ... uncharged crimes that [one] used to commit the charged crime." State v. Perry, Op. 27963 (S.C. Sup. Ct. filed May 6, 2020). While differences are allowed between the various crimes, there is no need to undertake a "mathematical exercise where similarities and dissimilarities are counted," but rather a method being unique – more than just similar – and where the uniqueness would reasonably tend to prove a material fact in issue. State v. Durant, Op. 27964 (S.C. Sup. Ct. filed May 6, 2020). See also, State v. Cotton, Op. 27965 (S.C. Sup. Ct. filed May 6, 2020) (upholding the allowance of 404(b) evidence of a prior, uncharged

crime to show a common scheme or plan where the proffered evidence showed more than just similarities; the commonalities were extensive and tended to prove a specific disputed fact).

Identical to McGaha and directly in line with the Supreme Court's most recent opinions on 404(b) evidence as it pertains to showing a common scheme or plan, the defendant was not unfairly or improperly prejudiced by the jury hearing evidence of the three burglaries in a joint trial. As explained in the discussion on joinder, these burglaries were more than just similar – they were unique in their execution. In the language of Perry, the defendant employed the same particularly unique method of committing the burglaries. That uniqueness reasonably tends to prove the identity of the perpetrator – a material fact in issue in this case where, had Defendant bothered to show up to trial, he would have argued that the person in the surveillance videos wasn't him. Had Defendant's Motion to Sever been heard and ruled the morning of trial as scheduled, the State was prepared to proceed on the most recent burglary in the crime spree that occurred at the liquor store. The State would have sought introduction of additional evidence of the previous two burglaries relying on 404(b) and Lyle to show motive, identity, the existence of a common scheme or plan, identical *modus operandi*, and intent. As discussed above, there is abundant evidence of a close degree of factual similarity logically connecting the three burglaries.

Moreover, as our Supreme Court clarified in Cutro, when “determining joinder the trial judge need not find clear and convincing evidence of the charges” because the procedural safeguards this standard protects are already in place as it pertains to an indicted offense. 365 S.C. at 374, 618 S.E.2d at 894. As it further explains, the defendant may argue unfair prejudice if the trial judge determines that a directed verdict should be granted on one of the joined charges due to a lack of any substantial evidence. Id. In this case, as discussed above, there is ample evidence of each charge submitted to the jury so no unfair prejudice resulted from the consolidated trial.

ii: Res gestae

Additionally, the State would have sought introduction of the same evidence arguing the doctrine of *res gestae*. Just as allowable prior bad act evidence eliminates prejudice which may result from a jury hearing propensity evidence when joined crimes are similar in nature, *res gestae* operates to erase any undue prejudice that may arise in a joint trial where presentation of other crimes would be necessary to avoid unnecessary fragmentation. See Simmons, 352 S.C. at 352, 573 S.E.2d at 861 (discussing *res gestae* application in joinder analysis). Evidence of other crimes is admissible to offer a full presentation of the case or where it furnishes a part of the context of the crime or is intimately connected with and intertwined with the other crime. Id. In Rice, a murder charge and a drug trafficking charge from 6 weeks later were jointly tried before a single jury. 368 S.C. 610, 629 S.E.2d 393. Rice was under investigation for the murder of a victim with whom Rice was known to deal drugs. While under investigation, six weeks after the murder, Rice was pulled over at a traffic stop and arrested for his inability to provide proof of insurance and trafficking weight cocaine was found during an inventory of the vehicle. Rice argued that there was no nexus between the crimes that happened six weeks apart and the evidence of trafficking unjustly prejudiced the jury against him with respect to the murder charge. The State in Rice contended that the drug transaction was at the root of the murder itself. The appellate court agreed with the State and affirmed that the charges were properly consolidated into one trial and Rice's convictions were upheld. Therein, the court held that no prejudice was suffered by Rice by the joinder because “without the evidence of cocaine trafficking, the jury would not have received an accurate portrayal of the case [and it] was necessary for a full presentation of the case without fragmentation.” Id. at 616, 396. The court concluded that the arrest on one charge arose out of the investigation of the

other charge and the information regarding both crimes "was relevant to show the complete, whole, unfragmented story" regarding the other crime. Id.

Res gestae will operate to allow evidence of other crimes when necessary for a full presentation of the case without fragmentation. That being the case, the defendant can show no prejudice resulting from a joint trial based on evidence of three burglaries being before the jury because the evidence would have been before them anyway. Here, Bolick was under investigation for a burglary. Officers had his picture from the surveillance video from the Barrel Bar and were able to put a name with that picture through investigation. Before they were able to execute a search warrant to find evidence of the Barrel Bar burglary, two more food and beverage businesses in the same area were burglarized in an identical manner. When law enforcement conducted the search warrant at his residence and arrested the defendant during that search warrant, they found evidence of all three burglaries on the defendant and in the residence. An attempt to parse out and distill down evidence strictly pertaining to only one of the three identical burglaries would have resulted in unnecessary fragmentation that the doctrine of res gestae seeks to avoid.

As the jury would have been confronted with evidence of all three burglaries at one trial regardless of severance based on 404(b) evidence and res gestae, the defendant is unable to show the prejudice required to support his contention of improper joinder.

iii. Sentencing

Finally, because the 12 year sentences Defendant received on all three convictions were ordered to run concurrently, Defendant received no harsher punishment following his conviction on the three burglaries as opposed to had he been convicted on only one count. In actuality, the defendant garnered a substantial benefit from a joint trial. Had Defendant's trial been severed, he would be facing three separate counts of what South Carolina classifies not only a Violent offense, but a Serious offense. With the Defendant already having a strike under the three strike law for a 1991 conviction for Assault with a Deadly Weapon with the Intent to Kill or Inflict Serious Injury, he could be facing a mandatory Life Without the Possibility of Parole sentence after the second and third convictions of trials nearly identical to the first trial.

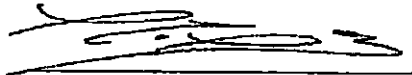
V. CONCLUSION

This Court granted a mistrial and a new trial on the grounds of improper joinder of charges. The State argues joinder was appropriate in this case. The introduction of the consolidated evidence did not rise to the level of misconduct which would be grounds for a mistrial from the bench. The trial court acted within its discretion in allowing the State to proceed with a consolidated trial. The trial court has no duty to a voluntarily-absent *pro se* defendant to act as counsel for the accused and object to questionable evidence. The court's duty to ensure a fair trial does not and should not extend beyond keeping out evidence that is unquestionably improper. As the propriety of the introduction of the evidence of the three charges is not *unquestionably* improper, indeed the State maintains its contention that joinder is proper, the trial judge had no reason to grant a mistrial nor a new trial. Therefore, this Court, sitting in place of the trial judge, likewise has no reason to grant a mistrial or a new trial. The defendant also fails to show prejudice of a substantive right that would allow him to prevail on a claim of improper joinder.

For the reasons explained above, the State believes that the motions for a mistrial and a new trial should not have been granted by this Court and respectfully urges this Court to reconsider its prior rulings granting the same.

Lastly, should this Court choose to sustain its rulings, the State respectfully requests clarification on which motions are being granted and the specific basis for each ruling. The State also requests a specific finding from this Court that a sustaining of the grant of a mistrial is based on a manifest necessity to preserve the defendant's rights to a fair trial.

Respectfully Submitted,



Thomas Groom Terrell, III
Assistant Solicitor
Fifteenth Judicial Circuit of South Carolina

~~ATTACHMENT A~~

STATE OF SOUTH CAROLINA IN THE COURT OF GENERAL SESSIONS

COUNTY OF Horry

FIFTEENTH JUDICIAL CIRCUIT

2016A 26 2060 2245; 2250; 2251

STATE OF SOUTH CAROLINA

-VS-

THEODORE J. BOLICK,

Defendant

SECOND SUBSEQUENT

MOTION TO DISMISS AND

NOTICE OF JUDICIAL

MISCONDUCT; PROSECU-

TORIAL MISCONDUCT;

AND CONFLICT OF INTEREST

WITH COURT APPOINTED

COUNSEL

NOW COMES Defendant, Theodore J. Bolick propria persona and hereby submits a second subsequent motion to dismiss and in doing so demonstrates with precise accuracy Judicial Misconduct, Prosecutorial Misconduct, and a conflict of interest between court appointed counsel, Thomas Floyd and Defendant. To support of said motion Defendant manifests to the Honorable Court as follows:

1. On August 27, 2016 Defendant, Theodore Bolick was arrested for allegedly committing three counts of non-violent second degree burglary.

2. On August 28, 2016 Magistrate Judge, Glenn Chavesian fabricated the falsehood that Defendant appeared in

-1- Pg 68

Pg 68 68 68 68

court. Judge Glenn Ohanesian fabricated the falsehood that Defendant applied for court appointed counsel. Judge Glenn Ohanesian falsified documents stating that Defendant had been informed of his rights orally and in writing, and Judge Glenn Ohanesian improperly appointed the Defendant counsel from the Public Defender's Office.

3. Judge Glenn Ohanesian acting as investigator and prosecution enhanced Defendant's charges from non-violent to violent, and then acting as judge ordered Defendant held without bail on said charges.

4. That Judge Glenn Ohanesian's judicial misconduct was of a biased and prejudiced nature and brought on by Judge Ohanesian's irritation of Defendant's continued successful pro se representation in both Municipal and General Sessions Court since 2010.

5. That Judge Glenn Ohanesian's appointment of counsel to the Defendant from the Public Defender's Office was done with a malicious intent to prevent, impair and hinder Defendant's ability and right to proceed pro se, and delay a speedy adjudication to the false charges against Defendant.

6. That as a result of Judge Glenn Ohanesian's judicial misconduct the Defendant's right to due process

as set forth in South Carolina's well written and established law was plainly violated. That because of the multitude of due process violations cumulated with the violation of Defendant's right to represent himself, Defendant did petition Horry County General Sessions Court for a Writ of Habeas Corpus.

7. On October 4, 2016 Horry County Clerk, Melanie Huggins-Ward did receive via U.S. Mail the Defendant's Petition For Writ of Habeas Corpus. That Melanie Huggins-Ward was unsure as how to process a Petition For Writ of Habeas Corpus and therefore contacted Solicitor, Thomas Terrell, III as to how to proceed.

8. Upon Melanie Huggins-Ward showing the Defendant's Petition For Writ of Habeas Corpus to Solicitor, Thomas Terrell, III, the Solicitor, Mr. Terrell did keep said Petition from October 4, 2016 until October 13, 2016.

9. That Solicitor, Mr. Terrell did keep Defendant's Petition For Writ of Habeas Corpus with the malicious intent to deny Defendant a lawful and speedy adjudication to said Petition.

10. That there has been in the past and there is a still standing conflict of interest between the Public Defender's Office and the Defendant. The Defendant has on numerous previous occasions

notified the Court, the Solicitor's Office, and Horry County Public Defender's Office.

11. That this conflict of interest between the Public Defender's Office and the Defendant began in 2010, was again established in 2013, and again in 2015. The Defendant has never allowed the Public Defender's Office to represent him on any matter, and openly criticizes their lackluster defense of clients. The Defendant actually filed civil litigation against the Public Defender's Office and openly refers to them as Public Pretenders.

12. That a vicious and malicious conspiracy against the Defendant began when Judge Obavesian fabricated the Defendant's "first appearance" and then falsified the documents and Orders on August 28, 2016. That this conspiracy's intent is to falsely convict the Defendant of crimes while denying Defendant procedural due process and the right to proceed pro se. This conspiracy includes Public Defender, Thomas Floyd acting in collusion with Judge Obavesian and Solicitor, Thomas Terrell; III with the main objective being to deny the Defendant timely and adequate access to the court, and to silence the Defendant.

13. That a part of this conspiracy is to deny the Defendant a bond in violation of Defendant's rights

protected by the Eighth Amendment of the United States Constitution and made applicable to the states through the Fourteenth Amendment of the United States Constitution.

14. The second part of this conspiracy is to deny the Defendant the right to proceed pro se in violation of the Defendant's rights protected by the Sixth Amendment of the United States Constitution and again made applicable to the States through the Fourteenth Amendment of the United States Constitution.

15. The third part of this conspiracy is to deny the Defendant timely and adequate access to the court in violation of the Defendant's rights protected by the First Amendment of the United States Constitution and again made applicable to the states through the Fourteenth Amendment of the United States Constitution.

16. That Solicitor, Thomas Terrell, III has using his control over the court calendar been able to manipulate this conspiracy to railroad the Defendant, and keep the Defendant from seeing any judicial official.

17. That Solicitor, Thomas Terrell, III has removed official court documents from the Clerk's Office with the specific intent to delay and deny the Defendant access to the court.

18. That the foregoing allegations do implicate Judge Ohanesian in serious judicial misconduct which do violate Canon's Code of Judicial Conduct.

19. That the foregoing allegations do implicate both Thomas Terrell, III and Thomas Floyd in conduct which seriously violates Canon's Code of Ethics.

20. That the foregoing allegations suggest broad and sweeping violations of the Defendants constitutional rights and possible criminal activity on behalf of Judge Ohanesian, Solicitor Terrell, and Attorney Floyd.

CONCLUSION

WHEREFORE: Defendant prays as follows:

a. Due to the serious nature of the allegations and the continuation of criminal activity by government officials an immediate evidentiary hearing.

b. Upon the allegations to be proven true, a court ordered investigation by the S.B.I and SLED.

c. That all charges be dismissed

d. That upon finding the Defendant's Petition For Writ of Habeas Corpus was delayed by Solicitor,

Thomas Terrell, III the he be Ordered forthwith to
 pay Defendant Two Thousand Dollars, (\$2,000⁰⁰)
 and incarcerated six months.

And Any and all other action this Honorable Court
 deems necessary and just.

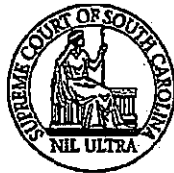
Respectfully Submitted
 This 14th day of November, 2016
 Theodore Bolick, Pro Se

VERIFICATION

I Theodore Bolick do hereby verify that I have read
 and prepared the foregoing Second Subsequent Motion
 To Dismiss ect and that the contents thereof
 are true and accurate to the very best of my
 knowledge and belief.

Signature: Theodore Bolick
 Sworn And Subscribed
 Before Me: Laurie Glaze Rollins 11/14/16
 Notary: Laurie Glaze Rollins
 My Commission Expires 9-3-19

ATTACHMENT B



The Supreme Court of South Carolina
COMMISSION ON LAWYER CONDUCT

Deborah S. McKeown
Commission Counsel

1220 Senate Street, Suite 111
Columbia, South Carolina 29201
Telephone: (803) 734-2037
Fax: (803) 734-0363

February 22, 2021

PERSONAL & CONFIDENTIAL

Theodore Jerry Bolick #384070
Kirkland Correctional Institution R&E F3-112
4344 Broad River Road
Columbia, SC 29210

Re: NOTICE OF FINAL DISPOSITION
Lawyer: Thomas Groom Terrell, III, Esquire
ODC File Number: 20-DE-L-0940

Dear Mr. Bolick:

An investigative panel of the Commission on Lawyer Conduct considered the results of the Disciplinary Counsel's investigation in the above-referenced matter at your request. The panel concurred in the decision to dismiss this matter. Accordingly, the complaint in this matter is dismissed pursuant to the provisions of Rules 18 and 19(d)(1), RLDE, Rule 413, SCACR. As required by these rules, a copy of this letter is being sent to Mr. Terrell and the Disciplinary Counsel as notice of the dismissal of this complaint.

Sincerely,

Barbara W. Hinson
Legal Assistant

BWH/

cc: Thomas Groom Terrell, III, Esquire

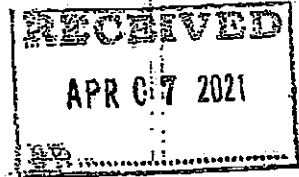
Kelly B. Arnold, Esquire
Assistant Disciplinary Counsel

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ATTACHMENT C

7

Theodore Bolick
 4848 Goldmine Hwy
 Kershaw, S.C. 29067



April 30, 2021

TO: Thomas Groan Terrell III
 P.O. Box 1688
 Georgetown, S.C. 29442

Dear Inbred, Coke-head, cowardly piece
 of maggot shit,

Please find enclosed my objection to
 the State's Motion To Reconsider. I must
 admit your malicious, vindictive filing did
 anger me somewhat, touche. However, I am
 not some waterhead inbred coward bitch
 like you, and will not just sit down and cry
 like you. In fact I think I smell a career
 in law about to crash and burn. Can you
 smell what I'm cooking? ☺!

I will just use this time wisely to better
 word and prepare this present I have for
 you, Judge Seals, Phillip Thompson, and Joe
 Johnson. I will have the U.S. Marshal's
 Office deliver it to you guys here in a
 little while. You see I want it just right ☺!
 Oh yeah, when is the last time both

you and Judge Seals heard from O.D.C.?
 This extra time helped me to remember
 that both of you should be dis-barred by
 law. You see you dumb isbred piece of
 maggot shit, I may have taken a good deal
 of mosey and walked away, but the
 more faggot based cowardly shit you
 do compels me to put your bitch ass in
 front of a jury and plead for every dime
 I can get, plus make sure your days
 practicing law are nothing but a shit
 stain in history!

Have the ~~used~~ worst day of your
 life!

Truthfully Yours
 T. Bolick (Matlock)

P.S. Just got off the phone and want to let you
 in on a little secret. I told your bitch ass I would
 make you and your posks infamous, didn't I?
 Well here is a name for you "Taylor Batten". See
 if you can figure out what it has to do with
 you or will have to do with you and your
 comrades. Here is a hint, it has to do with
 news! Figure it out bitch read all about it, you
 may get a free trip to N.Y. so I can expose
 you on national television! WHAT BITCH!!!

ARREST WARRANT

2016A2620602245

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Myrtle Beach

THE STATE

18-010298

against

Theodore Jerry Bolick

Address:

Phone:

SSN:

Sex: M Race: W Height: 6 Weight: 170DL State: SC DL #: 0DOB: 1 Agency ORI #: SC0260600Prosecuting Agency: Myrtle Beach Police DepartmentProsecuting Officer: T. Macpherson - 6185Offense: Burglary / Burglary (Non-Violent) - Second degreeOffense Code: 0080Code/Ordinance Sec: 16-11-0312This warrant is CERTIFIED FOR SERVICE in the☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant Theodore Bolickon 8-20-16

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
PO Box 677
1301 2nd Avenue
Conway, SC 29528

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Myrtle Beach

Personally appeared before me, the affiant T. Macpherson whobeing duly sworn deposes and says that defendant Theodore Jerry Bolickdid within this county and state on or about 8/18/2016State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of Myrtle Beach)

in the following particulars:

DESCRIPTION OF OFFENSE: Burglary / Burglary (Non-Violent) - Second degreeI further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

On August 18, 2016 Officers responded to a Burglary call at the Barrel Bar and Grill located at 2303 S. Kings Hwy. within Myrtle Beach. At approx. 04:54 hours (night time) Officers met with the owner of the business after the alarm was activated and it was learned that the business was broken into and a bottle of liquor and keys were stolen. Video surveillance at the business captured the image of the burglar at the time of the theft and a green handled knife with the words "Zombie Killer" was left behind by the Suspect. On 8/27/2016 the Defendant was identified as the person seen in the video surveillance burglarizing the business and placed under arrest. Search incident to arrest revealed that the Defendant had a green handled knife with the words "Zombie Killer" in his possession that matched the knife left at the scene.

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Myrtle Beach

Affiant's Address: 1101 Oak StreetMyrtle Beach, SC 29577-

Affiant's Telephone: _____

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 8/18/2016 defendant Theodore Jerry Bolick

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of Myrtle Beach

) as set forth below:

DESCRIPTION OF OFFENSE: Burglary / Burglary (Non-Violent) - Second degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 8/27/2016

Signature of Issuing Judge

William Frantz

Judge Code: 8194Judge's Address: 1101 Oak StreetMyrtle Beach, SC 29577-Judge's Telephone: (843)918-1356Issuing Court: ☐ Magistrate☒ Municipal☐ Circuit

ORIGINAL

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AFFIDAVIT

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

RECEIVED

JUN 21 2017

Court of Appeals

CLERK OF COURT

2016 SEP -7 AM 8:41

FILED

HARRIS COUNTY

Pg 88 60

ARREST WARRANT

2016A2620602250

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Myrtle Beach

THE STATE

16-019007

against

Theodore Jerry Bolick

Address:

Phone: _____ SSN: _____
Sex: M Race: W Height: 6 Weight: 170DL State: SC DL #: _____DOB: _____ Agency ORI #: SC0260600Prosecuting Agency: Myrtle Beach Police DepartmentProsecuting Officer: T Macpherson - 6185Offense: Burglary / Burglary (Non-Violent) - Second degreeOffense Code: 0080Code/Ordinance Sec: 16-11-0312

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant Theodore Bolick
on 8-28-2016

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
PO Box 677
1301 2nd Avenue
Conway, SC 29528

ORIGINAL

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ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Myrtle Beach

Personally appeared before me the affiant T Macphersonbeing duly sworn deposes and says that defendant Theodore Jerry Bolickdid within this county and state on or about 8/27/2016State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of Myrtle Beach)

in the following particulars:

DESCRIPTION OF OFFENSE: Burglary / Burglary (Non-Violent) - Second degree

I further state that there is probable cause to believe that the defendant named above committed the crime set forth and that probable cause is based on the following facts:

On August 27, 2016 Officers responded to a Burglary call at Giff's Liquors located at 1490 S. Kings Hwy. which is in the City Limits of Myrtle Beach. At approx. 02:40 hours (night time) Officers met with the owner of the business after the alarm was activated and it was learned that the business was broken into and \$150 cash was stolen. A right hand work glove was left at the scene of the burglary. On 8/27/2016 the Defendant was arrested for a burglary of similar Modus Operandi (South end business, entry through roof, exit through rear door, night time hours). On 8/27/2016 a search warrant was conducted on the Defendant's residence and Officers located a left hand work glove that matched the right hand glove left at the scene of the burglary.

Signature of Affiant:

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Myrtle Beach

Affiant's Address: 1101 Oak Street
Myrtle Beach, SC 29577-

Affiant's Telephone: _____

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 8/27/2016 defendant: Theodore Jerry Bolick

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of Myrtle Beach) as set forth below.DESCRIPTION OF OFFENSE: Burglary / Burglary (Non-Violent) - Second degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me
on 8/28/2016Signature of Issuing Judge
William FrontzJudge Code: 8194

(L.S.)

Judge's Address: 1101 Oak Street
Myrtle Beach, SC 29577-Judge's Telephone: (843)918-1356Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

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Form Approved by
U.S. Attorney General
April 21, 2003
SCCA 918RECEIVED
SEP 21 2016
FILED
Horry County
SEP - 7 AM 8:44

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ARREST WARRANT

2016A2620602251

STATE OF SOUTH CAROLINA

☐ County/☒ Municipality of

Myrtle Beach

THE STATE

18-018940

against

Theodore Jerry Bolick

Address:

Phone:

Sex: M Race: W Height: 6 Weight: 170

DL State: SC DL #:

DOB: Agency ORI #: SC0260600

Prosecuting Agency: Myrtle Beach Police Department

Prosecuting Officer: T Macpherson - 6185

Offense: Burglary / Burglary (Non-Violent) - Second degree

Offense Code: 0080

Code/Ordinance Sec: 16-11-0312

This warrant is CERTIFIED FOR SERVICE in the

☐ County/☐ Municipality of

The accused

is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant
onTheodore Bolick
8-28-2016

Sgt. Mac

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
PO Box 677
1301 2nd Avenue
Conway, SC 29528

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☐ County/☒ Municipality of

Myrtle Beach

Personally appeared before me the affiant T Macpherson

being duly sworn, deposes and says that defendant Theodore Jerry Bolick

did within this county and state on or about 8/26/2016

State of South Carolina (or ordinance of

☐ County/☒ Municipality of

Myrtle Beach

in the following particulars:

DESCRIPTION OF OFFENSE: Burglary / Burglary (Non-Violent) - Second degree

CLERK OF COURT
Horry County, SCI further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

On August 26, 2016 Officers responded to a Burglary call at the China Chef located at 1470 S. Kings Hwy., which is in the City Limits of Myrtle Beach. The Suspect broke into the Business through the roof and stole approx. \$330 in cash from a cash drawer. Video surveillance at the business captured the Defendant burglarizing the business at approx. 06:31 hours. Sunrise on that date in Myrtle Beach did not occur until 06:45 hours. On 8/27/2016 the Defendant was arrested on a separate burglary in which the same Modus Operandi was used. The business was entered through the roof, in the south end of town during night time hours eight days prior to this burglary.

Signature of Affiant

T. Mac

STATE OF SOUTH CAROLINA

☐ County/☒ Municipality of

Myrtle Beach

Affiant's Address

1101 Oak Street

Myrtle Beach, SC 29577

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 8/26/2016

defendant Theodore Jerry Bolick

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/☒ Municipality of

Myrtle Beach

) as set forth below:

DESCRIPTION OF OFFENSE: Burglary / Burglary (Non-Violent) - Second degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me
on 8/28/2016

Signature of Issuing Judge

William Frontz

Judge Code: 8194

(L.S.)

Judge's Address

1101 Oak Street

Myrtle Beach, SC 29577

Judge's Telephone

(843)918-1356

Issuing Court:

☐ Magistrate☒ Municipal☐ Circuit

ORIGINAL

ORIGINAL

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ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

RECEIVED

JUN 21 2017

SC Court of Appeals

2016 SEP -7 AM 8:42

FILED

Pg 82

STATE OF SOUTH CAROLINA GENERAL SESSIONS COURT
HORRY COUNTY FIFTEENTH JUDICIAL CIRCUIT
WARRANTS 2016A2620602245;
2250-51

STATE OF SOUTH CAROLINA

V

OBJECTION TO STATE'S
MOTION FOR RECONSIDER-
ATION

THEODORE JERRY BOLICK,

Defendant

NOW COMES Defendant, Theodore J Bolick pro se and hereby duly objects to the State's Motion For Reconsideration filed by Thomas Groom Terrell III on or about April 23, 2021. Defendant is opposition to the State's motion objects, and argues as follows,

A OBJECTIONS

(1) First and foremost, Defendant objects to the State's failure to provide service of the State's Motion For Reconsideration on the Defendant as required by Rule 5, SCRPC. As is plainly manifested by Judge Cothran's Order dated April 16,

2021, and submitted by Assistant Solicitor, Thomas Groom Terrell III on April 19, 2021, Judge Cathrow Ordered, "Defendant will proceed pro se." (See Exhibit A, submitted herewith.) Thomas Groom Terrell III did not provide service of the Motion For Reconsideration on Defendant for reasons that will manifest themselves in this pleading;

(2) The State's Motion To Reconsider is not in compliance with Rule 4, SCRCrimP in that it does not, "State with particularity the grounds" for the motion. This "bare bones pleading" cumulated with the lack of service would certainly create a disadvantage for the Defendant and prejudice Defendant's ability to prepare for any hearing or respond to any argument the State would make;

(3) The State's Motion To Reconsider filed April 23, 2021 is neither based in law or fact, and is frivolous by nature. Therefore, Thomas Groom Terrell III is in violation of Rule 407, SCACR, Rules of Prof. Conduct, Rule 3.1 by submitting said motion;

(4) There has not been any significant change of the clearly established law which

deal with the undisputed facts or circumstances in this case. Defendant would argue that this fact makes the State's Motion To Reconsider suspect in nature, and brings into question the motion's intent;

(5) Defendant would allege and argue that the State, by and through Thomas Groom Terrell III has filed this "bare bones" frivolous Motion To Reconsider maliciously and vindictively so as to prolong the administration of justice, and to further keep the Defendant in the South Carolina Department Corrections wrongfully, an act which brings into question Thomas Groom Terrell III's ethics, and violates Rule 407, SCACR, Rules of Prof. Conduct Rule 8.4, (d) and (e).

(6) Finally, on April 15, 2021 the Honorable Judge Cottraw heard the State, by and through Thomas Groom Terrell III, and the Defendant pro se at length. The Court heard Defendant as his pro se Motion For Mistrial filed April 19, 2020, and his pro se Motion For New Trial filed June 6, 2020. Thomas Groom Terrell III had almost an entire year to prepare for this hearing. Further, Judge Cottraw generously

offered to call a recess to allow Thomas Terrell III to find case law to support the state's position. However, Thomas Terrell III declined Judge Cothran's offer. The Defendant was tried and convicted absentia, without counsel, in front of one jury on July 23 and 24, 2019 for three separate indictments, for three separate and unrelated burglaries, which occurred at three separate locations, on three separate dates, with no evidence being the same in either case, and absolutely no evidence that these crimes were from a chain of circumstances. These were the facts on July 23 and 24, 2019, the same as they were the facts Judge Cothran considered on April 15, 2021. Neither the facts or law have changed in any way since April 15, 2021. Any evidence that was known by the State, or reasonably should have been known by the State, of which it wished the Court to consider, should have been presented at that time. To the Defendant's knowledge the Courts are not in the habit of allowing do-overs or second chances in evidentiary hearings unless serious extraordinary and compelling reasons exist. In the instant case the State in its Motion To Reconsider fail to state

any reason this Court should reconsider the granting of the Defendant's outstanding motions, much less any extraordinary or compelling reasons. These facts make the State's intention suspect and questionable. The Defendant argues the State's intent is manifestly vindictive and malicious as it has been from the outset of its prosecution, and is a further waste of this Honorable Court's valuable time and resources.

CONCLUSION

WHEREFORE: Defendant prays this Honorable Court as follows:

(1) Immediately dismiss and/or deny the States Motion For Reconsideration for... 1) the state failed to provide service of the motion on the Defendant as required by Rule 5, SCRCrP; ... 2) the State's motion fails to comply with Rule 4, SCRCrimP, in that it does not state with particularity the grounds for any reconsideration; ... 3) the motion is frivolous and neither based on law or fact; and ... 4) the motion is vindictive and malicious in nature, and seeks to prolong the administration

of justice, and prolong Defendants wrongful incarceration in the South Carolina Department of Corrections;

(2) Report Mr Thomas Terrell III to the Office of Disciplinary Counsel for violating Rule 407, SCARC, Rules of Prof Conduct, Rules 3.1; and 8.4, (d) and (e);

(3) Recognize the irony of a prisoner with a formal seventh grade ^{education} and no formal training in law, accused of petty crimes, and being immoral and unethical, having to make this objection and arguments against an agent of the state, while they are manifestly true; and

(4) Sanction Mr Thomas Terrell III by fining him \$1,000 a day for each and every day this frivolous, vindictive, and malicious motion has delayed the lawful administration of justice;

(5) Any and all other action this Court deems just and necessary.

Respectfully Submitted

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~~Pg 88~~ ~~88~~ ~~88~~

This 30th day of April, 2021
Theodore Bolick, prose
4848 Goldmine Hwy
Kershaw, S.C. 29067

CERTIFICATE OF SERVICE

I hereby certify a copy of the
foregoing objection to State's Motion
For Reconsideration was placed in
the U.S. Mail postage pre-paid and
addressed as follows

Thomas Groom Terrell III
P.O. Box 1688
Georgetown S.C. 29442

This 1st day of May, 2021
Theodore Bolick

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF HORRY) 2016-GS-26-04947, 04953, and 5081
STATE OF SOUTH CAROLINA,)
Plaintiff,) Transcript of Record
vs.)
THEODORE JERRY BOLICK,) May 18, 2018
Defendant.)

B E F O R E:

Honorable Steven H. John
Horry County Courthouse
Conway, South Carolina

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

Thomas G. Terrell, III, Esquire
Attorney for State

Theodore Jerry Bolick
Pro Se Defendant

TAKEN BY:

Dixie C. Eubank
Retired Circuit Court Reporter

PREPARED BY:

Kay H. Richardson
Circuit Court Reporter

State v. Bolick - 2016-GS-26-04947, 04953, and 05081
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MAY 18, 2018

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E X H I B I T S

No.

ID

EV

(No exhibits were marked or admitted.)

State v. Bolick - 2016-GS-26-04947, 04953, and 05081
MOTIONS

3

1 **MAY 18, 2018**

2 THE COURT: All right. We'll start with certain motions
3 in the case of State of South Carolina versus Theodore Jerry
4 -- is it Bolick? Where is Mr. Bolick? Is he not here? He
5 knew to be here. He did say had problems with the bus when he
6 was here on Wednesday.

7 Well, all right. We'll skip that for right now until he
8 gets here because I'm gonna deal with those today.

9 MR. TERRELL: Any chance Your Honor is inclined to
10 dismiss them for failure to prosecute at this point?

11 THE COURT: No, we're gonna deal with those motions.

12 MR. TERRELL: Yes, sir.

13 THE COURT: Now, he was here Wednesday, arguing those
14 motions on Wednesday and he did indicate he had difficulties
15 in getting transportation.

16 **RECESS**

17 *****OFF THE RECORD*****

18 **ON THE RECORD**

19 THE COURT: All right. So, we'll now commence the
20 motions in the case of State of South Carolina versus Theodore
21 Jerry -- sir, and I know I've said it both ways; is it Bolick
22 or Bolick (pronounced differently)?

23 MR. BOLICK: Bolick.

24 THE COURT: --- Theodore Jerry Bolick.

25 All right. If y'all will come forward, please.

State v. Bolick - 2016-GS-26-04947, 04953, and 05081
MOTIONS

4

1 You want to call the case, Solicitor?

2 MR. TERRELL: Yes, sir, Your Honor.

3 This is the State of South Carolina versus Theodore Jerry
4 Bolick. He's charged in true-billed indictments 2016-GS-26-
5 04947, 04953, and 05081. Those are all indictments for
6 burglary second degree under the violent statute. We're were
7 on various defense motions.

8 THE COURT: Very good. All right.

9 All right. We're gonna start off with the motion to
10 sever that was filed by the defendant on October 31 of 2017,
11 motion to sever in these particular matters.

12 All right, sir. Be glad to hear from you.

13 MR. BOLICK: Yes, sir. Your Honor, my understanding is
14 there are three separate burglaries that occurred on three
15 separate days. The state has so far intended to incorporate
16 all of these burglaries together. And it is my position that
17 I would deserve a different trial with a different jury on
18 each case as they are completely separate crimes. They are
19 not related. There is nothing that relates these crimes.
20 They are three separate charges standing alone. Three
21 separate indictments standing alone. And I think I would be
22 prejudiced in a severe way were a jury to hear all three
23 cases.

24 THE COURT: All right, sir. I'm just checking to see
25 when these matters went to the grand jury.

State v. Bolick - 2016-GS-26-04947, 04953, and 05081
MOTIONS

5

1 MR. BOLICK: I have the bills right here if would give

2 ---

3 THE COURT: And I appreciate that. I just want to do it
4 from the clerk of court's records. Thank you, sir.

5 All right. So, regarding those three indictments and as
6 you indicated Solicitor, all three of them are for burglary
7 second degree, nonviolent; is that correct?

8 MR. TERRELL: They're all for burglary second degree.
9 They should be violent, Your Honor.

10 THE COURT: The indictment should be for violent?

11 MR. TERRELL: Yes, sir.

12 THE COURT: Yes; I'm sorry. Yes. Three counts of
13 burglary second degree violent.

14 All right. So, regarding the defendant's motion to sever
15 those three cases, Solicitor, what's your position?

16 MR. TERRELL: Your Honor, my position is that the state
17 has not gotten to a place where we've decided whether or not
18 they can be tried together. I think that's a motion that's
19 properly heard before trial, not at this point while we're
20 still waiting on the DNA to be confirmed. Honestly, I haven't
21 even looked. I know that the three cases all have the same
22 MO. They were -- all three were businesses broken into in the
23 nighttime via the roof, all in the same area of Myrtle Beach,
24 the same -- within just a few blocks of each other in Myrtle
25 Beach. But beyond that, Your Honor, I don't know whether

State v. Bolick - 2016-GS-26-04947, 04953, and 05081
MOTIONS

6

1 they're properly tried together or not, and I think that's
2 something that we need to take up prior to -- immediately
3 prior to trial, Your Honor.

4 THE COURT: All right. And just so that we're all on the
5 same page, I'm looking at the case of *State v.* -- it's either
6 *Simmons* or *Simmons* (pronounced differently). It's a Court of
7 Appeals decision, and it's at 352 S.C. 342 or 573 S.E.2d 856;
8 it's a 2002 decision of the South Carolina Court of Appeals.

9 And there are any number of cases that our appellate courts
10 have dealt with the motion to sever charges. And regarding
11 the motion to sever charges, the appellate courts have always
12 held that is a matter addressed to the sound discretion of the
13 trial judge. And with that, now, in looking at that, whether
14 or not they should be severed, the Court will look at the
15 offenses charged, if the separate indictments are of the same
16 general nature involving connected transactions closely
17 related in kind, place, and character. If so, the trial court
18 has the power in its discretion to order the indictments to be
19 tried together if the defendant's substantive rights would not
20 be prejudiced. Now, in this matter -- so, it can be. Also,
21 the Court needs to look at whether or not, if they don't arise
22 out of a single chain of circumstances that are provable by
23 the same evidence, that's an argument against them to be
24 deemed tried together. So, I think *State v. Simmons* is a good
25 road map in this particular matter. I do find that those

State v. Bolick - 2016-GS-26-04947, 04953, and 05081
MOTIONS

7

1 matters should be addressed by the trial judge. Now, I do
2 think it is unfair, honestly, to the state and the defendant
3 for that decision to be made immediately before the matters go
4 to trial. So, when the matters are set for trial and they are
5 set certainly well in advance, then I am placing the burden on
6 the state to make sure that the matter is presented to the
7 trial judge before the call of the case on Monday. So, at
8 least a week before if not longer that the matter is to be
9 heard by the trial judge whether or not these cases will be
10 severed. Because it's not gonna be fair to the state or the
11 defense, because, you know, you're gonna have witnesses on
12 either side that need to be notified. -So, the state needs to
13 make sure that this motion is heard prior to at least seven
14 days before the case starts, if not longer. That's the very
15 minimum is a week before the trial, but that's something that,
16 that's set to the discretion of the trial judge.

17 So, Mr. Bolick, I am not going to rule on that motion.
18 I'm going to continue it to the discretion of the trial judge
19 as our appellate cases have set forth. But, I do want it
20 heard at least a week before the trial commences. All right?

21 MR. TERRELL: Your Honor, most -- unless a judge chooses
22 to retain jurisdiction, this may be an issue that comes up
23 because, as Your Honor is well aware, we may think that
24 something's going and we may not get to it. Something else
25 may come up ---

State v. Bolick - 2016-GS-26-04947, 04953, and 05081
MOTIONS

8

1 THE COURT: Oh, once it's ruled on, then it's ruled on.
2 Okay? If the matter is on a trial docket, if it is in the
3 jurisdiction of that trial judge. And once it's ruled on by
4 that circuit judge -- that's why I'm not ruling on it now,
5 because it could be changed later on. Once it's ruled on,
6 that's it.

7 MR. TERRELL: Yes, sir.

8 THE COURT: Okay? Another circuit judge can't overrule
9 the finding over another circuit judge. So, that's why I'm
10 not ruling on it right now. So, but I -- you know, once the
11 trial judge, prior to -- you know, once it appears on the
12 docket, when it appears on the docket, then -- that's what I'm
13 saying. At least seven days before that Monday, it needs to
14 get heard. And once that trial judge rules on it, one way or
15 another, however it is, that's the ruling of the court and
16 that's what guides the prosecution of those cases from then
17 on.

18 MR. TERRELL: Yes, sir.

19 MR. BOLICK: Thank you, Your Honor.

20 THE COURT: Thank you very much.

21 All right. All right. So, Mr. Bolick, you've had a
22 motion to dismiss for judicial and prosecutorial misconduct,
23 correct?

24 MR. BOLICK: Yes, sir, Your Honor.

25 THE COURT: And it's labeled the same, but it appears

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9

1 that -- and you clocked them in at the same time, but it
2 appears that there were two motions for this; is that right?

3 MR. BOLICK: There is, Your Honor. I have what's called
4 the second subsequent motion where I was able to lay forth my
5 allegations in more specific terms.

6 THE COURT: Okay. Very good. Okay.

7 All right. So, let's hear then the motion to dismiss for
8 judicial and prosecutorial misconduct, and that would include
9 the either the second motion are the additional motion. Okay?

10 MR. BOLICK: Your Honor, I have some problems. I would
11 like to present evidence but ---

12 THE COURT: Okay.

13 MR. BOLICK: --- the persons I make the allegations for,
14 he is a judicial official and I have not been able to subpoena
15 him. Nobody will cooperate in anything else in getting Judge
16 Ohanesian ---

17 THE COURT: Who is it?

18 MR. BOLICK: Judge Ohanesian.

19 THE COURT: All right. Well ---

20 MR. BOLICK: And the reason why, Your Honor, is because
21 when I was arrested for this crime, I was taken to Myrtle
22 Beach jail, I was placed in a cell. I had suffered several --
23 I suffered a fractured femur, which required surgery. I
24 busted both heels, and I blew off the tip of them three
25 fingers all in a very short period. And I became addicted to

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1 opiates, Your Honor. When they put me in jail, I started
2 suffering severe opiate withdrawal in the form of diarrhea and
3 vomiting. I remember the morning of the officer opening the
4 door to the cell and saying it's court, Mr. Bolick. And the
5 only thing I could possibly do was because I had my pants down
6 around my knees and with diarrhea and vomiting at the same
7 time, and he slammed the door. Later on, I was carried to
8 South Strand Hospital, then I was placed in the Horry County
9 jail, and I was told that I had refused to go before the
10 judge, that my bond was denied, and if I could have this
11 paperwork, so that you could look at it.

12 THE COURT: All right, sir.

13 MR. BOLICK: And, at that time, the Judge even entered
14 the case not as an unbiased judicial official, but he was the
15 one who recommended that the state charge me with violent
16 crimes, and it is proof right there in his little writing.
17 Not only did he deny me the right to be informed of my
18 charges, the right to my probable cause hearing, but he went
19 above and beyond and appointed counsel to me, counsel from the
20 public defender's office, Your Honor, which I had already been
21 through it with Orrie West and Edward Crisco many times and
22 told them that if they ever entered any one of my cases again,
23 that I would pursue with civil litigation against them. He
24 appointed the public-defender's office to -- three times I had
25 already motioned for them never to be able to touch another

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1 case of mine. And then, while I laid in jail, and I made
2 discovery motions, the discovery motions I made were ignored
3 because of his appointment of this counsel. My discovery
4 motions were that I wanted the videotapes from the jail and I
5 wanted the officers who said that I refused to go before this
6 judge on that date. I wanted to be able to lay out my
7 allegations and provide the evidence for.

8 THE COURT: All right. Well, what is it that you're
9 asking me to do?

10 MR. BOLICK: Well, Your Honor ---

11 THE COURT: Just for the sake of argument, assuming what
12 you say is true that all that happened, what are you asking me
13 to do?

14 MR. BOLICK: I would like to bring Judge Ohanesian in
15 here, prove that I was never appeared before, that I was never
16 given rights, and I was never notified of the charges against
17 me. I was never notified for my right to a probable cause
18 hearing, and that I was appointed counsel when it was not
19 necessary. He actually violated my Sixth Amendment right, the
20 counsel of my own choosing. I choose to represent myself and
21 have done so for over 20 years, Your Honor.

22 THE COURT: Okay.

23 MR. BOLICK: And the reason I'm saying all this, what it
24 brings down and the way it prejudices me, Your Honor, is the
25 state knew that I had lived at the Palmetto Vista. They knew

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1 that is from when I sued the City of Myrtle Beach Police
2 Department priorly, when they came into my house and arrested
3 me, took me to jail, held me in jail 90 days. I lost ever I
4 owned and then they just threw me out, because what I said was
5 true that a man had come in my front door with a baseball bat
6 to attack me and I defended myself. They didn't arrest this
7 man because he was known Myrtle Beach Police informant; they
8 arrested me. And I lost everything I owned, so I sued. So,
9 now, I've made quite a few enemies in the Myrtle Beach Police
10 Department.

11 THE COURT: Okay.

12 MR. BOLICK: All right. Now, when they arrested me from
13 this place -- I'm not married, Your Honor, and I have lived
14 and worked at that hotel for several years, and I had dated
15 several women in that hotel. On the day Officer Ammons
16 arrested me, he was questioning me, Where were you on this
17 date? A young lady by the name of Monique stepped out the
18 door and said, Sir, he was with me all night long. I can
19 verify that. He immediately ended the interrogation or the
20 questioning, took me to jail. And I was held 70 days, 70-some
21 odd days without bond. By the time I was released, by the
22 time I was able to get there, my alibi witnesses are gone.
23 They have relocated. They knew I lived at a hotel. They knew
24 that if I could get out that I could prove where I was, that
25 this was not me. And now my chance at my alibi witnesses are

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1 forever gone. So, my chance at a fair trial is forever gone.
2 And not only that, Your Honor, if you would pay close
3 attention to my arrest -- and I'm pretty sure -- I've been in
4 Horry County jail and I've never seen bill of indictments come
5 down this quick. And if you'll look at the bill of
6 indictments and look back to the writ of habeas corpus I found
7 -- filed, the writ of habeas corpus that I was never heard on,
8 that has never been explained why it's still pending in there,
9 Your Honor, but all of a sudden the solicitor runs and gets
10 these true bills of indictments, which by law would disentitle
11 me to a hearing or a -- to the writ of habeas corpus. But, I
12 -- it wasn't fair, it wasn't ethical, and ---

13 THE COURT: And again, my question to you is -- and I
14 appreciate what you're saying. What is it you're asking me to
15 do other than have Judge Ohanesian come here; what is it
16 you're asking me to do?

17 MR. BOLICK: Ask Judge Ohanesian to come here, Your
18 Honor, so that I can question him on the witness stand.

19 THE COURT: If I'm assuming everything you're telling me
20 is true, for what purpose would it serve?

21 MR. BOLICK: Your Honor, that if I was never given the
22 right -- notified of my right to a probable cause hearing,
23 that if I was appointed counsel that which prevented me from
24 filing my own motions for discovery and bringing my own facts
25 to this case, and not what the public defender's office wanted

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14

1 to with the solicitor's office, that that right there, it was
2 the beginning of the end of this fair trial. There is no fair
3 trial now; there never can be one.

4 THE COURT: Is that because you say you can't find
5 witnesses now?

6 MR. BOLICK: Because I cannot find my alibi witnesses. I
7 have not been able to locate them.

8 THE COURT: All right, sir. Have you delivered subpoenas
9 to the sheriff's office to be served on these people?

10 MR. BOLOCK: Sir, I cannot even get their full names now.

11 THE COURT: Okay. Have you served discovery either upon
12 the state or a request before the Court to -- you said they
13 were employees at this hotel, correct?

14 MR. BOLICK: No, sir. They were visitors from out of
15 state.

16 THE COURT: Okay. All right. So, have you tried to
17 secure the records of the hotel?

18 MR. BOLICK: Yes, sir, I have.

19 THE COURT: And how -- what have you done?

20 MR. BOLICK: Unsuccessful. One of the -- one of the
21 ladies ---

22 THE COURT: What did you do?

23 MR. BOLICK: I went and spoke to Cathy James. She runs
24 it and another lady by the name of Brenda Holmes. One of the
25 ladies that I had seen multiple times was never a registered

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1 even guest at the hotel, but her name was Monique. That was
2 the lady who stepped out the day Officer Ammons was testing
3 me. There was another lady named Margaret, who I had dated
4 several occasions who I was with just the night before that.

5 THE COURT: Okay. All right.

6 MR. BOLICK: And I can't find these people, Your Honor,
7 and I have tried my best. I have tried diligently; I promise
8 you.

9 THE COURT: I appreciate that. So, you don't think their
10 records were at the hotel?

11 MR. BOLICK: I know -- I worked with Cathy James, and up
12 until this, me and her were on very good terms. But, since my
13 arrest that day, my apartment got robbed, everything that was
14 in there was stolen. I went back and she is scared that I'm
15 gonna pursue litigation against her because she never reported
16 it.

17 THE COURT: My question is, would the hotel have records
18 of where these people live?

19 MR. BOLICK: I don't think so, Your Honor.

20 THE COURT: All right. What's the state's position,
21 please?

22 MR. TERRELL: As to which part of this, Your Honor?

23 THE COURT: All of this. Every argument he's made. Let
24 me hear your argument.

25 MR. TERRELL: Your Honor, I don't think is the

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16

1 appropriate forum to air those grievances. He's been charged;
2 the indictments have been true-billed. We have not -- the
3 state has not kept him from being able to procure his
4 witnesses, to find anybody he needs. We'd ask that these
5 motions be dealt with in the appropriate forum.

6 THE COURT: He said that he's been prevented from having
7 bond at the proper time, from his preliminary hearing, from
8 the -- that ---

9 MR. BOLICK: The right to counsel of my choosing.

10 THE COURT: Well, and I appreciate that, but you've taken
11 care of that, Mr. Bolick.

12 The issue about the state moving forward with the
13 indictments while a motion for habeas corpus is pending, he's
14 made all those arguments. What's your position on all of
15 them?

16 MR. TERRELL: Your Honor, as for bond, I don't know what
17 happened with bond. I know that for various reasons,
18 individuals can forfeit their right to be heard in front of a
19 judge. It's my understanding that he was coming off of -- he
20 was going through severe drug withdrawal and was in no
21 position to be in front of the Court. Beyond that, I have no
22 idea what happened. I don't know the circumstances of that.
23 I've not spoken with Judge Ohanesian. I don't know if that's
24 appropriate for me to do, Your Honor.

25 As far as your right to a preliminary hearing, he's been

1 indicted by a grand jury. The -- rendering any preliminary
2 hearing on this matters moot; the grand jury has acted on
3 those indictments.

4 There was something else.

5 THE COURT: There as a habeas corpus motion pending and
6 in the motion -- I'm assuming you've read his written motion?
7 It claims that the habeas corpus motion was intercepted by
8 agents of the state, that they acted in concert with the clerk
9 of court.

10 MR. TERRELL: Yes, sir, Your Honor. This was -- it -- if
11 memory serves me, the dates coincide with the dates of
12 Hurricane Matthew. He's -- the defendant claims that there
13 was a period of time between when he mailed his motion to the
14 clerk of court's office and when it was actually clocked in by
15 the clerk of court's office. And his claim was something akin
16 to I broke into the clerk of court's office and took that writ
17 of habeas corpus so that it could not be filed. When the fact
18 of the matter is the offices were closed and we weren't even
19 here. I believe that it counts for the delay. As far as what
20 that would do to the dates of the indictments, the first of
21 the indictments were true-billed on October 20th, which would
22 mean that they were prepared and sent ready for the grand
23 jury's report before I had any knowledge of this writ of
24 habeas corpus. Since then, it had -- charges had been true-
25 billed and he has been brought before the Court. He has been

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18

1 given bond. I believe it was Your Honor who granted his
2 request for a bond and let him out. So, I think that handles
3 the writ of habeas corpus, the -- I think counsel for the
4 sheriff's office was here to ensure that that was done with --
5 complied with.

6 MR. BOLICK: Brief rebuttal, Your Honor?

7 THE COURT: Yes, sir, please.

8 MR. BOLICK: Your Honor, if you'll read both motions. I
9 never once alleged that he broke into the clerk's office;
10 that's obscene. It says that in neither -- in neither motion.
11 That is stories that ---

12 THE COURT: You alleged that he intercepted it.

13 MR. BOLICK: I alleged that the clerk, instead of doing
14 her duty as delegated by the law and in notifying the attorney
15 general's office and make sure that I'm before Court within
16 ten days. Instead, because I am sure that they are not used
17 to a writ writer in Horry County jail, that she called this
18 man and said, look, I've got a document entitled writ of
19 habeas corpus and brought it to his attention. And at that
20 time, he informed her to ignore it and run and got the
21 indictments. I didn't allege that he broke into anything,
22 Your Honor. By law, when that clerk received that writ of
23 habeas corpus, she was supposed to contact the attorney
24 general's office. The sheriff had a duty to get me within
25 this Court, Your Honor, within ten days because I lived within

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1 -- because I was located within a hundred miles of this
2 courthouse. So, I should've been here. And if I'd have been
3 granted that writ and granted that bond, I could've went and
4 got my witnesses and we could have a fair trial. I might've
5 even had a chance at a probable cause hearing to stop this all
6 now.

7 Your Honor, just to prove to you that I'm being truthful,
8 we sit here and listen to Austin McPherson testify that he
9 never pulled up no photos off the bar -- Facebook Bar & Grille
10 page on Wednesday. If you will please look at that piece of
11 paper she just handed you, Austin McPherson completed perjury
12 here on Wednesday. And if this is the type of thing that I'm
13 going to deal with throughout this trial, Your Honor, there's
14 no way I can have a fair trial. The way it started was evil.

15 THE COURT: Did you subpoena Ms. Melanie Huggins-Ward to
16 come to court today?

17 MR. BOLICK: No, sir; I did not. She is no longer the
18 clerk of court and I don't know where she is.

19 THE COURT: She's across the -- in the next building,
20 working in the treasurer's office.

21 MR. BOLICK: I did not know that.

22 THE COURT: Which is why -- I mean, steps away.

23 MR. BOLICK: Your Honor, I have no friends in the court
24 system.

25 THE COURT: Well, and I appreciate that, but all you have

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1 the Court. You have to properly file the respective motion,
2 along with documentation that would prove your indigency
3 status such as using the financial declaration form that is on
4 the clerk of court's website that they use for Family Court,
5 that you swear that these are all your assets and debts and
6 liabilities. You have to file the proper paperwork with the
7 Court to declare such indigency status. You haven't done
8 that. I can't hear it. Again, if you're gonna represent
9 yourself, you've got to follow the rules. I'm gonna make the
10 state follow the rules; you have to follow the rules, too. I
11 can -- I can't give you a break because you're representing
12 yourself, and you're welcome to do so. You've got a
13 constitutional right to do so, glad for you to do so, but that
14 doesn't give you any special status. The Court treats you
15 just like everybody else. You've got to follow the rules of
16 evidence. And I would suggest to you -- I don't know who the
17 trial judge is gonna be, but I would suggest to you that you
18 make sure you read the rules of evidence before you come in to
19 try your case, because the trial judge is gonna expect you to
20 follow the rules of evidence. All right?

21 MR. BOLICK: Yes, sir, Your Honor.

22 THE COURT: Just giving you a heads up on that. You --
23 you know, that it's not my job in any trial to help either
24 side. It's the rule that things be properly presented to the
25 Court. So, you've assumed the responsibility and that's gonna

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1 to do is just deliver the proper subpoena paperwork to the
2 sheriff's office.

3 MR. BOLICK: Your Honor, if I ---

4 THE COURT: They know where she is. If you're gonna
5 represent yourself, Mr. Bolick, you assume the duties and
6 responsibilities of an attorney and you are deemed by the
7 Court to know all the rules, rules of procedure, rules of
8 evidence, how things work, what they are to do. You can't
9 claim ignorance of the rules or what things are if you take
10 the following responsibility to represent yourself. You can't
11 fall back on that. All right?

12 MR. BOLICK: I did attempt to subpoena Judge Ohanesian
13 and I was greeted with the threat of arrest of the Myrtle
14 Beach Police Department.

15 THE COURT: I appreciate that. Did you go through the
16 sheriff's office to have that served?

17 MR. BOLICK: No, sir. I don't have the ---

18 THE COURT: Did you ask the sheriff's office to subpoena
19 Ms. Melanie Huggins-Ward to come to court today to testify
20 about this matter.

21 MR. BOLICK: No, from my understanding, I have to pay
22 them, Your Honor, and I really do not have any funds at this
23 time. If this Court would recognize me as an indigent and
24 give me the opportunity and order the sheriff to ---

25 THE COURT: That motion has not been properly filed with

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22

1 be your duty and responsibility.

2 Now, still being somewhat uncertain of what it is that
3 you're asking -- the relief that you're asking for in this
4 particular matter. Information that has been provided to me
5 so far, I do not find any reason to grant your motion to
6 dismiss for judicial or prosecutorial misconduct. The
7 paperwork from the city judge indicates that the bond was
8 denied. The indication is that they -- the matters were a
9 violent offense because of the -- it looks like the
10 allegations that it occurred at a business at night, but
11 there's no -- reading through the paperwork or the information
12 that you've provided to me that there as any improper actions
13 of city judge in hearing this matter, denying bond, whether or
14 not the public defender's office should be appointed.
15 That has been resolved. You are here representing yourself.
16 As to the issues of unavailability of witnesses, first, we do
17 not have a trial date, so I don't know if the witnesses are
18 gonna be unavailable at trial or not. Secondly, I find that
19 you have not gone through the proper procedures to send out
20 the proper subpoenas or secure the necessary information to
21 have the Court find that the witnesses are unavailable to you.
22 Again, we're not at the trial.

23 As far as any prosecutorial conduct, I do not find if any
24 occurred that has affected the rights of the defendant to a
25 fair trial. The matters have been presented to the Horry

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1 County Grand Jury, true-bills were rendered on these three
2 charges, 2016-GS-26-4947, 2016-GS-26-4953, and 2016-GS-26-
3 5081. The 4947 was presented to the Horry County Grand Jury
4 and true-bill rendered on October 20th of 2016. 2016-4953,
5 again, was true-billed by the Horry County Grand Jury on
6 October 20th, 2016. And 2016-5081 was true-billed by the
7 Horry County Grand Jury on November 17th, 2016.

8 The issues of the habeas corpus have been resolved. Mr.
9 Bolick is out on bond. Whether or not there was any prejudice
10 to the defendant cannot be ascertained by the Court at this
11 time. The matter is not for trial. At the time that the
12 matters come up for trial, if witnesses are unavailable, then
13 it may be that certain matters could be addressed to the trial
14 judge at that point in time. But at the present time, based
15 on the information presented, the Court is denying your
16 motions to dismiss for judicial or prosecutorial misconduct as
17 set forth in the two separate motions that you filed in this
18 matter.

19 You had some motions for access to a law library. That
20 was while you were confined. I'm assuming that matter has
21 been resolved since you are no longer confined to the J.
22 Reuben Long Detention Center; would that be correct?

23 MR. BOLICK: Yes, sir.

24 THE COURT: All right, sir.

25 The -- you filed a -- a motion for speedy trial; is that

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24

1 correct?

2 MR. BOLICK: Yes, sir.

3 THE COURT: All right, sir. Be glad to hear from you on
4 that.

5 MR. BOLICK: I withdraw that motion at this time, Your
6 Honor.

7 THE COURT: All right, sir. So, the motion for speedy
8 trial is withdrawn. All right.

9 MR. BOLICK: I did make, Your Honor, if ---

10 THE COURT: Could you hold on one second, please, and
11 I'll get back to you in just one second.

12 I'm sorry. Yes, sir?

13 MR. BOLICK: I did make a motion for transcript, Your
14 Honor, and I would like the motion for the transcript from
15 Wednesday as I passed a piece of paper to you concerning Mr.
16 McPherson's report, the officer who testified the other day.
17 He plainly went on Facebook and got my picture and passed it
18 around, not as he testified.

19 THE COURT: All right. Now, if you want a transcript, as
20 you are sitting here today, as to decision of the case here
21 today, if you want a transcript, there's a procedure to that
22 that the state has where you have to notify the court reporter
23 in writing and request it. They can charge you for that.
24 Now, and we've addressed your issue about indigent status
25 already.

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1 MR. BOLICK: I am indigent.

2 THE COURT: And that may well -- and I appreciate that,
3 but again, as I told you, that matter is not before the Court
4 because you haven't filed the proper paperwork, you haven't
5 filed the proper information attached to your motion. As I
6 suggested, there is a financial declaration form in the clerk
7 of court's database for such as they use for Family Court
8 where you fill out all your assets and debts. You can use
9 that, but you've got to prove your indigency status. You make
10 that motion, you direct that to the administrative judge,
11 Judge Culbertson, and he'll make a decision as to whether or
12 not to approve your indigency status. And if he does so, then
13 you can forward that on to the court reporter with your
14 written request for the transcript. But, until you resolve
15 that, the court reporter is not going to provide, even though
16 you make the proper request in writing. And you -- there are
17 certain rules that the State of South Carolina has or the
18 written rules set forth how you make these requests. And,
19 again, you know, you've got to figure that out. You know,
20 you're representing yourself, you've got to figure that out,
21 but there are written rules to tell you how to do that. But,
22 if you're not declared indigent, then the court reporter has
23 no duty to deliver a transcript to you without a proper
24 payment. So, you got to -- you understand that?

25 MR. BOLICK: Yes. If I may, though, Your Honor, Judge

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1 Ohanesian declared me indigent when he appointed the public
2 defender's office back in 2016.

3 THE COURT: He declared that you were eligible, eligible
4 for appointment; that is not a declaration of indigency
5 through the circuit court. A municipal judge cannot govern
6 the status of a general sessions case. He declared that you
7 were -- that you had the ability to secure representation from
8 the public defender's office. Okay? So, you do what you deem
9 necessary in those regards but, you know, there's a proper way
10 to do things and you're gonna have to follow the rules of our
11 court.

12 MR. BOLICK: Your Honor, your rulings today will not
13 create a procedural bar for me to file a renewed motion to
14 dismiss for prosecutorial ---

15 THE COURT: No, sir. No, sir.

16 MR. BOLICK: Thank you.

17 THE COURT: And I said, that's why I based it upon what
18 was presented to me here today. It was denied based on what's
19 presented to me here today. And I did say if there -- because
20 we're not at trial. When it comes to trial and there is --
21 there are some facts that now you're at trial and you have
22 certain facts that are then available, you can present those
23 to the trial judge at that point in time. But, based on the
24 information today, I'm denying your motion. You're right. It
25 does not bar you from doing it based upon the available facts

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1 at the time of trial. All right?

2 You presented to me a document. Deputy, would you give
3 that back to Mr. Bolick because that's a part of his file.

4 All right, sir.

5 And the magistrate -- did you give me these?

6 MR. BOLICK: Yes, sir.

7 THE COURT: Okay. Well, he needs to get these back, too.
8 I just want to make sure you've got back all your documents.

9 All right. So, does that take care of the motions -- it
10 looks like on the clerk of court's form that I've dealt with
11 the motions that we had.

12 MR. TERRELL: Your Honor, there's a motion to compel on
13 here as well.

14 THE COURT: Motion to compel, okay; I'm sorry. I missed
15 that. All right.

16 Is that your motion, sir, motion to compel?

17 MR. BOLICK: Yes, it was. At the time ---

18 THE COURT: All right, sir.

19 MR. BOLICK: At the time, the state has disclosed some
20 discovery but I'm unsure, and I would really like for them to
21 clarify, Your Honor, that I did give the DNA swab. I would
22 like for them to delineate with specific clarity what they are
23 testing my DNA against, Your Honor, so that it can't come up
24 in some other place or on other evidence that wasn't evidence
25 at this time.

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1 THE COURT: It was a -- okay. So, Solicitor, and I think
2 we covered this the other day, but if you would state -- the
3 DNA swab that they took this morning pertains to which
4 particular case?

5 MR. TERRELL: Your Honor, that is -- I'm sorry --
6 indictment 4947 ---

7 THE COURT: Is that Giff's Liquors? r

8 MR. TERRELL: I believe so; yes, sir.

9 THE COURT: All right. So, you have 2016-GS-26-4947, the
10 indictment alleges that Theodore Jerry Bolick did in Horry
11 County on or about August 27, 2016 enter without consent and
12 with the intent to commit a crime therein Giff's, G-I- F-F-S,
13 Liquors, a building located at 1490 South Kings Highway within
14 the city limits of Myrtle Beach, and the defendant, Theodore
15 Jerry Bolick, did enter the building in the nighttime in
16 violation of Section 16-11-312, subsection (B), South Carolina
17 Code of Laws, 1976 as amended. So, that is the case that the
18 swab, DNA swab was taken to prepare evidence in that
19 particular case. Is that correct, Solicitor?

20 MR. TERRELL: Yes, sir, Your Honor.

21 THE COURT: All right. Does that answer your question?

22 MR. BOLICK: No, Your Honor. I want to know ---

23 THE COURT: All right, sir. I didn't understand you.

24 MR. BOLICK: I want to know what evidence they have that
25 they are comparing my DNA with other than this glove.

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1 THE COURT: All I can recall was from the hearing is they
2 have DNA from the glove that they want to compare with a known
3 standard. Known standard being the swab that they took from
4 you. So, the DNA that -- that's what I heard at the hearing.
5 Is that -- is there something different than that, Solicitor?

6 MR. TERRELL: No, sir, Your Honor; that's correct.
7 Basically, there was DNA in the glove that matched what they
8 have in the system as Theodore Jerry Bolick, but to be able to
9 confirm that the DNA did come from Theodore Jerry Bolick they
10 need a known standard.

11 THE COURT: A known standard, and the known standard is
12 the swab that they took from you today to compare -- the known
13 standard, the swab they took from you today to the DNA that
14 they found with the glove and then issue a written report
15 based on that. That's what I understood the officer to
16 testify and confirmed by the solicitor here today. All right.
17 So, does that answer the question?

18 MR. BOLICK: Yes. Yes, sir.

19 THE COURT: Very good.

20 MR. TERRELL: Your Honor, I believe that was separate
21 from the motion to compel. I think ---

22 THE COURT: I'm sorry. Is there something else? Let me
23 look again. Okay, what -- was there something else in the
24 motion to compel?

25 MR. TERRELL: Your Honor, I don't believe a motion as far

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1 as that's concerned was ever filed. There's an outstanding
2 motion to compel discovery, and I'm not sure what the
3 defendant is asking.

4 THE COURT: Okay. Well, let me -- when was that motion
5 filed, Mr. Bolick?

6 MR. BOLICK: Your Honor, if I'm correct, I was still
7 incarcerated, and I was having problems getting the public
8 defender to remove himself from my case.

9 THE COURT: Okay.

10 MR. BOLICK: And I had filed my own motions for discovery
11 and the state had ignored them, but they did later on disclose
12 to me discovery as filed for by the public defender's office.
13 I had specifically asked and stated *Kyles v. Whitley* that I
14 wanted the videotapes from the Myrtle Beach jail, that I had
15 never been before Judge Ohanesian, and that his statement that
16 I was before him and that I'd applied for counsel and
17 everything, I wanted to be able to prove that false with that
18 evidence.

19 THE COURT: So, that was the purpose of the motion to
20 compel was that video evidence?

21 MR. BOLICK: Yes, sir.

22 THE COURT: Back on that timeframe.

23 MR. BOLICK: Yes, sir.

24 THE COURT: What's the state's position to that?

25 MR. TERRELL: A couple of things, Your Honor, the state

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1 is not in possession or does the state have access to those
2 videos or any videos along those lines that the defendant is
3 requesting. We're required to turn over to the defendant
4 matters pertaining to the prosecution of these charges and we
5 just don't have that.

6 THE COURT: Well, let's just short circuit this. I'm
7 directing you to communicate with the officials of the City of
8 Myrtle Beach to discover whether or not these videos exist at
9 this point in time. If they so exist, they will make copies
10 of them and deliver them to you after which you will deliver
11 them to Mr. Bolick. If they are not in existence, someone
12 from the City of Myrtle Beach with the proper authority will
13 set that forth in writing and will send that to you and you'll
14 disclose that to Mr. Bolick. That shall be accomplished
15 within 20 days of today's date. All right?

16 MR. TERRELL: Just so we're clear, you want myself to ---

17 THE COURT: Yes, sir. You are going to communicate with
18 the officials of City of Myrtle Beach and tell them that the
19 Court has ordered them to search their records and see if
20 those video tapes exist, if they exist, they shall deliver
21 them to you, a copy of them to you in whatever means is
22 necessary to get a copy of it. A copy shall be delivered to
23 you. After that, get a copy to Mr. Bolick. If they do not
24 exist, a person in authority, keeper of the records, chief of
25 police, I don't care who it is, shall certify in writing that

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1 they do not exist and the reasons why they do not exist.

2 MR. BOLICK: Thank you.

3 THE COURT: All this shall be accomplished within 20 days
4 of today's date. When you get that information, whatever it
5 is, you'll send that on to the defendant.

6 MR. TERRELL: Yes, sir, Your Honor.

7 THE COURT: All right?

8 MR. BOLICK: Thank you, Your Honor.

9 THE COURT: Thank you very much.

10 Any other outstanding motions that we are aware of at
11 this point in time?

12 MR. TERRELL: Not from the state, Your Honor.

13 MR. BOLICK: Not from the defendant, Your Honor.

14 THE COURT: All right. Thank you very much.

15 Hold on one second.

16 What is -- and this is on a question that I have -- what
17 is the defendant's prior record, if any, that -- and
18 specifically as to either property crimes or prior burglaries?

19 MR. TERRELL: Your Honor, substantial. 1981, breaking
20 and entering automobiles, larceny; 1982, larceny, B&E and
21 larceny; 1983, forgery, escape from a county farm; 1984,
22 breaking and entering, larceny; 1991, assault with a deadly
23 weapon with intent to kill and inflict serious injury; 2003,
24 possession of cocaine and petit larceny; 2004, breaking and
25 entering a vending machine and assault on a court official ---

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1 MR. BOLICK: Objection, Your Honor.

2 THE COURT: I appreciate that. I've asked the state for
3 some information, and I'll tell you the reason why, and it may
4 or may not be of issue, you know, whether I should be doing
5 this or not. Regarding your motion to sever the charges, Mr.
6 Bolick, I would suggest that you look at your prior record ---

7 MR. BOLICK: Yes, sir.

8 THE COURT: --- whether or not, if the state severs those
9 charges and they decide to try them separately and they -- if
10 they secure convictions of those, what jeopardy that might
11 give you regarding on a subsequent burglary ---

12 MR. BOLICK: Yes. Your Honor, if I ---

13 THE COURT: --- burglary first, it would subject you to
14 life in prison without the possibility of parole. So, I would
15 just suggest that to you. You need to do what you need to do
16 to represent yourself. I would suggest that you need to do
17 some research about your prior record; your motion to sever,
18 what impact -- look at what entails or what can be charged for
19 burglary first and what that might mean if you go forward with
20 the motions to sever if the state decides to try you
21 separately. If they convict you on one, and then they convict
22 you on another, then what that might mean regarding burglary
23 first and the potential sentence that you could expose
24 yourself to. All right?

25 MR. BOLICK: The reason that, the reason ---

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1 THE COURT: You can take that as unsolicited comment ---

2 MR. BOLICK: I appreciate it.

3 THE COURT: You can look at it, whatever you want to do.

4 Okay?

5 MR. BOLICK: I appreciate it.

6 THE COURT: All right.

7 MR. BOLICK: The reason I objected, Your Honor, is

8 because I am fairly certain that since I was about the age of

9 18 or 19, that I haven't stolen anything that I can recollect,
10 nor have I been charged and ---

11 THE COURT: And so, what -- you know, you just need to --

12 all I'm suggesting to you is you look into all those things.

13 Okay? That would be something an attorney would be doing, so

14 I'm suggesting that you ought to do it. Okay?

15 MR. BOLICK: Your Honor, I represented my ---

16 THE COURT: Thank you very much.

17 MR. TERRELL: May I approach, Your Honor?

18 THE COURT: Yes, sir. What is that?

19 MR. TERRELL: The Form IVs from ---

20 THE COURT: Well, we did some, so we'll prepare them and

21 see. But, now, just so that you make sure -- okay, your

22 address, Mr. Bolick, I know the clerk's office must know what

23 it is, but let's -- we'll put it on the Form IV because the

24 clerk's office has got to send you a copy of these Form IVs

25 that I've signed today that depicts how the motions were

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1 resolved. So, and we're not gonna count on my handwriting.
2 Please tell us what your address is that you receive mail at?
3 MR. TERRELL: 2600 South Ocean Boulevard, Myrtle Beach,
4 South Carolina, 29577.
5 THE COURT: So, that's 2600 ---
6 MR. BOLICK: Yes, sir.
7 THE COURT: South Ocean Boulevard?
8 MR. BOLICK: Yes, sir.
9 THE COURT: In Myrtle Beach?
10 MR. BOLICK: Yes, sir.
11 THE COURT: Okay. That's 295 ---
12 MR. BOLICK: -- 77.
13 THE COURT: --- 77. All right. Very good, sir. We'll
14 put that on the forms so that the clerk's office, I'm positive
15 they have the address, but we'll just make sure so that they
16 send you copies of these form orders. Okay?
17 MR. TERRELL: Your Honor, there should be a room number
18 associated with that.
19 THE COURT: Is there a room number?
20 MR. BOLICK: No, sir.
21 THE COURT: Very good. Thank you very much.
22 All right? Thank y'all.

23 ADJOURNED.
24
25

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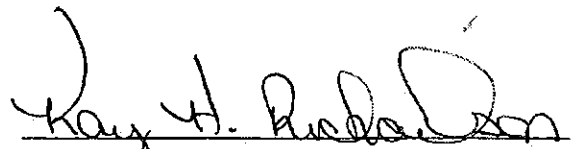
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CERTIFICATE OF COURT REPORTER

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C E R T I F I C A T E

I, the undersigned, Kay H. Richardson, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of State of South Carolina v. Theodore Jerry Bolick, held in the Court of General Sessions for Horry County, Horry County Courthouse, Conway, South Carolina, on May 18, 2018, as reported by Dixie C. Eubank.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.



Kay H. Richardson

Official Court Reporter

October 7, 2021.

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF HORRY) 2016-GS-26-04947, 04953, 05081

State of South Carolina,)

Plaintiff,)

vs.)

Theodore J. Bolick,)

Defendant.)

Transcript of Record

JULY 22 - 24, 2019

B E F O R E:

Honorable Larry B. Hyman
Horry County Courthouse
Conway, South Carolina

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

Thomas G. Terrell, III, Esquire
Attorney for State of South Carolina

Theodore J. Bolick, Defendant
Appearing Pro Se

Sallie Beth Todd
Circuit Court Reporter

State vs Bolick

2 2016-GS-26-04947,4953,5081

1	<u>I N D E X</u>			
2	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u> <u>RECROSS</u>
3	JUDY WIDENHOUSE			
4	By Mr. Terrell	60		
5				
6	XIAO JIANG			
7	By Mr. Terrell	67		
8				
9	MATTHEW GIFFIN			
10	By Mr. Terrell	72		
11				
12	TONY HUMES			
13	By Mr. Terrell	80		
14				
15	JUSTIN LIEBERTH			
16	By Mr. Terrell	86		
17				
18	NATE HOWITT			
19	By Mr. Terrell	90		
20				
21	MALINDA SHADOAN			
22	By Mr. Terrell	105		
23				
24	DOANE WIDENHOUSE			
25	By Mr. Terrell	110		

1	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
2	MATTHEW AMMONS				
3	By Mr. Terrell	115			
4					
5	ADRIENNE HEFNEY				
6	By Mr. Terrell	120			
7					
8	SUSAN SAFFORD				
9	By Mr. Terrell	130			
10					
11	-----				
12	Certificate of Court Reporter..... 162				
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15	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE</u>
16	PL1	CD from Barrell Bar & Grill		X	63
17	PL2	Pictures from surveillance video		X	65
18	PL3	Pictures from surveillance video		X	65
19	PL4	Pictures from surveillance video		X	65
20	PL5	Pictures from surveillance video		X	65
21	PL6	Pictures from surveillance video		X	65
22	PL7	Pictures from surveillance video		X	65
23	PL8	Pictures from surveillance video		X	65
24	PL9	Pictures from surveillance video		X	65
25	PL10	Pictures from surveillance video		X	65

1	<u>E X H I B I T S</u>				
	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE</u>
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4	PL12	Pictures from surveillance video		X	71
5	PL13	Pictures from surveillance video		X	71
6	PL14	Pictures from Giff's Liquor		X	76
7	PL15	Pictures from Giff's Liquor		X	76
8	PL16	Pictures from Giff's Liquor		X	76
9	PL17	Pictures from Giff's Liquor		X	76
10	PL18	Pictures from Giff's Liquor		X	76
11	PL19	Pictures from Giff's Liquor		X	76
12	PL20	Pictures from Giff's Liquor		X	76
13	PL21	Pictures from Giff's Liquor		X	76
14	PL22	Pictures from Giff's Liquor		X	76
15	PL23	Pictures from Giff's Liquor		X	76
16	PL24	Pictures from Giff's Liquor		X	76
17	PL25	Pictures from Giff's Liquor		X	76
18	PL26	Pictures from Giff's Liquor		X	76
19	PL27	Pictures from Giff's Liquor		X	76
20	PL28	Glove		X	83
21	PL29	Buccal Swab		X	88
22	PL30	Picture from China Chef		X	94
23	PL31	Picture from Palmetto Vista		X	96
24	PL32	Picture from Palmetto Vista		X	96
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3	PL36	Picture of inside of defendant's room	X	97
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5	PL38	Picture of gloves	X	99
6	PL39	Picture of gloves	X	99
7	PL40	Picture taken during search warrant	X	98
8	PL41	Picture taken during search warrant	X	98
9	PL42	Picture taken during search warrant	X	98
10	PL43	Picture of skull caps	X	100
11	PL44	Picture of skull caps	X	100
12	PL45	Picture of skull caps	X	100
13	PL46	Picture of skull caps	X	100
14	PL47	Picture of skull caps	X	100
15	PL48	Picture of shoes	X	102
16	PL49	Picture of shoes	X	102
17	PL50	Picture of shoes	X	102
18	PL51	Picture of shoes	X	102
19	PL52	Picture of shoes	X	102
20	PL53	Picture of shoes	X	102
21	PL54	Knife	X	113
22	PL55	Glove	X	99
23	PL56	Skull caps	X	101
24	PL56.1	Skull cap used in burglary	X	102
25	PL57	2 knives	X	119

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3	PL58	Picture of items on defendant at time of arrest			
4				X	118
5	PL59	Picture of items on defendant at time of arrest			
6				X	118
7	PL60	Picture of items on defendant at time of arrest			
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15	CRT1	Acknowledgement by Defendant	X		29
16	CRT2	Order Lifting BW & Setting Bond	X		29
17	CRT3	Myrtle Beach Temperatures	X		56
18	CRT4	Myrtle Beach Sunset/Sunrise	X		56
19	CRT5	Jury Charge	X		152
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23					
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1 THE COURT: All right. Is this Mr. Bostick?

2 MR. BOLICK: Bolick.

3 THE COURT: Bolick. I'm sorry, Mr. Bolick. I
4 mispronounced your name, Mr. Bolick.

5 All right. I understand that Mr. Bolick has some
6 motions; is that correct? Mr. Bolick, you have some
7 outstanding motions; is that right?

8 MR. BOLICK: Yes, sir. I have a motion to severe, to
9 sever the cases and then a motion to (inaudible).

10 THE COURT: All right. Let's take up the motion to
11 severe first, please. I'll hear you on that. Tell me about
12 your cases and why you feel that they -- these matters should
13 be severed.

14 MR. BOLICK: Your Honor, these are three separate cases,
15 and my understanding is they are totally unrelated. They
16 happened on different days, different places, different items.
17 They are totally unrelated. As far as I think the state would
18 argue that they were broken into in the same manner or fashion
19 from my understanding. They are totally unrelated. The only
20 thing to do is compound a little bit of evidence here and a
21 little bit of evidence here and you put all of three of them -
22 - it would certainly prejudice me. The jury would be sitting
23 looking at three separate cases.

24 THE COURT: Well that is ---

25 MR. BOLICK: It would surely tarnish anybody's reputation

1 and it would severely prejudice ---

2 **THE COURT:** All right. Mr. Terrell, let me hear you on
3 that. He's said the magic words and that is prejudice. So
4 tell me why would he suffer substantial prejudice by the
5 joinder of these cases and then tell me why these cases should
6 be tried together.

7 **MR. TERRELL:** Your Honor, I don't believe he'd suffer any
8 prejudice. ~~The jury would be instructed to take each evidence~~
9 ~~for the case that it would~~ ---

10 **THE COURT:** Well that's in every case. Let's talk about
11 this case, okay, these three cases.

12 **MR. TERRELL:** Your Honor, they arise out of a similar
13 chain of circumstances in that you're dealing with three
14 burglaries over the course of eight nights. They're all
15 businesses; they're all on the south end of Myrtle Beach;
16 they're all within about a half mile radius of each other.
17 Two of them even happen to be next door to each other.
18 They're all -- we're not talking about a simple smash and grab
19 that could be done by anybody. These all have a very specific
20 M.O. In all of them the air conditioning vents were broken
21 into from the roof. He was able to gain access to these
22 businesses by going through -- essentially, he comes through
23 the ceiling in all three of these. They're all nighttime
24 burglaries. The same evidence, when they were able to get a
25 lead as to who the individual was on the surveillance video

1 was, that lead them to Mr. Bolick's apartment or his hotel
2 room where he was living at the time. They found evidence of
3 -- that would link him to all three of these crimes both on
4 his person at that time, and in his living quarters. They're
5 all the same general nature. Like I said, they're all
6 businesses; they're all nighttime; they're all closely
7 connected in location. I don't see how any real right of this
8 defendant is being prejudiced by trying all three of the cases
9 together when we're using the same evidence from all three.
10 We have a couple of the same officers. The only difference
11 would be having to have three separate trials for each of the
12 three separate victims.

13 **MR. BOLICK:** Your Honor?

14 **THE COURT:** Yes.

15 **MR. BOLICK:** Your Honor, my understanding is one business
16 was broken into an air conditioning vent, another one was
17 broken into a vent. The only evidence pulled from my
18 apartment that links anything with me was a single glove that
19 happened to match another glove they found in the business.
20 The state is clearly misleading the Court as to what was found
21 in the apartment and the manner of the way the buildings were
22 broken into. From my understanding only one building was
23 broke in through the air condition and it created substantial
24 damage. The other ones just simply went through the roof from
25 what I'm gathering. No, I would be severely prejudiced, Your

1 Honor, because the jury instead of weighing one crime would be
2 weighing three crimes that I'm accused of. And the crimes are
3 similar in nature, but they are certainly not related and not
4 one single strand of evidence relates any crime to any other
5 crime. There is not one crime that has linking to another
6 crime. There was no evidence from any of the buildings found
7 in my apartment. As a matter of fact, Your Honor, there was
8 not even a tool found in my apartment used to break into these
9 buildings.

10 **THE COURT:** Isn't one of the charges -- I'm sorry, I
11 thought that -- there may have been another case on the docket
12 for possession of burglary tools ---

13 **MR. BOLICK:** And they are three separate types, different
14 types of businesses, Your Honor. One was a bar, one was a
15 restaurant, and the other one was a liquor store.

16 **THE COURT:** Well talk to me, Mr. Terrell, about the
17 standard and what connection you have with these cases that
18 would make trying them together appropriate.

19 **MR. TERRELL:** Your Honor, as I said the connection would
20 be the M.O. is very similar in all three. The businesses that
21 were broken into were all within a half mile radius.

22 **THE COURT:** They were close in proximity and time is what
23 you're telling me?

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

25 **THE COURT:** Okay. All right.

1 **MR. TERRELL:** They -- the burden is on the opponent to
2 show that he's being prejudiced in some way. And when -- when
3 the cases are all being proved using the same witnesses, we're
4 going to have to talk about the search warrant of his house,
5 his living quarters in all three; we're going to have to talk
6 about his arrest in all three; we're going to have to talk
7 about the officers who are -- the crime scene who shows up are
8 the same in multiple of these, so the witnesses are the same.
9 The evidence is of similar nature, and it would benefit ---

10 **THE COURT:** Why would the witnesses be the same?

11 **MR. TERRELL:** ~~The -- you have the primary detective who~~
12 ~~is the same on all of them.~~ The responding officers are
13 different, but the crime scene unit responded in both of them.
14 We'd have to call the same people. We'd have to call the same
15 people who did the search warrant in all three of them where
16 we found evidence to all three, linking all three of these
17 crimes together.

18 **THE COURT:** All right. Before I rule on that let's just
19 back up a minute and talk about *Farreta* which I meant to do
20 initially. You have the right to self-represent, that means
21 represent yourself. *Faretta versus California* 20 years ago
22 essentially said that that's a constitutional right. They
23 expanded it to say that that right is a right protected by the
24 sixth and the fourteenth amendments. However, in order to
25 allow you to proceed I must determine whether or not you are

1 making a voluntary decision to proceed without counsel and
2 that your decision to do so is knowingly and intelligently
3 made. It's my understanding or I believe that you have been
4 before several Judges with motions in the past. Is that
5 correct?

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

7 **THE COURT:** All right. And I don't know whether or not
8 they examined you to that end, but I certainly must. You have
9 the right under the sixth amendment to be represented by
10 counsel. You have the right to have an attorney represent
11 you. Do you understand that?

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

13 **THE COURT:** Okay. And it's my understanding that you, at
14 least at this point, wish to proceed pro se, that is to
15 represent yourself. Is that correct?

16 **MR. BOLICK:** ~~Your Honor, I would ask for counsel to~~
17 ~~assist and the reason I would is because I seem to be having a~~
18 ~~lot of problems getting my witnesses subpoenaed to court.~~
19 ~~Like I said, honestly, I've had an hour notice to get my~~
20 ~~witnesses.~~

21 **THE COURT:** Well I mean you were noticed last week, I
22 believe. Judge John actually gave me, or his secretary gave
23 me your phone number from where he had advised you last week
24 that you were on the roster, you appeared, and that this case
25 was going to carry over. Now, you see, sir, your right to

1 counsel is an important right because if we go to trial, or
2 when we go to trial, or when you are tried the Court cannot
3 lessen the rules of procedure. The Court cannot ignore the
4 rules of evidence that an attorney would be required to
5 follow. Now, you are how old, sir?

6 MR. BOLICK: Fifty-four, Your Honor.

7 THE COURT: Okay. And how far did you go in school?

8 MR. BOLICK: Seventh grade, Your Honor.

9 THE COURT: All right. So you went to the seventh grade.
10 And what kind of work have you been engaged in over the years?

11 MR. BOLICK: I do construction work, general maintenance,
12 upkeep and things like that.

13 THE COURT: Okay. So you are a construction handyman
14 basically?

15 MR. BOLICK: Yes, sir.

16 THE COURT: Okay. All right. Are you married, sir?

17 MR. BOLICK: No, sir.

18 THE COURT: Okay. Did you have children? Have you
19 raised a family?

20 MR. BOLICK: No, sir.

21 THE COURT: Where are you from originally?

22 MR. BOLICK: North Carolina.

23 THE COURT: Well have you ever tried a case before, ever
24 represented yourself in the past?

25 MR. BOLICK: Yes, sir.

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1 THE COURT: And how long ago was that?

2 MR. BOLICK: It's been right about ten years, Your Honor.

3 THE COURT: And what was the charge on that?

4 MR. BOLICK: Several, it was assault on a government
5 official.

6 THE COURT: Okay.

7 MR. BOLICK: Possession of marijuana.

8 THE COURT: Okay.

9 MR. BOLICK: And breaking into coin machines.

10 THE COURT: And what kind of court were you in? Was in
11 North Carolina?

12 MR. BOLICK: Yes.

13 THE COURT: Was it like a district court, something like
14 we have here?

15 MR. BOLICK: Actually I was in superior court. Actually
16 I made the front page of the Charlotte News and Observer.

17 THE COURT: All right. And did you successfully defend
18 yourself?

19 MR. BOLICK: Yes, sir.

20 THE COURT: And you were acquitted on all of the charges?

21 MR. BOLICK: Yes, sir.

22 THE COURT: Okay. And that was about ten years ago?

23 MR. BOLICK: Yes, sir.

24 THE COURT: And did you have any standby counsel or
25 anybody to assist you in that?

1 **MR. BOLICK:** No, sir.

2 **THE COURT:** Okay. Well let me ask you this, do you
3 understand the rules of evidence that you are required to
4 follow? Those are the rules that control what evidence you
5 can present, how you can present it, what objections you may
6 make to opposing counsel's presentation of evidence. Do you -
7 - are you familiar with those rules of evidence?

8 **MR. BOLICK:** Fairly so, sir.

9 **THE COURT:** Okay. And you would understand then for
10 instance what hearsay is?

11 **MR. BOLICK:** Yes, sir, Your Honor.

12 **THE COURT:** Okay. Do you understand all of the
13 exceptions to the hearsay rule where something that you may
14 want to introduce that on its face might be hearsay, but you
15 still might be able to introduce because of one of the
16 exceptions? For instance, an excited utterance. Do you know
17 what an excited utterance is?

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

19 **THE COURT:** Okay. Then tell me how that would be
20 admissible and why it would be admissible. That's a fairly
21 simple one.

22 **MR. BOLICK:** The only thing I could say is during
23 questioning you uttered something, or during an arrest of
24 somebody uttered something or said something and it would be
25 admissible if they voluntarily did it.

1 **THE COURT:** Well that's not exactly it. See what an
2 excited utterance is something that a person might say while
3 under the excitement of some extraordinary event. You know
4 you just witnessed an automobile accident; a car comes
5 flashing by and a witness is standing there, and someone hears
6 him say that car was flying. He's still under the influence
7 of the excitement, that's what an excited utterance is. It
8 has the ring of truth because of the circumstances under which
9 it took place. There are many, many exceptions like this such
10 as prior consistent statements, prior inconsistent statements.
11 Do you know when those might be used or how they might be used
12 or the circumstances?

13 **MR. BOLICK:** Not fully, Your Honor.

14 **THE COURT:** Well I can tell you there are many, many,
15 many things like that that would be exceptions to the hearsay
16 rule. There are things that are not considered hearsay.
17 There are things that there are exceptions for and it's not
18 just the hearsay rule. There are many, many other rules. For
19 instance, foundational rules. Do you understand how
20 foundational rules work for physical evidence?

21 **MR. BOLICK:** Not fully.

22 **THE COURT:** Okay. Well would you agree, sir, that that
23 would put you at a distinct disadvantage when I can promise
24 you Mr. Terrell knows how to get evidence in, and he knows how
25 to object to your evidence. Don't you realize, sir, that that

1 would be a distinct disadvantage to you?

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

3 **THE COURT:** Okay. Tell me why do you want to self-
4 represent? I mean tell me why that is?

5 **MR. BOLICK:** Because I'm innocent of these crimes, Your
6 Honor.

7 **THE COURT:** That really doesn't have anything to do with
8 your right to counsel. I would suspect that most of the
9 people that come before me and say I want a trial, at least in
10 their mind, believe that they're innocent. That still doesn't
11 mean that they don't take advantage of the right to have
12 counsel. Do you understand that? You still -- an innocent
13 man probably needs counsel more than a guilty man, quite
14 frankly. Do you realize, sir, the disadvantage that you're
15 going to be facing? And you're looking here at three charges,
16 depending on whether I allow them to go forward all together.
17 But these are burglary in the second degree violent, I think
18 all three of them. And those offenses carry 15 years each.
19 Are you aware of that? I mean that's significant time. Do
20 you understand that?

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

22 **THE COURT:** You know the question before me is not
23 whether or not you should have an attorney. I personally
24 believe that anyone who goes to trial should have the benefit
25 of an attorney and it's foolish not to exercise that right.

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1 But what I'm asked to determine here is whether or not you are
2 voluntarily waiving your right to counsel and you're doing it
3 knowingly and intelligently. You know you tell me that you've
4 had some experience with this, but on the other hand when I
5 question you it's obvious, and I think you've told me
6 candidly, that you are not that familiar with the rules that
7 you'll be required to follow in this court. And again, I want
8 to emphasize during the trial I can't cut you a break. Do you
9 understand that? I can't waive any of the rules because
10 you're proceeding pro se. I have to hold you to the same
11 standard that I would hold an attorney. Do you understand
12 that?

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

14 **THE COURT:** Now, I will honor your desire to proceed pro
15 se if that's what you want, and you understand the dangers of
16 proceeding pro se, and you understand your right to have an
17 attorney. If you want to proceed pro se you also have that
18 right. But I can tell you it -- it's not the smart thing to
19 do to try to proceed pro se. It's entirely up to you, sir.
20 And as I said I will be happy to honor your desires in that
21 regard. It's just that I want to make sure that you
22 understand what you are doing when you waive counsel. Is that
23 what you want to do?

24 **MR. BOLICK:** I wish I had counsel. It don't seem like I
25 have time to discuss the case and show the lawyer anything

1 about my case right now.

2 **THE COURT:** Well would you like the evening to discuss it
3 with an attorney? I will appoint an attorney, you can talk
4 with him, and you can decide whether you want an attorney.

5 **MR. BOLICK:** If you could do that, Your Honor, I'd be
6 very grateful.

7 **THE COURT:** Mr. Spratlin, where is Mr. Spratlin? Did he
8 run?

9 **MR. HELMS:** I can get him.

10 **THE COURT:** Get him for me there.

11 **MR. TERRELL:** Your Honor, I think Mr. Spratlin may have
12 been -- may have worked at some point in the prosecution of
13 Mr. Bolick.

14 **THE COURT:** Okay. Then we won't -- Mr. Spratlin is a
15 public defender and he's actually very -- he's excellent. But
16 Mr. Spratlin before he switched over to the public defender's
17 office, worked in the solicitor's office. This has been some
18 years ago. I don't know how long your case has been pending.
19 I wouldn't think it was ---

20 **MR. SPRATLIN:** Your Honor, I might have a conflict. I
21 know that he was prosecuted by my old boss, Brad Richardson,
22 and I'm not sure.

23 **THE COURT:** When did these offenses take place?

24 **MR. TERRELL:** These particular offenses occurred in
25 August of 2016.

1 **THE COURT:** All right. Were you with the solicitor's
2 office?

3 **MR. SPRATLIN:** I was with the solicitor's office.

4 **THE COURT:** You were still in that office? Okay. Will
5 you get someone over here for me?

6 **MR. SPRATLIN:** Yes, sir.

7 **THE COURT:** Get Mr. Galtore over here.

8 I'm going to let you do that. I'm going to wait until in
9 the morning and let you talk with an attorney.

10 Yes, sir.

11 **MR. TERRELL:** I have a stack of various handwritten
12 motions from this defendant. I would take a guess that in
13 about two-third of these he mentions a conflict that he has
14 with the public defender's office. That's the reason that Mr.
15 Floyd was originally taken off the case in the first place.

16 **THE COURT:** Well Mr. Floyd is not even with the
17 solicitor's -- I mean the public defender's office anymore and
18 hasn't been for two or three years.

19 **MR. TERRELL:** No, sir. He is not, but my understanding
20 from these well thought out, relatively well-written ---

21 **THE COURT:** Well do you have a problem with the public
22 defender's office here?

23 **MR. BOLICK:** I have in the past had problems when I was
24 appointed them. --Unfortunately, Your Honor ---

25 **THE COURT:** Well he is deceased, and Mr. Floyd who was

1 your other attorney retired two years ago, right?

2 **MR. TERRELL:** He still works on a part-time basis.

3 **THE COURT:** Yeah. He does some preliminary hearings at
4 the jail, but he does not come to court. He has retired, but
5 I think he's doing some -- they pay him piecemeal to go out to
6 the jailhouse and do preliminary hearings, something like
7 that. I know he hasn't been in this court in two years.

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

9 **THE COURT:** Okay. Well I'm going to get someone in here.
10 I'm going to give you an opportunity to talk with them. I'm
11 going to bring you back in the morning and we'll see what we
12 can do there. I don't want to address your motions or rule on
13 it until I hear from your attorney. Okay.

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

15 **THE COURT:** I strongly suggest, sir, that you avail
16 yourself of the opportunity and your right to have an
17 attorney. Lawyers don't even represent themselves you know.
18 I have seen several lawyers tried, they don't represent
19 themselves and they actually know, some of them are good
20 lawyers. Okay.

21 Mr. Bolick, just have a seat back there. I'll have
22 someone in here in just a minute. Okay.

23 **MR. SPRATLIN:** Your Honor, I saw Mr. Galmore, Ms. Wilson
24 is coming over. I can check and see if I do have a conflict
25 specifically. I don't know if Mr. Bolick would be comfortable

1 with me since I did work in the solicitor's office at the time
2 that these charges came about. But I can certainly -- Ms.
3 Wilson will be here in a minute to address that. And I also
4 will have to check and see if I ever prosecuted or had any
5 involvement with this case.

6 **THE COURT:** I need to speak with him a minute, Tony.

7 Mr. Spratlin is checking to see if he has a conflict, if
8 there was any contact at all since he's been out of the
9 solicitor's office for two or three years. Ms. Wilson, I mean
10 Ms. West ---

11 **MR. SPRATLIN:** Ms. Wilson's coming over.

12 **THE COURT:** Ms. Wilson is coming over. He's going to
13 check and see if he's got a conflict.

14 **MR. SPRATLIN:** That might just be the easiest thing with
15 Ms. Wilson because I was in the office as a prosecutor when
16 you were charged with this so ---

17 **THE COURT:** If you consider that to be a conflict, if you
18 don't want him to do it -- I will appoint Mr. Spratlin, he is
19 an excellent lawyer. It's up to you. If you don't feel
20 comfortable with somebody that used to work there, he's a
21 public defender now.

22 **MR. SPRATLIN:** I think right over, right about two and a
23 half years now.

24 **THE COURT:** Okay.

25 **MR. BOLICK:** I've got no problems with it,

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25 **MR. TERRELL:** Yes, sir, Your Honor. Your Honor, State of

1 South Carolina versus Theodore Jerry Bolick. He is not here.
2 He was given notice to be here. He's under subpoena to be
3 here. He's not here. We would ask to try him in his absence,
4 Your Honor.

⑤ **THE COURT:** All right. Let me say this for the record.
⑥ Mr. Bolick has repeatedly indicated his desire to proceed pro
⑦ se. He was here on yesterday. I discussed with him at length
8 the pitfalls and dangers of proceeding pro se. I advised him
9 of his constitutional right to be represented by counsel, as
10 well as his right under *Faretta* to proceed pro se. I
11 cautioned him at length concerning that. I have explained to
12 him the possible penalties of his -- the potential penalties
13 if he were convicted in this matter. I will state for the
14 record that Mr. Bolick tells me that he has self-represented
15 successfully in the past. He's familiar with court
16 proceedings. In addition to that, Mr. Bolick repeatedly tells
17 me that he wants to proceed pro se. As a matter of -- and I
18 find that he has knowingly and intelligently waived his right
19 to counsel. He has also waived his right to counsel
20 voluntarily. As I said and mentioned a moment ago, he tells
21 me that he has successfully defended himself in the State of
22 North Carolina. He understands the penalties that he is
23 facing. I discussed with him the fact that he would be
24 required to comply with the Rules of Evidence and the Rules of
25 Procedure. I discussed examples of the Rules of Evidence with

1 him, explaining to him that he would be at a great
2 disadvantage if he did not have an attorney. He repeatedly
3 indicated that he did not want to have an attorney. I
4 suggested to him that he allow me to appoint a standby
5 attorney for him. I summonsed not only Mr. Spratlin, who is
6 in the courtroom at this time, but also Ms. Kia Wilson. I
7 asked them if they would speak with Mr. Bolick. He consented
8 to that. It's my understanding that they discussed this
9 matter with him on yesterday. He still indicated to them that
10 he wanted to proceed pro se, but that he would allow someone
11 to sit behind his table in case he had some question but their
12 representation or their involvement would be simply limited to
13 that. He understands hybrid representation. As I said, I
14 make a specific finding that he has knowingly and voluntarily
15 and intelligently waived his right to counsel. He has
16 exercised his constitutional right to self-represent. He was
17 informed that he must be here at 9 o'clock this morning. It
18 is now after 11 o'clock. We have been waiting for Mr. Bolick.
19 Mr. Spratlin tells me that he has spoken with Mr. Bolick
20 several times this morning.

21 **MR. SPRATLIN:** Your Honor, I called him, and I can give
22 the Court the exact time in one second. I called and spoke
23 with Mr. Bolick at 10:12a.m. at the request of the Court and
24 the solicitor to find out his whereabouts. At that point I
25 did have a conversation with him, or actually I'm sorry, Your

1 Honor. It was actually 9:39a.m. that I called him the first
2 time to find his whereabouts and he informed me that he was at
3 the bus station at Joe White waiting on a bus to bring him to
4 Conway. I informed the deputies of that. At the Court's
5 request a deputy did go out to the Conway bus station to await
6 his arrival and transport him to the courthouse. I also tried
7 contacting Mr. Bolick three times thereafter: one at
8 10:12a.m.; one at 10:50a.m.; another at 11:00a.m. Each
9 subsequent phone calls goes straight to voicemail.

10 **THE COURT:** And it's my understanding that someone had
11 information from Mr. Bolick that he was on the bus that would
12 arrive at 11 o'clock. Is that correct? Is that my
13 understanding?

14 **MR. TERRELL:** Your Honor, your understanding is based on
15 the fact that he was waiting, according to his conversation
16 with Mr. Spratlin, he was waiting at the bus stop at Mr. Joe
17 White down in Myrtle Beach at about 20 minutes until 10
18 o'clock which would have put him on the bus at 10 o'clock to
19 get up here by 11.

20 **THE COURT:** And our deputy went to -- has been waiting at
21 the bus station, which is just a few blocks away, to give him
22 a ride here. My understanding that he was not on that bus
23 either.

24 **MR. TERRELL:** That's correct.

25 **THE COURT:** And that he will not respond to your phone

1 calls, Mr. Spratlin. Is that correct?

2 **MR. SPRATLIN:** Your Honor, it is going straight to
3 voicemail. I do not know if his phone is off. I do not know
4 if it is out of service. I do not know if the power has died
5 on it; I am unaware. But the phone does not even ring, it
6 goes straight to voicemail.

7 **THE COURT:** And he told you that he expected to arrive at
8 what time?

9 **MR. SPRATLIN:** Your Honor, when I talked to him I simply
10 asked his whereabouts and he told me he was at the bus station
11 on Joe White Boulevard waiting for the next bus. That was all
12 the information he gave me about ---

13 **THE COURT:** And that was at 9:30?

14 **MR. SPRATLIN:** That was at 9:39, Your Honor.

15 **THE COURT:** And we have had no contact with him since
16 then?

17 **MR. SPRATLIN:** I have had no contact.

18 **THE COURT:** Okay. Tell me, there is no question that he
19 was given notice to be here. I had him here yesterday. I
20 will note for the record that I was given his phone number by
21 Judge John. Judge John had gotten that phone number last week
22 when he appeared, well Judge John's secretary gave it to me.
23 I spoke with him yesterday. He did not appear this morning.
24 He was here shortly thereafter; he was here before the Court
25 for a *Faretta* hearing. He was informed to be here this

1 morning; he knows to be here this morning. There's certainly
2 no question about that, Mr. Spratlin, is there?

3 **MR. SPRATLIN:** Your Honor, I was not party to any
4 conversations between the Court and him yesterday. However, I
5 know in my conversations with him regarding representation and
6 regarding the potential scope of representation having shadow
7 counsel or standby counsel appointed, I informed him that we
8 were starting back today at 9 o'clock.

9 **THE COURT:** All right. Well I find that he does have
10 notice. Now tell me, Mr. Terrell, if he was notified that
11 this Court would proceed in his absence if he waived his -- or
12 if he did not appear.

13 **MR. TERRELL:** Yes, sir, Your Honor. He would have been
14 noticed not only in his bond paperwork I believe there is
15 arraignment paperwork that also has that listed.

16 **THE COURT:** Do you have his bond paperwork? That usually
17 contains specific information requiring him to appear. Is he
18 on a P.R. bond?

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

20 Your Honor, I do have an acknowledgement by the defendant
21 that if he violates the orders of his bond, one of those is
22 that I have been informed that I have the right and obligation
23 to be present at trial and should I fail to attend to Court
24 the trial will proceed in my absence. It's signed by Mr.
25 Bolick. That's dated December 15th of 2016. That would have

1 been at his initial bond. He's since had a subsequent bond
2 hearing with an order lifting that bench warrant that says
3 that he shall appear upon subpoena from the Court and that
4 should he fail to appear at the call of his case for trial he
5 will be tried in his absence. That's signed by Judge Hood on
6 January 11th of 2018.

7 **THE COURT:** All right. And can you make those two
8 documents a part of the record, please?

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

10 (COURT'S EXHIBIT NUMBERS 1 AND 2 ARE
11 MARKED FOR IDENTIFICATION)

12 **THE COURT:** Mr. Spratlin, thank you for discussing this
13 matter or the matters of representation with Mr. Bolick on
14 yesterday. It's my understanding he has not asked you to
15 represent him, he has not consented to you representing him
16 and we appreciate your willingness to discuss these matters
17 with him. You may withdraw.

18 **MR. SPRATLIN:** Yes, sir, Your Honor. I will be available
19 should the situation change and the Court need to again
20 appointment me as standby or shadow counsel.

21 **THE COURT:** All right. Thank you very much. And I find
22 that he was noticed of his right to be present, and he has
23 waived that. All right. And you desire to proceed in his
24 absence, Mr. Terrell? Is that correct?

25 **MR. TERRELL:** Yes, sir, Your Honor. That would be the

1 state's preference.

2 **THE COURT:** All right. And he has several outstanding
3 motions which have been made which he, I would assume, has no
4 intention of proceeding on in that he has now chosen not to be
5 present at his trial. I will consider those as withdrawn.
6 All right. Let's bring up our jury. Okay.

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

8 (COURT IS IN RECESS)

9 **THE COURT:** Okay. Ladies and gentlemen, let me begin by
10 apologizing to you for keeping you downstairs for two hours.
11 Sometimes situations arise in the trial of cases that cause
12 some delay, and there was such a situation this morning.
13 Sometimes it's nothing more than just motions that need to be
14 handled, but we could not help the fact that we are late
15 getting started. I promise you that normally, I'm very prompt
16 in starting court, but it could not be avoided.

17 Our purpose here this morning is to seat a jury in the
18 matter of the State of South Carolina versus Theodore Jerry
19 Bolick. Mr. Bolick is charged with three separate counts of
20 burglary in the second degree violent. It is alleged, and let
21 me make it clear to you that in indictment is nothing more
22 than the document that brings a case to court. If a person is
23 arrested, that's what -- he's arrested on what we call an
24 arrest warrant. That doesn't bring it to court. It then has
25 to be an indictment by the Grand Jury, which formally sets the

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

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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

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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

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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 in the surveillance video tapes. You'll also -- on his person
2 they find when they arrest him, they find two lime green
3 zombie killer throwing knives. You'll see those. The reason
4 that's important, when the Barrel Bar was broken into;
5 remember that was the first one, I'm trying to do what I can
6 to keep all these instances separated in your mind. When he -
7 - when the victim was going up and trying to repair the damage
8 that was done to the ceiling of the restaurant, inside the
9 little air vent he found a green handled zombie killer
10 throwing knife and he matches the two found on him. So in a
11 very brief nutshell that's what you're about to hear from the
12 witness stand.

13 He was charged with three counts of burglary second
14 degree violent. As Judge Hyman informed you, it's basically
15 he broke into a business and he did so during the nighttime
16 hours, and when -- while he was inside he had the intent to
17 commit a crime. And two of them you'll have video of him
18 attempting to commit a crime. He's trying to steal the cash
19 register and he's trying to steal money from the cash
20 register. And the final business, Giff's Liquors, we don't
21 have that video to see, but what we do have is the missing
22 till from the cash register.

23 And again, when they're led to his residence, Mr.
24 Bolick's residence, they find all of these things connecting
25 him to each of these individual crimes.

1 Again, I will try and make this go as smoothly and as
2 quickly as possible to save everybody as much time, but
3 everything that you are about to hear is very important. I
4 ask that you pay close attention. Thank you for your time.

5 **THE COURT:** Call your witness, sir?

6 **MR. TERRELL:** Thank you, Your Honor. I call Judy
7 Widenhouse.

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

10 **JUDY WIDENHOUSE, HAVING BEEN**

11 **DULY SWORN TESTIFIES AS FOLLOWS:**

12 **THE CLERK:** Thank you. If you would please state your
13 full name and spell your last name for the Court?

14 **MS. WIDENHOUSE:** My name is Judy Widenhouse. W-I-D-E-N-
15 H-O-U-S-E.

16 **DIRECT EXAMINATION OF JUDY WIDENHOUSE BY MR. TERRELL:**

17 Q: Good afternoon, Ms. Widenhouse. Thank you for coming
18 this afternoon. What is it you do for a living?

19 A: I own Barrel Bar Sports Bar and Grill in Myrtle Beach.

20 Q: How long have you owned that restaurant?

21 A: 15 years.

22 Q: Where is it located?

23 A: 2303 South Kings Highway in Myrtle Beach.

24 Q: And are you familiar with what county that's in?

25 A: Horry County.

1 Q: Do you remember an incident that occurred August 18th of
2 2016?

3 A: Yes, I do.

4 Q: In the early morning hours, can you tell me what
5 happened?

6 A: At approximately 5:00 A.M. my alarm system went off and I
7 got a call from the company that the alarm was going off and
8 asked if I wanted them to call the police, which I said, yes.
9 Unfortunate, I live two miles from the business, so I actually
10 got there before the police did, drove toward the back of the
11 parking lot and saw that the back door was standing open. So
12 I knew someone had been inside. The police came in at that
13 point and went in and searched and they came back out and got
14 me and we all went in and saw some evidence that someone had
15 come through the ceiling in the kitchen.

16 Q: What kind of evidence did you see?

17 A: Broken tile.

18 Q: Broken ceiling tile?

19 A: Ceiling tiles.

20 Q: Okay.

21 A: Did not realize at the moment why, but I then called my
22 son, who manages the bar, and he came in and he's the one that
23 found the hole in the roof and after researching why the tile
24 was broken. What's -- where the hole was in the ceiling,
25 there's a spice rack on the wall there. The spices had been

1 moved very carefully and sat on the table. There was
2 insulation all over the floors. We found out later, shortly
3 after that, that the ATM had been damaged severely. So we sat
4 and watched the tapes on the cameras and ---

5 Q: So you did have surveillance video?

6 A: Yes.

7 Q: Were you able to view that surveillance video that night?

8 A: Yes.

9 Q: I'm handing you what's been marked as state's exhibit 1.

10 A: Yes.

11 Q: Are those your initials?

12 A: Yes.

13 Q: So this is a video or a portion of that surveillance
14 video; is that correct?

15 A: Correct.

16 Q: Was your surveillance system working properly that night?

17 A: Yes, it was.

18 Q: And is there a time stamp and date stamp on that video?

19 A: Yes.

20 Q: To the best of your recollection, was that accurate?

21 A: Yes.

22 Q: Okay. Was there -- the video that you saw that night,
23 everything appeared to be working properly?

24 A: Yes.

25 Q: And in the video, the portion of the video that I had you

1 watch the other day, is that a true and accurate

2 representation of what you found that night?

3 A: Yes.

4 Q: May I ask that state's 1 be moved into evidence, Your
5 Honor?

6 THE COURT: Very well.

7 (STATE'S EXHIBIT NUMBER 1

8 ADMITTED INTO EVIDENCE)

9 THE COURT: You want to publish it now?

10 MR. TERRELL: May I, Your Honor?

11 THE COURT: You may.

12 MR. TERRELL: Thank you.

13 REPORTER'S NOTE: (State's exhibit 1 is published to the
14 jury).

15 BY MR. TERRELL:

16 Q: Ms. Widenhouse ---

17 THE COURT: Mr. Terrell, let me ask you first, is that
18 everything that's on that disc?

19 MR. TERRELL: Everything, Your Honor.

20 THE COURT: Okay. All right. So, the disc is admitted?

21 MR. TERRELL: Yes, sir.

22 THE COURT: All right.

23 BY MR. TERRELL:

24 Q: Ms. Widenhouse, were you able to see that -- that
25 surveillance video?

1 A: Yes.

2 Q: What room were we looking at?

3 A: I beg your pardon?

4 Q: What room was that we were looking at in the video?

5 A: It's a small prep room right off of the kitchen and the

6 bar.

7 Q: What -- what kind of stuff is back there?

8 A: We have a freezer there with some foods in it, in fact,

9 there were two freezers in there. Just paper goods, cups,

10 that type of thing.

11 Q: And that's only one of multiple angles that you had in

12 the -- in the restaurant for surveillance video; is that

13 right?

14 A: Uh-huh. (Affirmative response.)

15 Q: Were you able to watch all the videos that night?

16 A: Yes.

17 Q: Was there anybody else between the time it was closed and

18 the time you and the police got there, was there anybody else

19 in any of those videos?

20 A: No.

21 Q: Did you -- did you recognize this individual?

22 A: I did not, no.

23 Q: So he had no reason to be there; he had -- he wasn't a

24 manager, contractor, anything; he had no reason to be in there

25 A: No.

1 Q: All right. Do you recall what was taken from your
2 restaurant?

3 A: The only thing that we found was a \$6.00 bottle of rum,
4 and I would have given him one if he had of wanted it.

5 Q: I'll hand you a series of pictures ---

6 JUROR: I'm sorry, I didn't understand what she said, a
7 \$6.00 bottle of what?

8 MS. WIDENHOUSE: Of rum. Alcohol.

9 JUROR: Thank you. Thank you, I'm sorry.

10 BY MR. TERRELL:

11 Q: I'm going to hand you what's been previously marked as
12 state's exhibits 2 through 10 for identification purposes
13 only. Could you look at those for me? Do you recognize those
14 pictures?

15 A: Yes.

16 Q: What are they just generally?

17 A: Of the same room that was on the video.

18 Q: These are all various still shots of the individual taken
19 from the surveillance video?

20 A: Correct.

21 Q: Your Honor, we ask state's 2 through 10 be moved into
22 evidence?

23 THE COURT: All right. Without objection.

24 (STATE'S EXHIBIT NUMBERS 2 THROUGH 10

25 ADMITTED INTO EVIDENCE)

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1 MS. JIANG: My name is Xiao Jiang. X-I-A-O J-I-A-N-G.

2 DIRECT EXAMINATION OF XIAO JIANG BY MR. TERRELL:

3 Q: Thank you, Ms. Jiang. Where are you employed?

4 A: I own the China Chef at 1470 South Kings Highway, Myrtle
5 Beach, South Carolina, 29577.

6 Q: Are you familiar with what county that's located in?

7 A: Horry County.

8 Q: How long have you owned the China Chef?

9 A: About 12 years.

10 Q: Do you remember an incident that occurred on August 26th,
11 2017?

12 A: Sixteen?

13 Q: Oh, I'm sorry, yes, August 26th, 2016; I misspoke?

14 A: Yes.

15 Q: What happened that morning?

16 A: The business open hour is from 11:00 A.M. to 10 and I
17 came there that day one quarter before 11. I opened up the
18 door and an employee and I, and we walk in and see something
19 strange. Because the computer was set on the top of the
20 counter and (inaudible) and we stayed in the dining room and
21 called 911, because we could see the mess to the counter. So
22 that must be someone there yesterday or before hours.

23 Q: What kind of mess did you see?

24 A: We see the computer down, register down, and bamboo
25 upside down and all mess in the inside of counter. So we

1 called 911 and wait for the police to come and we stayed
2 before they finish it collecting the evidence, the
3 fingerprint, everything and we leave them to go check around
4 the kitchen, front desk and seeing through the surveillance as
5 well, and we saw someone there before hours.

6 Q: Someone there before you guys went in on the surveillance
7 video?

8 A: Yes.

9 Q: I'm showing you what's been marked as state's exhibit 11.
10 Are those your initials?

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

12 Q: You had -- your surveillances videos were reviewed
13 previously?

14 A: Uh-huh (affirmative response).

15 Q: Did you have an opportunity to view that surveillance
16 video?

17 A: I beg your pardon?

18 Q: Did you -- did you look at the surveillance video?

19 A: Yes.

20 Q: And when -- when you looked at it, did you see somebody
21 there that should not have been at a time he should not have
22 been?

23 A: Uh-huh. (Affirmative response.) He shouldn't have been
24 because it was about 6:00 A.M. in the morning.

25 Q: Okay. On the, I'm sorry. On the video I showed you

1 yesterday a clip of your surveillance videos; is that right?

2 A: Yes.

3 Q: And was that a true and accurate representation of what
4 you saw in the entire video?

5 A: Uh-huh (affirmative response). Yes.

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

8 **THE COURT:** Certainly. It's admitted.

9 **(STATE'S EXHIBIT NUMBER 11**

10 **ADMITTED INTO EVIDENCE)**

11 **MR. TERRELL:** Move to publish, Your Honor?

12 **THE COURT:** You may.

13 **REPORTER'S NOTE:** (State's exhibit 11 is published to the
14 jury).

15 **BY MR. TERRELL:**

16 Q: Were you able to see that video just now?

17 A: Yes.

18 Q: Was that a fair representation of what you saw on the
19 surveillance system as a whole from that night?

20 A: Yes.

21 Q: Was there anybody else in any of the videos that was on -
22 - on the video, was there anybody else?

23 A: Nobody else.

24 Q: Did -- did you know -- did you know this individual?

25 A: No, I don't know him.

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1 Q: So, he had no -- no reason to be in your -- in your
2 restaurant?

3 A: I don't think so. No.

4 Q: The -- did you notice the time and date stamp on that
5 video; there was a date stamp on the video; do you remember
6 seeing that?

7 A: Yes, it's August 26.

8 Q: August 26th, so that was correct?

9 A: It was correct.

10 Q: There was also a time stamp next to it; is that right?

11 A: Uh-huh (affirmative response). Yes.

12 Q: To your knowledge, was that the time that it was
13 displaying, was that correct?

14 A: The time showed on surveillance was supposed to be 5:30,
15 not 6:30.

16 Q: Okay. So, it was an hour fast on the time stamp?

17 A: Yes.

18 Q: Okay. I'm showing you what's been marked as state's
19 exhibits 12 and 13. Do you recognize those?

20 A: Yes.

21 Q: Could you say that louder?

22 A: Oh, sure, the pictures are from the video.

23 Q: I would ask 12 and 13 be moved into evidence, Your Honor.

24 THE COURT: They're admitted.

25 MR. TERRELL: Thank you, Your Honor.

1 (STATE'S EXHIBIT NUMBERS 12 AND 13

2 ADMITTED INTO EVIDENCE)

3 BY MR. TERRELL:

4 Q: Ms. Jiang, what all did you notice was taken that night?

5 A: The -- all change that's in the register and he broke the
6 register, damaged the computer. I got to (inaudible) that
7 cost about \$1,700. We have a receipt. And he broke the
8 ceiling, the whole mess you can see, the drawer, he search
9 everything out and dirt from the (inaudible) and he broke the
10 ceiling board and I think the landlord had to patch the roof,
11 the damage up on the roof, and he scared us. We closed the
12 business. We don't open for the lunch, because we got to
13 clean up everything and do everything with the -- the police
14 officer, and yeah, he scared me.

15 Q: So other than the cash register, did he take -- did he
16 take anything?

17 A: Yeah, sodas, coins, change is about \$88, paper change it
18 with the coins.

19 Q: And tell me about the damage to the ceiling, where was
20 that?

21 A: The ceiling, they have a ceiling board connect one after
22 one and he just broke one in half and go through -- went
23 through there and step on the soda room, a small soda room,
24 pallet board of sodas; where the case, he step on the case and
25 jump down like that, and yeah one and half of ceiling board,

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1 broke the ceiling.

2 Q: So it was a drop ceiling similar to this?

3 A: Yeah.

4 Q: Okay.

5 MR. TERRELL: I have no further questions, Your Honor.

6 THE COURT: You may step down. Thank you, Ms. Jiang.

7 MS. JIANG: You're welcome.

8 THE COURT: I next call Matthew Giffin.

9 THE CLERK: Please raise your right hand and put your
10 left hand on the Bible?

11 MATTHEW GIFFIN, HAVING BEEN DULY

12 SWORN TESTIFIES AS FOLLOWS:

13 THE CLERK: Please be seated. State your name for the
14 Court and spell your last name?

15 MR. GIFFIN: My name is Matthew Giffin. G-I-F-F-I-N.

16 DIRECT EXAMINATION OF MATTHEW GIFFIN BY MR. TERRELL:

17 Q: Mr. Giffin, what do you do for a living?

18 A: I'm currently employed by Black's Tire and Automotive,
19 but at the time of the incident I was the owner and operator
20 of Giff's Liquor.

21 Q: Where is that located?

22 A: 1490 South Kings Highway in Myrtle Beach.

23 Q: Okay. And are you familiar with what county that's in?

24 A: Horry County.

25 Q: What -- what business is located next to you?

1 A: The China Chef.
2 Q: Right next door?
3 A: Right next door.
4 Q: Do you remember an incident that happened back in August
5 of 2016?
6 A: Uh-huh (affirmative response), the 27th.
7 Q: Okay. Tell me what happened that night?
8 A: I received a call from my mother late at night. I can't
9 remember exactly what time, but she had received a call from
10 our security company alerting us to a break in at our store.
11 Q: Why would your mother receive that call?
12 A: She was just the designated number on the calling list
13 and not mine. So she got the call first, and then relayed it
14 to me.
15 Q: Okay. And so about what time did you get a call?
16 A: I can't remember the exact time, but I think it was
17 around 2 or 3 in the morning; it was late.
18 Q: And what information was relayed to you?
19 A: She just said that the alarm was going off, that she told
20 ADT to alert the authorities to show up there, and that was
21 pretty much it. I woke up. I woke up my roommate, who was my
22 friend, and we went down there. I only lived two blocks away
23 from the store.
24 Q: So about how long did it take you to get there?
25 A: Less than 3 minutes.

1 Q: What did you see when you got there?

2 A: I pulled up to the back door because we have a storm gate
3 in the front, so there's no way anyone is getting in or out of
4 there. So I pulled up to the back door, I saw it was slung
5 wide open, it's a double door. We bar it from the inside, so
6 there's really no way to get in from the outside there. It
7 was dark, so I shut all the lights off in the windows or
8 anything. The alarm was going off. Me and my roommate
9 entered through the back without waiting for the police, but
10 we had to do the back, turn on the breakers which are in the
11 office in the center. I noticed that there was broken bottles
12 in the back room from the top shelf. I notice that there was
13 a glove on the floor in the office, and as I made my way
14 through the store I noticed that my cash register, the
15 interior of the cash register, the till, was missing.

16 Q: The -- so the door that you can't open from the outside
17 was open when you got there?

18 A: That's correct.

19 Q: Okay. Did -- do you have surveillance video at your
20 store?

21 A: I did not have surveillance video recording at the time.

22 Q: Okay. And why is that?

23 A: At the time I considered the store secure. There was a
24 storm gate and a barred door and no windows. So to save on
25 recording time, I set it to only record during operating

1 hours.

2 Q: On -- were you aware that on the morning of the 26th that
3 your neighbors had been broken into?

4 A: I was aware of it.

5 Q: So what extra precautions did you take, if any?

6 A: Not turning on the security system was a mistake, but I
7 usually leave a light on the store because it's very dark when
8 I come in in the morning. So I shut all the lights off and
9 made sure it was pitch black in there when I was on my way
10 out. Other than that, there's nothing really else I could do
11 extra to secure the store.

12 Q: What -- what did you notice was missing from the store?

13 A: I noticed for sure was missing were the cash register,
14 the interior of the cash register that holds the money and all
15 the change inside, and I noticed that several bottles were
16 broken and/or missing from my inventory.

17 Q: Okay. And where were these bottles broken?

18 A: The broken bottles were in the back room, from where it
19 looked like the defendant came down through the ceiling, and
20 it's about two stories up from where the ceiling came out, so
21 he had to come down -- climb down like a set of railings up in
22 the back room and then onto the shelves where he probably
23 kicked down some bottles trying to climb down.

24 Q: I'm showing you what's been marked as state's exhibits 14
25 through 27 and ask you if you recognize what's depicted in

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1 those photographs?

2 A: Yes, I recognize this as my store.

3 Q: So those are all photographs of your store?

4 A: Yes, sir.

5 Q: And they were taken, I assume, that morning?

6 A: Uh-huh (affirmative response).

7 MR. TERRELL: Your Honor, we move to have these
8 admitted?

9 THE COURT: Do you want to it as one exhibit or a series;
10 what are they?

11 MR. TERRELL: 14 through 27, Your Honor.

12 THE COURT: All right. They're so admitted, and you may
13 publish it at such time as you see fit.

14 MR. TERRELL: Thank you, Your Honor.

15 (STATE'S EXHIBIT NUMBERS 14 THROUGH 27

16 ADMITTED INTO EVIDENCE)

17 BY MR. TERRELL:

18 Q: We'll start with state's 14 and 15.

19 A: Uh-huh (affirmative response).

20 Q: Just generally, what -- what are we looking at here?

21 A: That is the front of the store.

22 Q: Okay.

23 A: With the gate rolled up.

24 Q: This is with the gate rolled up?

25 A: The gate rolled up after the police arrived.

1 Q: Okay. But when you arrived ---
2 A: It was down?
3 Q: It was down. State's exhibit 16?
4 A: That is the back room, where the defendant climbed in
5 through or down from the ceiling along those railings on top
6 of the shelves onto the floor.
7 Q: You notice there's a bottle of looks like 1800 right
8 there that's knocked over. Would it have been in that
9 condition the night before?
10 A: No.
11 Q: State's exhibit 17?
12 A: Yes, that is the entry point on the ceiling right above
13 the previous picture. He had removed a ventilation fan from
14 the roof to get in.
15 Q: So that's a drop ceiling where a ventilation fan would
16 have been?
17 A: Yes, sir.
18 Q: Okay. And it was there the night before?
19 A: Yes.
20 Q: And in proximity to state's exhibit 16?
21 A: It is directly above it. You can see the railing in the
22 other picture as well.
23 Q: Okay. All right. State's exhibit 18?
24 A: That's my vehicle parked outside the back door, which was
25 unbarred and open when I arrived.

1 Q: Okay. Let's focus on the door.
2 A: Uh-huh (affirmative response).
3 Q: What is this piece?
4 A: That piece holds the bar in place. It's a double door,
5 you can't see the other side.
6 Q: But there would have been a similar door on the other
7 side?
8 A: Uh-huh (affirmative response).
9 Q: And you said that was secured from the inside with what?
10 A: With a 2x4.
11 Q: Turning to state's 19 and 20?
12 A: That's the cash register at the front of my store and it
13 is missing the interior of the till.
14 Q: Was the till there when you all closed?
15 A: Yes, sir.
16 Q: The night before. State's 21 and 22, what are we looking
17 at in those pictures?
18 A: You're looking at that's right next to my desk, that is a
19 bag of money that we keep for the cash drawer, to load the
20 cash drawer in the mornings, about \$700.
21 Q: So that was there that night?
22 A: Yeah, and he missed it.
23 Q: Did you say why you kept the cash there?
24 A: It's just usually we have it covered up. I guess I just
25 kind of threw it up there. That's where we keep him so people

1 can just grab it in the morning. Like I said, I considered
2 the building relatively secure before the incident.

3 Q: Turning to state's 23 through 25?

4 A: That is underneath my desk, when I first turn on the
5 lights the switches are behind where these pictures would be
6 taken, and I noticed immediately the strange glove on the
7 ground right in front of my desk.

8 Q: Have you seen that glove before?

9 A: No.

10 Q: Is there any chance it was there the night before when
11 you closed up?

12 A: No.

13 Q: Was there anybody who was scheduled to come and do any
14 kind of work or maintenance in your store while you were gone?

15 A: No.

16 Q: Are you familiar, or prior to this incident did you know
17 Mr. Theodore Bolick?

18 A: No, he is not familiar.

19 Q: He had no reason to be back in the office at your store?

20 A: No.

21 Q: So what was taken from your store that night?

22 A: The register, the interior register, and any change
23 including around \$75 worth. Between broken and missing
24 inventory another, I think about \$300 worth of inventory was
25 broken and missing, other than that nothing out of the

1 ordinary.

2 Q: And by inventory, liquor bottles broken bottles?

3 A: Liquor, strictly.

4 Q: And the damage, the damaged liquor bottles, were you able
5 to see at least some of those that night?

6 A: Uh-huh (affirmative response).

7 MR. TERRELL: I have no further questions for this
8 witness, Your Honor.

9 THE COURT: You may step down. Thank you.

10 MR. TERRELL: The state calls Tony Humes?

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

13 ANTHONY HUMES, HAVING BEEN DULY

14 SWORN TESTIFIES AS FOLLOWS:

15 THE CLERK: Thank you. Be seated, state your name and
16 spell your last name for the Court?

17 MR. HUMES: Anthony Humes. H-U-M, as in Mary E-S.

18 DIRECT EXAMINATION OF ANTHONY HUMES BY MR. TERRELL:

19 Q: Where are you employed?

20 A: I'm employed with the City of Myrtle Beach Police
21 Department.

22 Q: What is your -- what is your rank there?

23 A: I'm a private first class.

24 Q: And what -- what do you do for Myrtle Beach Police
25 Department?

1 A: I'm currently assigned to the Crime Scene Unit.

2 Q: So what do your job duties entail?

3 A: We respond to various scenes. We're responsible for
4 processing scenes for evidence, collecting it, and analyzing
5 it or sending it off for analyzation.

6 Q: And you've been in the courtroom for the past hour or so;
7 is that right?

8 A: Yes, sir.

9 Q: Did you have any dealings with the Barrel Bar?

10 A: No, sir.

11 Q: What about China Chef?

12 A: No, sir.

13 Q: The morning of the 27th, did you respond to Giff's Liquor
14 Store?

15 A: I did.

16 Q: What did you notice when you got there?

17 A: Upon arrival I spoke with patrol officers. I was getting
18 a consent to search form to process the scene. I went into
19 the location and took numerous photographs of the interior.
20 Upon walking inside the register was on the left-hand side.
21 There was some change that was spilled on the floor. I
22 proceeded to the next room, which was like an office type
23 area, where there was a desk, and then after that was a
24 warehouse area. Upon entering the warehouse area, the
25 backdoors were open. I was told that the doors are secured at

1 night with barrel bolts and a 2x4 that locks the door down.
2 Also in the warehouse was a missing ceiling tile from the
3 ceiling.

4 Q: Under that, did you notice anything out of the ordinary
5 under that ceiling tile?

6 A: Directly under the ceiling tile along the wall was some
7 shelves that had inventory for alcohol bottles. There was
8 quite a few that were knocked over, disturbed and I think

9 there was one or two that may have been broken on the floor,
10 if I'm not mistaken.

11 Q: One of your duties is taking pictures of the scene; is
12 that right?

13 A: Yes, sir.

14 Q: I'm showing you what's already in evidence 14 through 27?

15 A: Okay.

16 Q: Are those pictures that you took?

17 A: Yes, sir. I took these photographs.

18 Q: I'm going to focus primarily on the three of them with
19 the glove if we could.

20 A: Okay.

21 Q: And again, that's state's 23, 24, and 25.

22 A: Okay.

23 Q: Is this, state's 24, is this where you found the glove?

24 A: Yes.

25 Q: Had it been moved at all, to your knowledge?

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)

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1 ADMITTED INTO EVIDENCE)

2 BY MR. TERRELL:

3 Q: Would you open that up for us please?

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

5 Q: Yes, please.

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

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

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

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

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

17 Q: And was that done in this case?

18 A: Yes, it was.

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

21 A: Yes, sir.

22 Q: Okay.

23 A: Inside this is another glove.

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

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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.

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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 **MR. TERRELL:** Thank you, Your Honor. No further
2 questions.

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

4 **MR. LIEBERTH:** What do you want me to do with this?

5 **THE COURT:** Yes, you may leave that there.

6 **MR. TERRELL:** Your Honor, my next witness may take a few
7 minutes. Could I ask that we take a break for maybe 5 or 10
8 minutes?

9 **THE COURT:** All right. Let's give the jury a quick
10 break. Okay.

11 **REPORTER'S NOTE:** (Jury retires to jury room 2:34 P.M.).

12 **(COURT IS IN RECESS)**

13 **THE COURT:** Just keep your seats, please.

14 Mr. Terrell, is there a statement in this case?

15 **MR. TERRELL:** No, sir, not that we're trying to
16 introduce.

17 **THE COURT:** Okay. The only aggravator we have to make it
18 violent is nighttime, right?

19 **MR. TERRELL:** As indicted. Yes, sir.

20 **THE COURT:** Well, that's all I'm going to charge. I'm
21 not going to charge all of it.

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

23 **THE COURT:** Are they just not ready or -- I thought Bobby
24 was bringing them.

25 **REPORTER'S NOTE:** (Jury enters courtroom 3:00 P.M.)

25 A: I did.

1 Q: All right. How did that call come in?

2 A: It was just a patrol call. It happened before my shift
3 started. I came in on duty, they advised they had a burglary
4 the night before. They requested I respond to the Barrel Bar
5 for forensic processing.

6 Q: Okay. What is forensic processing?

7 A: It could be anything from digital photographs to latent
8 processing, video evidence collecting, DNA, anything.

9 Q: Do you remember about what time you got to the Barrel
10 Bar?

11 A: Roughly 7:00 A.M.

12 Q: What did you notice when you got there?

13 A: There appeared to be forced entry through the roof of the
14 building. The suspect came through the roof, went through the
15 back prep area, and then the back door was wide open, so that
16 was the exit.

17 Q: Did you notice if there was -- did you notice if there
18 was any surveillance video?

19 A: There was surveillance video.

20 Q: Were you able to view it that night?

21 A: I did. I reviewed surveillance video. The suspect was
22 wearing gloves. Based on this, we did not, or I did not
23 process the scene for fingerprints or DNA.

24 Q: Normally, that is something that you would do; is that
25 correct?

1 A: Yes.

2 Q: And you didn't because?

3 A: He was wearing gloves.

4 Q: The -- did you find, that morning, were you able to find

5 anything other than just photographic evidence that had

6 happened in the surveillance video?

7 A: There was nothing apparent. The business had already

8 started cleaning up. There wasn't much for me to do at that

9 time.

10 Q: Did you speak with the owner or anybody from the Barrel

11 Bar?

12 A: Yes, one of the family members. Doane Widenhouse.

13 Q: And were they able to provide you with the surveillance

14 video?

15 A: He advised to come back later. He told me he would burn

16 it to disc and he'll give me a call and I'll come back and

17 retrieve the video at that time.

18 Q: Okay. And did that happen?

19 A: He did. He called me the same day around 5 o'clock.

20 Q: All right. And when you showed up, what did he give you?

21 A: He gave me a USB drive containing surveillance video of

22 the burglary. He also had a plastic bag containing a Zombie

23 Killer knife.

24 Q: I'll show you what's been marked as state's exhibit 54.

25 Do you recognize the markings on that?

1 A: I do. It's a container with the Zombie Killer knife in
2 it. It's initialed -- I've written on the container, and I've
3 initialed the evidence tape on this.

4 Q: And where were you informed this was found?

5 A: He said he found it in the ceiling of the business.

6 Q: When -- so he was able to give you the -- the knife and
7 the video?

8 A: Yes.

9 THE COURT: Was the container marked for identification,
10 I know you haven't introduced it yet, but was it marked for
11 identification?

12 MR. TERRELL: It was, state's 54, Your Honor.

13 THE COURT: Okay. Thank you.

14 BY MR. TERRELL:

15 Q: All right. And since you witnessed the defendant wearing
16 or the suspect wearing gloves, there was no other processing
17 you could do at the Barrel Bar?

18 A: Not that morning. No, sir.

19 Q: About a week later, did you respond to a -- an incident
20 at the China Chef?

21 A: I did.

22 Q: And what happened at the China Chef?

23 A: Similar type of burglary. Suspect early hour mornings
24 went through an air conditioning unit, came out through the
25 roof of the business, and went for the cash register, stole

1 numerous items from the business and left.

2 Q: I'll show you what's marked as state's exhibit 30.

3 A: Yes.

4 Q: Do you recognize that?

5 A: I do.

6 Q: And just generally, what do you recognize it as?

7 A: Those are the shoe prints that were on top of the
8 building next to the air conditioning unit, where entry was
9 made.

10 Q: Your Honor, we'd ask that state's 30 be moved into
11 evidence?

12 THE COURT: All right. It's admitted.

13 (STATE'S EXHIBIT NUMBER 30

14 ADMITTED INTO EVIDENCE)

15 BY MR. TERRELL:

16 Q: So one more time, what are we looking at?

17 A: A shoe print that was next to -- the roof of the business
18 next to the air conditioning unit where entry was made.

19 Q: What else did you notice at the China Chef?

20 A: I had processed it for fingerprints before I was able to
21 watch the video. After I watched the video, again I saw a
22 white male wearing a skull cap, wearing gloves, going to the
23 cash register and other items at the front counter area.

24 Q: What else were you able to find, if anything??

25 A: There were two cash registers that were found on the

1 south side of the business in a wooded area.

2 Q: And where were those located?

3 A: The cash registers -- the business, the China Chef and
4 Giff's Liquors, they're in the Food Lion complex. Kind of
5 close on the south side of that complex it's a wooded area,
6 and I got two cash register drawers out in that area.

7 Q: Why was that important to you?

8 A: Well the cash register was stolen from the business.

9 Q: Okay. The next day were you involved in a search warrant
10 of a residence?

11 A: I was.

12 Q: And how did that come about?

13 A: I was requested to respond to the Palmetto Vista to
14 execute a search warrant on the residence of a Theodore
15 Bolick.

16 Q: And when you're asked to respond to a -- on such a call,
17 what -- what do you do to get the search warrant, or for the
18 search warrant?

19 A: Before search warrant?

20 Q: For the search warrant?

21 A: Oh, for the search warrant?

22 Q: Yes, sir.

23 A: It's basically stated in the search warrant what I'm
24 looking for. It will give me a synopsis of the situation
25 which led to the probable cause and also who I'm looking for.

1 Q: And by the time you had responded to the search warrant,
2 you had been given an opportunity to view the surveillance
3 video from both the Barrel Bar and the China Chef; is that
4 correct?

5 A: I did.

6 Q: Okay. I'm going to go through a series of photographs
7 with you. State's 31 through 33. Do you recognize those?

8 A: Yes, these are -- we take crime scene photograph. The
9 first couple of photos, your pictures are going to show where
10 you're taking pictures of. The first one is a business sign
11 of Palmetto Vista. Then it's an overall photograph of the
12 building that ---

13 Q: Real quick, so those are pictures that you took of the
14 search warrant?

15 A: Yeah. Absolutely.

16 **MR. TERRELL:** Your Honor, we ask to move 31 through 33
17 into evidence?

18 **THE COURT:** Very well. They're admitted.

19 **(STATE'S EXHIBIT NUMBERS 31 THROUGH 33**

20 **ADMITTED INTO EVIDENCE)**

21 **BY MR. TERRELL:**

22 Q: All right. What's 31?

23 A: It's going to be the sign to the hotel that he was living
24 at, that Mr. Bolick was living at. That's going to be an
25 overall photograph of the building.

1 Q: And then 33?

2 A: That's the front door of Mr. Bolick's room.

3 Q: And the purpose of those three photographs is essentially
4 what?

5 A: It's identification to show where we're about to search.

6 Q: I'll show you state's 35 and 36. Do you recognize those?

7 A: I took these photos inside Mr. Bolick's room.

8 Q: During the search warrant?

9 A: During the search warrant.

10 MR. TERRELL: Your Honor, I would ask to move 35 and 36
11 into evidence?

12 THE COURT: You may.

13 (STATE'S EXHIBIT NUMBERS 35 AND 36

14 ADMITTED INTO EVIDENCE)

15 BY MR. TERRELL:

16 Q: What are we looking at in these two pictures?

17 A: Identification documents. I believe a check and some
18 sort of ID.

19 Q: Who is the check made out to?

20 A: That I don't recall. I'd have to look at it.

21 Q: I apologize.

22 A: Theodore Bolick.

23 Q: And why was important for you to take pictures of those?

24 A: It's identification documents to show who's in the room.

25 Q: Let me show you state's 40, 41, and 42.

1 A: I took these photos.

2 Q: During the execution of the search warrant?

3 A: During the execution of the search warrant.

4 MR. TERRELL: Your Honor, we'd move 40, 41 and 42 into
5 evidence?

6 THE COURT: Very well. They're admitted.

7 MR. TERRELL: Thank you.

8 (STATE'S EXHIBIT NUMBERS 40, 41 AND 42

9 ADMITTED INTO EVIDENCE)

10 BY MR. TERRELL:

11 Q: In these three photographs what are we looking at?

12 A: There is a work glove. Prior to executing the search
13 warrant I printed out a picture of the glove that Crime Scene
14 Officer Humes had collected at Giff's Liquors. So I used that
15 as reference and based on that, Officer Humes collected a
16 right hand work glove. Inside those photos -- inside Mr.
17 Bolick's room I found the left-hand glove, which is similar.

18 Q: And those are depicted in those three photographs?

19 A: Yes, sir.

20 Q: I also hand you what's marked as state's exhibit 55. Do
21 you recognize that?

22 A: Yes, sir.

23 Q: Did you collect that during the search warrant as well?

24 A: I did.

25 Q: And what is this?

1 A: That's going to be the left-hand work glove that I found
2 inside the room, top drawer of a filing cabinet.

3 MR. TERRELL: Your Honor, we would move 55 into evidence
4 as well?

5 THE COURT: It's admitted.

6 (STATE'S EXHIBIT NUMBER 55

7 ADMITTED INTO EVIDENCE)

8 BY MR. TERRELL:

9 Q: Can you open that up so we can all see what's inside?
10 I turn to state's 37, 38, and 39. Do you recognize those?

11 A: Yes, these are gloves that I found inside the residence.

12 Q: Those are pictures of them?

13 A: Just pictures of random gloves I found inside the
14 residence.

15 Q: That you took during the execution of the search warrant?

16 A: Yes.

17 MR. TERRELL: Your Honor, we move state's 37, 38 and 39
18 into evidence?

19 THE COURT: Very well. They're so admitted.

20 (STATE'S EXHIBIT NUMBERS 37, 38 AND 39

21 ADMITTED INTO EVIDENCE)

22 BY MR. TERRELL:

23 Q: And what was -- why was this important to you?

24 A: Well during the commission -- on the videos the suspect
25 is wearing gloves during the commission of the crime.

1 Q: I show you state's 43, 44, and 45, 46, and 47, if you can
2 take a look at those for a minute. Do you recognize those
3 pictures?

4 A: I do.

5 Q: Did you take these during the execution of the search
6 warrant?

7 A: I did.

8 **MR. TERRELL:** Your Honor, we ask that these be moved
9 into evidence?

10 **THE COURT:** They're admitted. Thank you.

11 **(STATE'S EXHIBIT NUMBERS 43 THROUGH 47**

12 **ADMITTED INTO EVIDENCE)**

13 **BY MR. TERRELL:**

14 Q: Just generally, what are these pictures of?

15 A: Inside of a dresser I found some skull caps, which ---

16 Q: And why was that important to you?

17 A: Well one, in the commission of a crime of the Barrel Bar
18 and the China Chef the suspect was wearing a skull cap. Also
19 in the surveillance video I viewed prior to searching and one
20 of the particular ones I saw in there resembled one I saw in
21 the Barrel Bar video.

22 Q: And in particular which one are we talking about?

23 A: This one right here with this eagle, this is the one I
24 believe was worn in the Barrel Bar video.

25 Q: I'm showing you what's in evidence as state's exhibit 3.

1 A: Yes, sir. That's the Barrel Bar, a still shot of the
2 Barrel Bar video.

3 Q: Now, did you collect those skull caps into evidence?

4 A: I did.

5 Q: I'm showing you what's marked as state's exhibit 56.

6 A: That's my handwriting. Yes, sir.

7 Q: And these are the skull caps that you collected?

8 A: Yes.

9 MR. TERRELL: Your Honor, we'd ask this be moved into
10 evidence?

11 THE COURT: It's admitted.

12 MR. TERRELL: Thank you.

13 (STATE'S EXHIBIT NUMBER 56

14 ADMITTED INTO EVIDENCE)

15 BY MR. TERRELL:

16 Q: Could you open that for us and pull out the skull cap?

17 THE COURT: Mr. Terrell, could we for the record pull
18 that skull cap back out and identify it more clearly?

19 MR. TERRELL: Yes, sir.

20 THE COURT: It's introduced as a group. I want to make
21 sure that the record is complete and that it makes it easy to
22 identify that one. Do color, design, whatever.

23 MR. TERRELL: Would you like to mark it independently?

24 THE COURT: I think that might be the better thing to do.
25 Officer, is that the skull cap you referred to as being one

1 you think is similar to the one shown in the crime scene
2 photographs or surveillance?

3 **MR. HOWITT:** Yes, Your Honor.

4 **THE COURT:** Okay. Could we have that one marked -- what
5 would the -- what was the group marked as?

6 **MR. TERRELL:** The group is 56. Would you like this 56.1?

7 **THE COURT:** Why don't we do that, 56.1, 56-A, however you
8 do it, Ms. Todd. I just want it to indicate that's the one
9 we're talking about.

10 (STATE'S EXHIBIT NUMBER 56.1

11 ADMITTED INTO EVIDENCE)

12 **MR. TERRELL:** Thank you.

13 **BY MR. TERRELL:**

14 Q: I show you state's exhibits marked for identification
15 purposes only as 48 through 53. Do you recognize those?

16 A: Yes, they are shoes that I found inside Mr. Bolick's
17 apartment.

18 Q: Those are pictures of shoes you found during the
19 execution of the search warrant?

20 A: Yes, sir.

21 **MR. TERRELL:** Your Honor, we ask that state's 48 through
22 53 be moved into evidence?

23 **THE COURT:** Very well. They're admitted.

24 (STATE'S EXHIBIT NUMBERS 48 THROUGH 53

25 ADMITTED INTO EVIDENCE)

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1 **MR. TERRELL:** Thank you.

2 **BY MR. TERRELL:**

3 Q: Now, you said these are pictures of what?

4 A: They're Nike Air Force One's shoes inside Mr. Bolick's
5 apartment.

6 Q: And why -- why were these particular shoes of importance
7 to you?

8 A: Prior to executing the search warrant, I had printed out
9 a photo of the shoe prints located on the roof top of the
10 China Chef. When I was inside Mr. Bolick's apartment I
11 compared the tread marks of the shoes to what I saw on the
12 rooftop. The picture that was taken on the rooftop, I should
13 say, and it looked very similar.

14 Q: So these particular shoes, is this the photograph you're
15 referring to?

16 A: Yes.

17 Q: State's exhibit 30. And this was taken where again?

18 A: On the rooftop of the China Chef.

19 Q: And the tread patterns from the shoes appear to match?

20 A: They are very similar, yes.

21 **THE COURT:** Mr. Terrell, I believe the testimony was they
22 appear to be very similar to the photograph. I don't think
23 he's qualified as an expert to do a match. Okay?

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

25 **THE COURT:** All right, sir. The jury will disregard the

1 statement match. The witnesses' testimony is that the picture
2 appeared very similar to the treads, and you have pictures of
3 both. Okay.

4 **MR. TERRELL:** Thank you, Your Honor. I misspoke.

5 **BY MR. TERRELL:**

6 Q: Officer Howitt, you never responded to Giff's Liquors?

7 A: I did not.

8 Q: So you're on, I guess, different shifts than the officer
9 who testified earlier?

10 A: Yes, Officer Humes works nights; I work days.

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

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

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

15 **THE COURT:** All right. Mr. Terrell, I believe that ---

16 **MR. TERRELL:** I'm going to call Ms. Shadoan.

17 **THE COURT:** Good. Good. Ms. Shadoan, come on.

18 **MR. TERRELL:** That will be the last one for the day.

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

21 **MALINDA SHADOAN,, HAVING BEEN**

22 **DULY SWORN TESTIFIES AS FOLLOWS:**

23 **THE CLERK:** Please be seated and state your name and
24 spell your last name for the Court?

25 **MS. SHADOAN:** It's Malinda Shadoan. S-H-A-D, as in

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.

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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)**

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1 ADMITTED INTO EVIDENCE)

2 BY MR. TERRELL:

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

4 A: Yes, sir.

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

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

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

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

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

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

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

21 A: Yes, sir.

22 Q: Were you able to tell what was taken?

23 A: Yes.

24 Q: What was taken?

25 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?

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1 MR. TERRELL: I will not. No, sir.

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

4 MS. HEFNEY: Okay. Thank you.

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

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

8 SUSAN SAFFORD, HAVING BEEN DULY

9 SWORN TESTIFIES AS FOLLOWS:

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

12 MS. SAFFORD: Susan Safford. S-A-F-F-O-R-D.

13 DIRECT EXAMINATINO OF SUSAN SAFFORD BY MR. TERRELL:

14 Q: Captain Safford, where are you employed?

15 A: J. Reuben Long Detention Center.

16 Q: And what is your -- what is your role there?

17 A: I'm captain of support services.

18 Q: What does the captain of support services generally do?

19 A: Supervise a lot of different areas at the facility to
20 include booking, photo ID, classification, things like that.

21 Q: So would one of your roles at J. Reuben Long essentially
22 be like a custodian of evidence?

23 A: Correct, records.

24 Q: Records. What kind of records do y'all keep at the jail?

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

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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)

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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 ²⁵same 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 it.

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

3 **THE COURT:** I'll allow you to do that and let's just have
4 that on the record. Okay.

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

6 **THE COURT:** Okay. All right. Let's take maybe 5 or 10
7 minutes. I would assume that your closing will be brief.

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

9 **THE COURT:** All right. And I -- have you had a chance to
10 look at my charge?

11 **MR. TERRELL:** I have.

12 **THE COURT:** I assume we're not looking at any lessor
13 included or anything like that, are we?

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

15 **THE COURT:** Okay. I mean it would appear that it's in
16 the nighttime or not, in other words.

17 **MR. TERRELL:** Because it would only be lessor if it's not
18 in the nighttime, it would be burglary third.

19 **THE COURT:** You want to look at this, Tom?

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

21 **THE COURT:** You know my policy; I'm going to give it to
22 the jury. Okay.

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

24 **THE COURT:** And we've put all the charges, but we list
25 them by indictments separately on the verdict form. Okay. Is

1 that good?

2 **MR. TERRELL:** We have no objection to that, Your Honor.

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

4 **(COURT IN RECESS)**

5 **REPORTER'S NOTE:** (Jury enters courtroom 10:43 A.M.)

6 **THE COURT:** All right. We've got everybody back in the
7 courtroom now, all our jurors and our alternate. As you heard
8 just before we took that break, Mr. Terrell has rested. The
9 state has now put up all the evidence it intends to put up and
10 we have reached that point in the trial, where he will be
11 allowed to sum up closing arguments if you will. I'll remind
12 you as I told you earlier, what he says is not evidence. He's
13 commenting on the evidence; he can't add to it or distract
14 from it. You must decide this case based on the evidence that
15 you heard from the witness stand, but it's certainly proper
16 that he'd do that. He may also comment on the law that you
17 should use in your deliberation. That's also appropriate, but
18 as I said earlier, you must be guided by the law as I give it
19 to you. I don't think Mr. Terrell would -- would do -- would
20 vary from what the law is, but if there is any conflict in
21 what he says and what I say, you must go by the law as I give
22 it to you. I engage in a process that, I really don't know if
23 any other Circuit Judges are doing it or not, I don't know of
24 any, but I have done this I came on the bench. I realized
25 early in my practice that, you know, often at the end of the

1 trial, we -- the Judge will give the jury the law and
2 sometimes it's very complex. It's not so much in this
3 particular case, but we expect to bring in 12 laypersons and
4 they can just hear the law and absorb it and understand it all
5 and remember everything that was said, and that's not
6 reasonable; that not something that we should expect you to
7 do. So I always prepare in advance a transcript of my charge
8 based upon the evidence that's been presented and the law that
9 would be applicable to the case, and I will give you that
10 transcript to use during your deliberations. Our Supreme
11 Court has said that it's appropriate for me to do that, it's
12 permissible so long as I give you an exact transcript. So I
13 will be reading my charge to you. I believe that it also
14 helps Mr. Terrell and attorneys that are appearing before me
15 to understand what I'm going to charge, and for that reason, I
16 don't think that he will vary at all from what I'm going to
17 charge you the law is.

18 Please understand though, that this charge should be
19 looked at as a whole. Don't just focus on one sentence, one
20 phrase, one word. Take it as a whole, all parts are
21 important. Don't ignore any part and place undo significance
22 on the others. Look at it all.

23 With that said, let me say this, I remind you that during
24 the trial of this case you and I have certain duties to
25 perform. As the Trial Judge it's my responsibility to preside

1 over the trial of the case, and I also have the duty to rule
2 on the admissibility of evidence offered during the trial.
3 You are to consider only the competent evidence before you.
4 If any testimony was ordered to be stricken from the record in
5 this case during the trial, you must disregard that testimony.
6 You are to consider only the testimony which has been
7 presented from the witness stand, any exhibits which have been
8 made a part of the record in this case, and any stipulations
9 or agreements of counsel. I have the additional duty to
10 charge you the law applicable to the case, and as presiding
11 Judge, I am the sole judge of the law in this case, and it is
12 your duty as jurors, to accept and apply the law as I now
13 state it to you. If you have any idea as to what the law is
14 or what the law ought to be, and it does not agree with what I
15 now tell you the law is, you must disregard, abandon this
16 idea, because you are sworn to accept the law and apply the
17 law exactly as I state it to you.

18 In every case tried in this Court before a jury, the jury
19 becomes the sole and exclusive judge of the facts in a case.
20 A trial judge cannot intimate, state, comment on, or make any
21 statement to a trial jury about the facts in a case, since
22 you, the jury, are the sole judges of the facts in this case,
23 you are not to infer from what I have said during the process
24 of this trial in ruling on the admissibility of the evidence
25 or otherwise, or anything that I say now during the course of

1 these instructions to you, that I have any opinion about the
2 facts in this case. The law does not allow me to have an
3 opinion about the facts in this case. This is a matter solely
4 for you, the jury, to determine. As jurors, it is your duty
5 to determine the effect, value, weight, and truth of the
6 evidence presented during this trial.

7 The indictments charge the defendant with three separate
8 counts of second-degree burglary violent. I remind you that
9 the fact that the defendant was arrested, charged, and
10 indicted in this case is not evidence in the case, and cannot
11 be considered by you as evidence of guilt in this case, nor
12 does it create any presumption or inference of guilt. These
13 documents are simply the formal written instruments which
14 contain the charge made against the defendant. They are the
15 formal documents by which the case is brought into this court.

16 Now, the defendant has pled not guilty to these
17 indictments and these pleas put the burden on the state to
18 prove the defendant guilty. A person charged with committing
19 a criminal offense in South Carolina, is never required to
20 prove himself innocent. I charge you that it is an important
21 rule of the law that the defendant in a criminal trial, no
22 matter what the seriousness of the charge may be, will always
23 be presumed to be innocent of the crime for which the
24 indictment was issued unless guilt has been proved by evidence
25 satisfying you of that guilty beyond a reasonable doubt.

1 This presumption of innocence does not end when you begin
2 your deliberations but continues and accompanies the defendant
3 throughout the trial until you reach a verdict of guilt based
4 on evidence satisfying you of that guilt beyond a reasonable
5 doubt. The presumption of innocence is like a robe of
6 righteousness placed about the shoulders of the defendant
7 which remain with the defendant until it has been stripped
8 from the defendant by evidence satisfying you of the
9 defendant's guilt beyond a reasonable doubt. The presumption
10 of innocence is not mere legal theory; it is not just a legal
11 phrase, it is a substantial right to which every defendant is
12 entitled unless you, the jury, are satisfied from the evidence
13 of the defendant's guilt beyond a reasonable doubt.

14 Now, what is reasonable doubt? A reasonable doubt is the
15 kind of doubt that would cause a reasonable person to hesitate
16 to act. The state has the burden, as I said, of proving the
17 defendant guilty beyond a reasonable doubt. Some of you might
18 have served as jurors in civil cases where you were told that
19 it's only necessary to prove that a fact is more likely true
20 than not true, such as by the greater weight or preponderance
21 of the evidence. In criminal cases the state's proof must be
22 more powerful than that, it must be beyond a reasonable doubt.
23 Proof beyond a reasonable doubt is proof that leaves you
24 firmly convinced of the defendant's guilt. There are very few
25 things in this world that we know with absolute certainty, and

1 in criminal cases the law does not require proof that
2 overcomes every possible doubt. Based on your consideration
3 of the evidence, if you are firmly convinced that the
4 defendant is guilty of the crime charged, you must find the
5 defendant guilty. If on the other hand, you think there is a
6 real possibility that the defendant is not guilty, you may
7 give the defendant the benefit of the doubt and -- you must
8 give the defendant the benefit of the doubt and find him not
9 guilty.

10 Now, there are two types of evidence which are generally
11 presented during a trial: direct evidence and circumstantial
12 evidence. Direct evidence directly proves the existence of a
13 fact and does not require deduction. Circumstantial evidence
14 is proof of a chain of facts and circumstances indicating the
15 existence of a fact. Crime may be proved by circumstantial
16 evidence. ~~The law makes no distinction between the weight or~~
17 ~~value to be given either direct or circumstantial evidence.~~
18 ~~However, to the extent the state relies on circumstantial~~
19 ~~evidence, all of the circumstances must be consistent with~~
20 ~~each other, and when taken together, point conclusively to the~~
21 ~~guilt of the accused beyond a reasonable doubt. If these~~
22 ~~circumstances merely portray the defendant's behavior as~~
23 ~~suspicious, the proof has failed.~~ The state has the burden
24 of proving the defendant's guilt beyond a reasonable doubt.
25 The burden rests on the state regardless of whether the state

1 to give opinion testimony in that area. That does not mean
2 that you must accept the opinion, but it is evidence for you
3 to use in any way you see fit to give the weight and
4 credibility you believe is appropriate.

5 I instruct you and emphasize that the fact that the
6 defendant did not appear at trial is not a factor to be
7 considered by you in any way in your deliberation and in your
8 consideration on the question of guilt or innocence of the
9 defendant. It must not be considered by you in any manner
10 whatsoever. I repeat, under your oath, you are to draw no
11 conclusion whatsoever from the fact that the defendant in this
12 case did not appear. The fact that the defendant did not
13 appear should not even be discussed in the jury room. The
14 burden of proof, as I have stated to you, is on the state.
15 The defendant is not required to prove his innocence. The
16 burden of proof remains on the state to prove the defendant
17 guilty beyond a reasonable doubt.

18 Now, there are three separate indictments for this
19 particular charge in this Court. Each indictment charges a
20 separate and distinct offense. You must decide each
21 indictment separately on the evidence and the law applicable
22 to it. You're going to be asked to write a separate verdict
23 of guilty or not guilty for each indictment.

24 Now, to prove second degree burglary violent, the state
25 must prove beyond a reasonable doubt that the defendant

1 relies on direct evidence or circumstantial evidence, or some
2 combination of the two.

3 Now, necessarily, you must determine the credibility of
4 witnesses who have testified in this case. Credibility simply
5 means believability. It becomes your duty as jurors to
6 analyze and to evaluate the evidence and determine which
7 evidence convinces you of its truth. In determining the
8 believability of witnesses who have testified in this case you
9 may believe one witness over several, or several over one.
10 You may believe a part of the testimony of a witness and
11 reject the remaining part of the testimony of the same
12 witness. You may believe the testimony of a witness in its
13 entirety or reject the testimony of the witness in its
14 entirety. You may consider whether any witness has exhibited
15 to you any interest, bias, prejudice, or other motive in this
16 case. You may consider the appearance and manner of a witness
17 while on the witness stand.

18 Normally a person cannot give opinion testimony.
19 Normally when a person testifies as to what they saw, heard or
20 sensed by smell or something of that nature. However, there
21 is an exception when someone is qualified because of education
22 or experience. They are permitted to give their opinion in
23 certain areas if the Court qualifies them that way. The
24 witness was qualified, the expert who testified in this case,
25 was qualified in this area of -- in the area of DNA evidence

1 entered a building without consent with the intent to commit a
2 crime in the building. A building is any structure, vehicle,
3 watercraft, or aircraft where any person lodges or lives, or
4 where people assemble for the purpose of business, government,
5 education, religion, entertainment, public transportation, or
6 public use or where goods are stored.

7 Finally, and also, the state must prove beyond a
8 reasonable doubt that the defendant entered or remained in the
9 building in the nighttime. Nighttime is a period between
10 sunset and sunrise during which there is not enough daylight
11 to recognize a person's face except by artificial light or
12 moonlight.

13 Now, that is generally the law in this case. I instruct
14 you on the law and Mr. Terrell now has an opportunity to sum
15 up his evidence and also comment on the law. I will give you
16 further instructions in just a moment concerning how to return
17 your verdict. Mr. Terrell?

18 **MR. TERRELL:** Thank you, Your Honor. First, Your Honor,
19 asked that I put the judicial notice facts on record.

20 **THE COURT:** Okay.

21 **MR. TERRELL:** The first is that on judicial notice of the
22 fact that on the night of the 17th, the sun set at 7:58 P.M.
23 The morning of the 18th, it rose at 6:40 A.M. The night of
24 the 25th of -- this is all in August of 2016. The night of
25 the 25th the sun set at 7:49 P.M. and rose at 6:45 A.M., and

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

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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

1 evidence, there's other evidence. You can take it all back in
2 the jury room with you and look at it, take as much time as
3 you need. Compare it, compare the individual in the pictures
4 with the individual from the booking photos that Captain
5 Safford brought with her this morning. Compare what he's
6 wearing to what they find during the search warrant. Compare
7 what he has on with what they found -- what they found at the
8 scenes. When you do all that, I think you will be firmly
9 convinced beyond a reasonable doubt that this defendant
10 committed each one of these acts of burglary. Thank you.

11 **THE COURT:** All right. Ladies and gentlemen, let me
12 remind you that there are two possible verdicts for each of
13 the three indictments which you may find in this case, and
14 it's guilty or not guilty. And there's no significance
15 whatsoever in the order which I state these possible verdicts.
16 It's simply that one must be stated first. There must be a
17 verdict for each separate indictment independent of the
18 verdict on the other indictments.

19 Now, ladies and gentlemen, your verdict must be a
20 unanimous verdict. Mr. Foreman, I'm going to have you go in
21 your jury room and when the jury agrees on a verdict, I will
22 simply ask that you -- do you have a verdict form there? I
23 prepared a verdict form for you. Simply circle the verdict on
24 the form and sign your name. You will note that I have
25 indicated here each indictment and what the charge is. I am

1 going to allow you to take with you the indictments in these
2 cases because they are the same charges, but the indictments
3 will on the reverse side have a number that will identify
4 which one we're talking about so you can correlate that with
5 the indictment shown on the verdict form if you would. Now,
6 when you have reached a verdict, if you will just simply knock
7 on the door there will someone there to take your information.
8 They will bring it to me, and we'll bring you back in the
9 courtroom. I'm going to ask you not begin your deliberations
10 for just a moment because we have to get together all of the
11 evidence that's been presented in this case and present it to
12 you. I'm also going to send in my verdict form as well as the
13 charge for your use. So just wait until you have those, and
14 we'll have to those to you very shortly.

15 Now, Mr. Ropp, if you would take the jury back into the
16 jury room.

17 **REPORTER'S NOTE:** (Jury retires to jury room 11:21 A.M.).

18 **THE COURT:** Mr. Terrell, I usually don't send the
19 indictments in, but because these are the very same charge I
20 don't want there to be any confusion as to what verdicts they
21 are returning on any particular indictment. So, I'm going to
22 send them back in.

23 Sallie Beth, would you mark my charge as the Court's
24 exhibit whatever the next one is.

25 (COURT'S EXHIBIT NUMBER 5)

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~~Pg 266~~

1 ADMITTED INTO EVIDENCE)

2 THE COURT: Mr. Terrell, if you could get all your
3 exhibits together and let's get them back.

4 Mr. Terrell, did you have any objection to the charge?

5 MR. TERRELL: No objection to the charge. The alternate
6 did go back with the rest of the jury.

7 THE COURT: All right. We're going to bring that
8 alternate out.

9 MR. TERRELL: Yes, sir.

10 THE COURT: Tony, when you go and take the exhibits,
11 bring the alternate out.

12 MR. TERRELL: The Court's exhibits you took judicial
13 notice of, do you want those to go back with the ---

14 THE COURT: Yes, you can.

15 MR. TERRELL: Thank you, Your Honor.

16 THE COURT: I really don't think that's even an issue,
17 but at any rate, we will do that.

18 REPORTER'S NOTE: (Review of exhibits to go to jury).

19 THE COURT: Tom, I decided to Cottingham you on that
20 charge.

21 MR. TERRELL: I'm sorry.

22 THE COURT: I decided to Cottingham you on the charge.

23 MR. TERRELL: How do you mean?

24 THE COURT: To charge them before you argue.

25 MR. TERRELL: I -- I ---

1 **THE COURT:** It makes it quicker sometimes.

2 **MR. TERRELL:** I was just going to let you go, and if you
3 started to send them back to deliberate ---

4 **THE COURT:** No, I was going to --- Yeah, Cottingham
5 always did that.

6 **MR. TERRELL:** Right.

7 **THE COURT:** He did it every time. I've done it a couple
8 of times. It just depends, but on TIA.

9 **MR. TERRELL:** I was about -- I knew you didn't forget,
10 but ---

11 **THE COURT:** No.

12 **MR. TERRELL:** --- I needed to address them briefly. You
13 putting them in Order?

14 **COURT REPORTER:** Uh-huh (affirmative response).

15 **THE CLERK:** I'm going to take it all back.

16 **REPORTER'S NOTE:** (Alternate enters courtroom).

17 **THE COURT:** Yes, ma'am. Thank you so much for your
18 service, but once deliberations begin I release my alternates
19 because it's just not fair to stick you in at the last moment.
20 But we appreciate you being here and you can go. We'd ask you
21 to call back at 6. Okay.

22 **JUROR 63:** Thank you, sir.

23 **THE COURT:** Thank you, ma'am.

24 **REPORTER'S NOTE:** (Jury begins deliberations 11:30 A.M.).

25 **THE COURT:** Okay. We're at ease.

1 (COURT IN RECESS)

2 THE COURT: All right. We got a verdict. Bring them in
3 Brooks, if you would.

4 REPORTER'S NOTE: (Jury enters courtroom 11:46 A.M.).

5 THE COURT: All right. We have all our jurors and let
6 the record reflect, I don't know if you put that on the record
7 or not, but the alternate was excused previously.

8 Mr. Foreman, have you reached a verdict?

9 FOREMAN: We have, Your Honor.

10 THE COURT: And is it a unanimous verdict?

11 FOREMAN: Yes, it is, Your Honor.

12 THE COURT: Would you give your verdict form to the
13 bailiff, please? Thank you. Madam Clerk, you want to publish
14 it?

15 THE CLERK: State of South Carolina, County of Horry v.
16 Theodore Jerry Bolick. As to the charge of burglary second
17 degree violent, indictment number 2016-GS-26-0581, we the
18 jury, find the defendant guilty.

19 As to the charge of burglary second degree violent,
20 indictment number 2016-GS-26-04953, we the jury, find the
21 defendant guilty.

22 As to the charge of burglary second degree violent,
23 indictment number 2016-GS-26-05947, we the jury, find the
24 defendant guilty.

25 Signed by foreperson Terry Hauschilt dated July 24th,

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~~Pg 269~~

1 2019. Ladies and gentlemen of the jury, if this is your
2 verdict so signify by raising your right hand?

3 **THE COURT:** And let the jury -- let the record indicate
4 that all jurors have responded affirmatively. Thank you very
5 much.

6 Ladies and gentlemen of the jury, this case was rather
7 odd in that the defendant was tried in his absence without the
8 benefit of counsel. It's very, very rare that that happens
9 and I think perhaps it would be appropriate for me to give you
10 some explanation of how that occurred.

11 The defendant in this particular case has had, as you
12 know, this case pending for quite some time. During that
13 time, he has refused counsel. There is a Supreme Court case
14 that came down about 20 years ago, call *Faretta versus*
15 *California*, in which the United States Supreme Court affirmed
16 the fact that a person has a constitutional right to self-
17 represent. I can tell you from my experience, that is not a
18 wise thing to do. On Monday I had an extensive hearing with
19 Mr. Bolick, in which I explained to him the dangers of going
20 forward. I discussed with him the rules of evidence,
21 courtroom procedure, that he would be required to -- to follow.
22 It was my job to make sure that he was aware of the dangers of
23 proceeding pro se, and that his decision was made freely and
24 voluntarily. I did reach that conclusion, but I was concerned
25 whenever anyone tries to do that. I have seen over my career

1 many times when lawyers were tried for criminal offenses.
2 That happens sometimes, and I never seen a lawyer that didn't
3 have a lawyer. But Mr. Bolick was very firm in his decision
4 that he did not want one. Out of an abundance of caution, you
5 see Mr. Spratlin sitting back here, Mr. Spratlin is one of our
6 public defenders. He used to be one of our prosecutors, very
7 experienced lawyer. I have great faith in Mr. Spratlin. I
8 called over Mr. Spratlin and one his colleagues, Ms. Wilson,
9 and asked them to please speak to Mr. Bolick, to talk with him
10 over Monday evening to try to convince him that he should have
11 counsel, at least standby counsel, who could sit in the
12 courtroom in case there was a problem. They told me on
13 Tuesday that he had agreed to allow me to appoint someone, not
14 as his attorney, he wanted to self-represent, but to sit
15 behind him just in case. It's my job as basically the
16 referee, to try to make sure that everyone has a fair trial.
17 But as I said, it's his constitutional right to do it.

18 The reason we had such an extended delay yesterday, and
19 there's sort of two problems that came up here, was that Mr.
20 Bolick did not appear, even after being advised by me
21 personally, as well as Mr. Spratlin and Ms. Wilson that your
22 case is going to begin in the morning. As I charged you, a
23 person has the right to not appear at his trial, but when a
24 person is placed under bond and arraigned, in both situations,
25 I -- I inquired to make sure that he had been advised that if

1 he did not appear, he would be tried in his absence. We were
2 able to reach him on Tuesday morning. He gave Mr. Spratlin
3 information that he was on the way, he was running a little
4 bit late, whatever, that went on all morning until finally, he
5 stopped answering his phone. I don't know whether Mr. Bolick
6 is still a citizen and resident of Horry County or not. But
7 we were required to proceed with his trial, and I did what I
8 could, and I -- I everything I could to make sure that the
9 evidence was presented fairly, and he was given a fair trial,
10 and he was. And I believe that you, as a jury, really were
11 not given a whole lot of choice. Of course, you had the right
12 to weigh the evidence and give it any affect that you thought
13 was appropriate, but looking at the evidence in this case, I
14 can give you some comfort in the fact that the evidence was
15 overwhelming in this case. You had DNA and all sorts of
16 photographic evidence, all sorts of things, and you have done
17 your duty. You have done what you were called here to do, and
18 I appreciate your service in that regard, and we thank you for
19 it.

20 Whenever a person is tried in their absence, and again,
21 that is a rare thing. The Court will sentence, but the Court
22 must sentence and seal the sentence, and that's what I will do
23 in this circumstance. A bench warrant will now be issued for
24 Mr. Bolick and sooner or later, Mr. Bolick will turn up, and
25 when he does he will be brought back before this Court and the

1 sentence will be opened and read to him. Again, I just wanted
2 to give you that information because you were probably
3 somewhat concerned about it, as we all are. You probably
4 didn't understand exactly what was going on, but that's why
5 this case proceeded as it did. Mr. Bolick had many
6 constitutional and statutory protections that Mr. Bolick
7 determined that he was going to avail himself of. So that has
8 resulted in great part, I think, in this verdict.

9 Again, thank you. You are excused for the day. Please
10 call back after 6 and let's see, I think we might have one
11 other or maybe two short cases that we'll be trying in the
12 balance of the week. Again, thank you.

13 Mr. Ropp, if you would, help them out of the courtroom.
14 Okay.

15 **THE BAILIFF:** Okay.

16 **THE COURT:** Let them get their personal effects.

17 **REPORTER'S NOTE:** (Jury excused for the day 11:55 A.M.)

18 **THE COURT:** All right. Mr. Terrell, do you want to put
19 on the record what his prior convictions are, if he has any?

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

21 **THE COURT:** Provide any information you would like to the
22 Court for sentencing purposes.

23 **MR. TERRELL:** Yes, sir, Your Honor. May I approach with
24 sentencing sheets.

25 Your Honor, his criminal history is substantial dating

1 back to 1981, he's got B&E auto and a larceny. 1982, larceny
2 and breaking and entering and larceny, I believe is North
3 Carolina's burglary statute. 1983, forgery and escape
4 (inaudible). 1984, breaking and entering and larceny. 1991,
5 assault with a deadly weapon with intent to kill or inflict
6 serious injury. 2003, possession of cocaine and petty
7 larceny. 2004, breaking and entering a vending machine and
8 assault on a government official. Also in 2004, breaking and
9 entering, possession of burglary tools, breaking and entering
10 a coin machine. In 2006, habitual felon and intimidating
11 jurors. 2011, driving under suspension and simple possession
12 of marijuana. 2012, simple possession of marijuana. 2013,
13 CDV first offense. 2014, possession with intention to
14 distribute marijuana second offense.

15 **THE COURT:** And as I heard you read the prior record, are
16 there things that would make this non-parolable?

17 **MR. TERRELL:** Your Honor, I don't think ---

18 **THE COURT:** I don't think that the offense itself is non-
19 parolable, but sometimes a criminal history can.

20 **MR. TERRELL:** If -- it depends on the Department of
21 Corrections would view the assault with the deadly weapon with
22 intent to kill or inflict serious injury. I would imagine
23 that they would look at that as a violent offense, but I can't
24 be for sure.

25 **THE COURT:** All right. Very well. I will sentence him

1 and I will seal the sentence. I'm sure you looking for a
2 bench warrant in this matter.

3 **MR. TERRELL:** We would ask for a bench warrant, Your
4 Honor. We would also ask for a substantial amount of time for
5 Mr. Bolick.

6 **THE COURT:** Okay. Thank you very much.

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

8 **THE COURT:** Thank you very much. We're at ease until 1
9 o'clock. I think we've got some motions then. All right.
10 Thank you.

11 **MR. TERRELL:** Thank you, Your Honor, I'll get you that
12 order.

13 **THE COURT:** All right.

14 (COURT IN ADJOURNED)

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State vs Bolick

162 2016-GS-26-4947, 4953, 5081

C E R T I F I C A T E

I, the undersigned, Sallie Beth Todd, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete portion of the transcript of the Transcript of Record of the hearing held in the interest of State of South Carolina versus Theordore Jerry Bolick in the Court of General Sessions for Horry County, Horry County Courthouse, Conway, South Carolina, on July 22 - 24, 2019.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.



Sallie Beth Todd, CVR

Official Reporter

September 12, 2021.

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF HORRY) 2019-GS-26-04947, 04953, and 05081

STATE OF SOUTH CAROLINA,)

Plaintiff,)

Transcript of Record

(Sentence of the Court)

vs.)

September 16, 2020

THEODORE JERRY BOLICK,)

Defendant.)

B E F O R E:

Honorable William H. Seals
Horry County Courthouse
Conway, South Carolina

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

William G. Terrell, III
Attorney for Plaintiff

Theodore Jerry Bolick
Pro Se Defendant

REPORTED BY:

Grace L. Hurley
Retired Circuit Court Reporter

PREPARED BY:

Kay H. Richardson
Circuit Court Reporter

State v. Bolick - 2016-GS-26-04947,04953,05081
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5		
6	<u>E X H I B I T S</u>	
7	<u>No.</u>	<u>ID</u> <u>EV</u>
8		

9 (No exhibits were marked or admitted.)

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State v. Bolick - 2016-GS-26-04947,04953,05081
SENTENCE OF THE COURT

3

1 SEPTEMBER 16, 2020

2 MR. TERRELL: Good afternoon, Your Honor.

3 This is State of South Carolina v. Theodore Jerry Bolick.
4 Mr. Bolick was tried and convicted on indictments 2016-05081,
5 2016-04947, and 2016-04953. That was a trial in Mr. Bolick's
6 absence. He was tried and convicted in front of the Honorable
7 Larry Hyman in July 25th, I believe, of last year. Pursuant
8 to standard protocol, those sentences were sealed. A bench
9 warrant was issued. Mr. Bolick is brought before Your Honor
10 for the unsealing of those sentences at this point.

11 THE COURT: Okay. Mr. Bolick, I want to let you know
12 that I didn't try your case. I don't know anything about your
13 case. I don't know anything about the facts. I don't even
14 know you. My job is simply to open this up and read what
15 Judge Hyman sentenced you to.

16 MR. BOLICK: Your Honor, if I may, first ---

17 THE COURT: That's my only job and that's all I'm
18 supposed to do.

19 MR. BOLICK: Excuse me, Your Honor.

20 THE COURT: All right.

21 MR. BOLICK: Please hear me.

22 THE COURT: I can hear you, but what do you have to say
23 in relation ---

24 MR. BOLICK: Can I please have a chair? I have problems,
25 and I have made several motions that are before the Court.

State v. Bolick - 2016-GS-26-04947,04953,05081
SENTENCE OF THE COURT

4

1 THE COURT: Okay. I have nothing to do with that. My
2 job is only to open this and read it.

3 MR. BOLICK: Your Honor ---

4 THE COURT: I don't know anything about your case, your
5 motions or nothing.

6 MR. BOLICK: Please, Your Honor, please.

7 THE COURT: I'll give you five minutes. Tell me what you
8 got to tell me.

9 MR. BOLICK: I have filed a motion for mistrial. I have
10 filed a motion for a new trial. I have filed a memorandum of
11 law in support of this, Your Honor.

12 THE COURT: Okay.

13 MR. BOLICK: I have ---

14 THE COURT: What's that got to do with me reading your
15 sentence?

16 MR. BOLICK: Your Honor, because at the time you read
17 that sentence, because I wasn't here for the trial, nor the
18 beginning of the trial.

19 THE COURT: I wasn't either. I wasn't either.

20 MR. BOLICK: Right. So, therefore, this is my first time
21 to get to speak on that trial. And *Crosby v. United States*
22 *Supreme Court* said that that trial in complete absentuna [sic]
23 is in violation of the Sixth and Fourth Amendment. Not only
24 is it backed by that, by *Diaz v. US*.

25 THE COURT: Right. Well, then appeal it. I'm just

State v. Bolick - 2016-GS-26-04947,04953,05081
SENTENCE OF THE COURT

5

1 simply here to read ---

2 MR. BOLICK: Your Honor, I am making by law a motion for
3 a new trial and a motion for mistrial. This is my first, and
4 that is something that you should, by law, rule on now.

5 THE COURT: Okay. Sentence of the Court is that the
6 defendant is committed to the Department of Corrections for a
7 term of 12 years. It is to run concurrent with his sentence
8 on 7/24/2019.

9 In reference to the burglary, the sentence of the Court
10 is 12 years, and it is to run concurrent as well.

11 In reference to the other burglary, the sentence of the
12 Court is 12 years and it's to run concurrent as well.

13 I've done my job and it's time to move on.

14 MR. BOLICK: Your Honor, may I please?

15 THE COURT: No.

16 MR. BOLICK: May I please?

17 THE COURT: It's not the time and place to do it.

18 MR. BOLICK: I would object, Your Honor. I would object
19 to -- I'm objecting to allow -- just allow a motion for a new
20 trial, and I will be complaining to the judicial ---

21 THE COURT: I look forward to it.

22 (REPORTER'S NOTE: Defendant is removed from courtroom.)

23 ADJOURNED.

24

25

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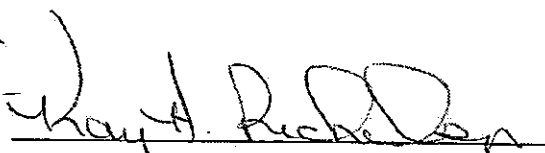
State v. Bolick - 2016-GS-26-04947,04953,05081
CERTIFICATE OF COURT REPORTER

6

C E R T I F I C A T E

I, the undersigned, Kay H. Richardson, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of State of South Carolina v. Theodore Jerry Bolick, held in the Court of General Sessions for Horry County, Horry County Courthouse, Conway, South Carolina, on September 16, 2020, as reported by Grace L. Hurley.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.



Kay H. Richardson

Official Court Reporter

May 4, 2022.

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STATE OF SOUTH CAROLINA) TRANSCRIPT OF RECORD
COUNTY OF HORRY)

COPY

April 15, 2021

BEFORE: The Honorable R. Farrell Cothran, Jr.

STATE OF SOUTH CAROLINA,

Plaintiff,

vs.

THEODORE J. BOLICK,

Defendant.

APPEARANCES:

Thomas Terrell, Esq.
Appearing for the Plaintiff/State.

Theodore J. Bolick
Appearing pro se.

Official Court Reporter:
Natalie Dahl, RPR

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P-R-O-C-E-E-D-I-N-G-S

1
2 MR. TERRELL: State versus Theodore Jerry Bolick.
3 Mr. Bolick was tried and convicted in July of 2020 on
4 Indictments 2016-GS-26-05081, 04947, and 04953. All
5 three of those were for burglary second degree
6 violent. It was a trial in absentia in front of Judge
7 Hyman. He was convicted on all three counts. Judge
8 Hyman sentenced him to 12 years concurrent on all
9 counts. Mr. Bolick filed a number of motions that
10 were dismissed while his case was on appeal. The
11 appellate court sent them -- the motions back to be
12 heard. They remanded the case to be heard, remanded
13 for the motions to be heard in General Sessions before
14 the appellate court will take them up.

15 So we're here for a number of motions filed by
16 Mr. Bolick. I believe the one that makes the most
17 sense to be heard first is the motion for appointed
18 counsel.

19 THE COURT: Okay.

20 MR. BOLICK: Your Honor, may I have one of the
21 handcuffs off to have access?

22 THE COURT: You have to talk to the people in
23 charge of security. I have no problem with it.

24 MR. BOLICK: I have leg shackles on and I won't
25 cause no problems.

1 (A pause in the proceedings while Mr. Bolick's
2 handcuffs are removed.)

3 ~~MR. BOLICK: In May, 2016 I was arrested for~~
4 ~~three separate burglaries that were indicted at three~~
5 ~~completely separate indictments.~~ As Mr. Terrell
6 properly informed the Court, ~~I was tried in my~~
7 ~~complete absence. I was also tried without counsel.~~
8 ~~All three indictments, separate indictments, were~~
9 ~~joined together in front of one jury for trial.~~

10 ~~THE COURT: Let me stop you. The three separate~~
11 ~~indictments that were tried in front of one jury, were~~
12 ~~they three different occurrences, or all occurred on~~
13 ~~the same day and time.~~

14 ~~MR. BOLICK: Three different occurrences, three~~
15 ~~different dates, three separate locations, three~~
16 ~~different types of businesses. No evidence, not one~~
17 ~~single piece of evidence was the same in either case,~~
18 ~~nor was there one piece of evidence, not one iota of~~
19 ~~evidence that there was a chain of circumstances to~~
20 ~~these crimes. The conviction is a mockery against~~
21 ~~clearly established law.~~

22 ~~THE COURT: Hold on just a minute. Let me ask~~
23 ~~Is that correct?~~

24 MR. TERRELL: No, sir. ~~They were three different~~
25 ~~businesses on three different nights.~~ The way the

1 businesses were broken into -- all three of these
2 businesses were in the same area of Myrtle Beach,
3 probably within a mile of each other. They were all
4 broken into at night, ~~all broken into in a very unique~~
5 ~~way, through the roof air handler of the business.~~
6 There was substantial evidence on all three counts,
7 which included evidence recovered from a search
8 warrant done at the hotel room where Mr. Bolick was
9 living, which was also in the same south Myrtle Beach
10 area.

11 ~~There was a -- Mr. Bolick did have a motion to~~
12 ~~sever to have them heard independently. We were ready~~
13 ~~to hear that motion when he did not appear for his~~
14 ~~trial.~~ The State moved and was granted for all of his
15 pending motions at that time to be dismissed. We went
16 forward and had the trial on all three counts.

17 ~~THE COURT: Okay. Is there a transcript of that~~
18 ~~trial?~~

19 ~~MR. TERRELL: There is, yes, sir.~~

20 ~~MR. BOLICK: I have motioned for it numerous~~
21 ~~times.~~

22 MR. TERRELL: We do have a motion for that as
23 well.

24 MR. BOLICK: Your Honor, if I may, though. The
25 Solicitor just informed the Court that there was a

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1 motion to severe {sic}. I have here in front of me
2 two documents. May I have the bailiff show them to
3 you?

4 THE COURT: Yes, sir.

5 MR. BOLICK: The first document, Your Honor, is
6 an order dated and signed by Judge John on
7 May 18th --

8 THE COURT: All right. I'll look, but I guess --
9 what about your attorney? Are you going to represent
10 yourself?

11 MR. BOLICK: Yes, sir. According to Faretta
12 versus California, I would highly argue that I'm
13 entitled to.

14 THE COURT: Were you given the Faretta warnings
15 by Judge John or some other judge?

16 ~~MR. BOLICK: Actually, yes, I have. And even on~~
17 ~~July 22nd, Judge Hyman gave me the Faretta warnings,~~
18 ~~and he even actually appointed me counsel, Martin~~
19 ~~Sparrow {sic} for trial, but for some reason he was~~
20 ~~not at that trial, and there was no representation on~~
21 ~~my behalf on that day.~~

22 THE COURT: ~~Is that correct?~~

23 MR. TERRELL: ~~No. And this is getting into later~~
24 ~~motions.~~ I was hoping to do it one at a time for
25 clarification so we're clear, but we can get into

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1 that. He was instructed -- Mr. Spratlin, Martin
2 Spratlin, was instructed by Judge Hyman to sit down
3 with Mr. Bolick to see if he was sure that he wanted
4 to go forward pro se. He was read his Faretta
5 warnings, told of the dangers of representing himself,
6 and gave the option to sit with Mr. Spratlin to
7 decide, once and for all, if he would like Mr.
8 Spratlin to be his attorney to help him with the
9 procedural matters of the case.

10 After having that conversation, he informed
11 Mr. -- ~~Mr. Bolick informed the Court he would not like~~
12 ~~Mr. Spratlin to represent him, that he wanted to~~
13 ~~represent himself, and he was prepared to do that, and~~
14 ~~we were going to start the next morning. So Mr.~~
15 ~~Spratlin was never appointed, it was offered to Mr.~~
16 ~~Bolick, and it was declined.~~

17 ~~MR. BOLICK: Your Honor, in rebuttal to that, I~~
18 ~~have documentation that from what I signed for Martin~~
19 ~~Spraddle [sic] and waived for the conflict of interest~~
20 ~~between me and his office, and allow him to proceed --~~
21 ~~for him to represent me or be co-counsel with me at~~
22 ~~that trial.~~

23 ~~THE COURT: Okay. Let me see the documents.~~

24 ~~MR. BOLICK: What I would like the Court to~~
25 ~~please see, the May 18th order -- the~~

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, 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

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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

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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

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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

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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

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1 dealt with the appointments of counsel. What motion
2 do you want me to reconsider? What motion are they
3 talking about?

4 MR. BOLICK: I filed a motion to reconsider to
5 get Judge Seals to reconsider his behavior and him
6 denying me even a right to be heard on the motion for
7 a mistrial or the motion for a new trial on
8 September 16th.

9 THE COURT: I understand, but I can't fix another
10 judge's behavior. If it is a motion to reconsider the
11 sentence, sometimes people get tried in the absence
12 and they make a motion to reconsider the sentence and
13 offer mitigating circumstances to the judge to see if
14 he will lower the sentence; you didn't make that
15 motion?

16 MR. BOLICK: No, sir. I made a motion for him to
17 reconsider my motion for a mistrial and motion for a
18 new trial.

19 THE COURT: So the motion to reconsider and
20 motion for mistrial, ~~I'll grant your motion to~~
21 ~~reconsider and grant your motion for a mistrial.~~ I
22 have covered the counsel. So now they get to start
23 over and try you again, okay. Whether they try you
24 altogether or one at a time, that's going to be up to
25 whatever judge is trying it, okay.

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1 MR. BOLICK: Yes, sir. Can I give a motion for a
2 fair and speedy trial immediately, Your Honor?

3 THE COURT: File whatever motions you think you
4 are entitled to.

5 Counsel, do you want to put anything else on the
6 record for the Court of Appeals?

7 MR. TERRELL: Procedurally, I'm not sure where we
8 are.

9 THE COURT: ~~I granted a motion for mistrial~~
10 ~~because you tried all three together.~~ I haven't ruled
11 on the severance, because that is not before me; you
12 are correct. So if it gets severed or not, that will
13 be up to the trial judge. You just have to try him
14 again. You just have to try him again. If you try
15 him, you can pick one at a time, try him three times,
16 or you can try to try them altogether, or one and two.
17 That is -- you all need to look at case law and see
18 what you think, and then deal with the judge.

19 MR. BOLICK: ~~One more problem with that, Your~~
20 ~~Honor, with you granting that, I'm no longer property~~
21 ~~of the Department of Corrections. This is the only~~
22 ~~reason I have been in prison all of this time. It~~
23 ~~would ask you to immediately order them to transport~~
24 ~~me back to the Reuben Detention Center, and there I~~
25 ~~remain until trial.~~

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?

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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

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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

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1 years.

2 THE COURT: It sounds like it. Give him all that
3 paperwork back.

4 (Whereupon, the hearing concluded.)
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2 CERTIFICATE OF REPORTER

3 State of South Carolina)

4 County of Horry)

5
6 I, Natalie Dahl, Official Court Reporter for the
7 State of South Carolina, do hereby certify that the
8 foregoing is a true, accurate and complete Transcript
9 of Record of the evidence introduced in the hearing of
10 the above-captioned case, relative to appeal, in the
11 Court of General Sessions for Horry County, South
12 Carolina, on the 15th day of April, 2021.

13 I do further certify that I am neither of
14 counsel, nor interest to any party hereto.

15
16 May 12, 2021

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19 Natalie Dahl, RPR

20 Court Reporter
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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF HORRY) 2016-GS-26-04947, 04953, 05081

State of South Carolina,)

Plaintiff,)

Transcript of Record

vs.)

JUNE 8 & 9, 2021

Theodore Jerry Bolick,)

Defendant.)

B E F O R E:

Honorable Ferrell Cothran, Jr.
Horry County Courthouse
Conway, South Carolina

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

Thomas G. Terrell, III, Esquire
Attorney for State

Theodore Jerry Bolick, Defendant
Appearing Pro Se

Sallie Beth Todd
Circuit Court Reporter

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I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>

(THERE WERE NO WITNESSES CALLED DURING THIS HEARING.)

Certificate of Court Reporter..... 67

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE</u>

PL1	Memorandum	X		

1 MR. BOLICK: Your Honor, can I take these handcuffs off?

2 THE COURT: You'll have to talk to them. They're in
3 charge of security. I don't care, that's there call.

4 DEPUTY: While you're in custody you have to be this way.

5 MR. BOLICK: I can't even put my glasses on.

6 THE COURT: Someone will have to put them on for you
7 then.

8 MR. TERRELL: Your Honor, this is the State of South
9 Carolina v. Theodore Jerry Bolick. We're here on indictments
10 2016-GS-26-04947, 04953, and 5081. Those are indictments for
11 burglary second degree violent. Three burglaries that
12 happened back in August of 2016. Your Honor heard defendant's
13 motions for mistrial, and motions for reconsideration, motion
14 for new trial and motion for court appointed attorney back in
15 April. You gave the state ten days to ask Your Honor to
16 reconsider your ruling, and I believe we filed -- we filed
17 that motion asking for reconsideration and that's why we're
18 here today.

19 THE COURT: Okay. And you have filed an extensive brief
20 on that motion. Do you have anything else you want to present
21 to me in addition to this?

22 MR. TERRELL: Your Honor, all of the information is
23 contained in this memorandum that I plan on presenting. I
24 would ask that they be made part of the record.

25 THE COURT: Okay.

1 **MR. TERRELL:** At the appropriate time. I do have a brief
2 presentation on joinder, and I think the facts that are at
3 issue in this case. I'd like to start, Your Honor, with an
4 apology for myself. When this happened, I think I put Your
5 Honor in an unfair position having to rule on these cases, on
6 all these motions without really knowing anything about --
7 about the cases and about the facts, and that coupled with not
8 being prepared to argue the merits of joinder and looking more
9 instead toward the procedural posture of the case. I -- I
10 think I put Your Honor in an unfair position. So, I would
11 like to apologize for that.

12 **THE COURT:** No problem. I may -- I may have ruled
13 premature without knowing everything too, so I mean, that was
14 one reason I gave you -- since it came under an unusual
15 setting, I gave you 10 days to be sure and to give you an
16 opportunity to fully explain and litigate this manner. So
17 that's why we're here today.

18 **MR. BOLICK:** Your Honor, before we go ---

19 **THE COURT:** Yes, sir.

20 **MR. BOLICK:** May I object, Your Honor.

21 **THE COURT:** Wait a minute. I note your objection, but
22 it's his motion. I'm going to let him finish because it's his
23 motion. When he finishes, I'll let you tell me anything you
24 want to. Okay. I understand you're objecting to this. I
25 mean, you have a right to, but I'll get back to you.

1 of that rough draft through the preliminary hearings when we
2 brought the jury up the morning of the 23rd.

3 As I was saying, on the 22nd, Judge Hyman did hear from
4 Mr. Bolick regarding his motion for severance. Mr. Bolick put
5 on the record why he thought these charges should be tried in
6 separate cases. He asked -- he asked me why I didn't think --
7 why I thought joinder was appropriate. Before he was able to
8 make a finding on that, his attention switched to
9 *Faretta* warnings, making sure that Mr. Bolick knew the dangers
10 of being -- representing himself, the dangers of you know,
11 what -- what he was facing and the potential penalties of
12 that, and whether or not he wanted an attorney. That's how --
13 that's how the afternoon of the 22nd was -- went into recess,
14 dealing with the attorney issue without having made a ruling
15 on the severance issue. The following morning, when Mr.
16 Bolick was informed to come back to Court for the start of his
17 trial, and for the rest of his motions, Judge Hyman asked you
18 know, where -- where he was and what was going on. We were
19 unable to get Mr. Bolick in court. He told us he was at the
20 bus station, that he had missed his bus, and that he was on
21 his way. He was going to catch the next bus to Conway. We
22 had -- the Court had a deputy go out to the Conway Bus
23 Terminal and wait for Mr. Bolick's scheduled arrival. We also
24 sent law enforcement down to where he said he was in Myrtle
25 Beach at the bus station, the bus stop, and we were unable to

1 **MR. BOLICK:** Your Honor, can I sit down?

2 **THE COURT:** Certainly, you can sit down.

3 **MR. TERRELL:** Your Honor, the standard of review we're
4 looking at for are motions for severance and joinders under
5 deferential standard. The Courts have said it should not be
6 disturbed unless an abuse of discretion is shown. That abuse
7 of discretion our Courts have indicated occurs when a Trial
8 Court's decision is unsupported either by the evidence or
9 where it's controlled by an error of law. And in this matter,
10 Judge Hyman, on the Monday of that trial week, I believe it
11 was the 22nd of July 2019, he did hear preliminary arguments
12 regarding severance. He took up the issue with Mr. Bolick and
13 myself. He heard the merits of Mr. Bolick's ---

14 **MR. BOLICK:** Objection, Your Honor, that's untrue.

15 **THE COURT:** Don't interrupt him, and then I'll let --
16 he'll tell me and then you can correct anything you think he
17 didn't do. I've got a copy of the transcript of what he said.

18 **MR. TERRELL:** And, Your Honor, a brief issue about that
19 transcript, the problem with getting it and why we've only
20 gotten to a certain point of this transcript, and that only in
21 rough draft form, is because the wrong court reporter was
22 listed on the sentencing sheets. We had Grace Hurley listed
23 as the court reporter when it was actually Ms. Todd, and she's
24 been great in trying to get us as much as she could in
25 preparation for this. I believe Your Honor does have a copy

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 prong, 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

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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 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.

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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

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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.

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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

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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:** Yes, Your Honor. I mean I would still like
2 to bring to your attention about one thing. They keep saying
3 that I wasn't appointed counsel. I was appointed a counsel. I
4 was appointed co-counsel, shared counsel. When I didn't show
5 up, they dismissed the counsel, but by the record, I asked for
6 that counsel. So now they've told me without counsel brings
7 into another thing. It brings into, although I didn't, this
8 is why it is so improper. *State v. Thompson* I don't know if
9 you're familiar with or *State v. Lyles*. Both of them people
10 were tried absentee. They were tried without counsel. And
11 even though the Court found that he may voluntarily waive your
12 right to appear at trial, that does not necessarily mean you
13 voluntarily waive your right to counsel. And because both of
14 those cases the Supreme Court and the Court of Appeals sent
15 them back. In my case, I requested counsel. I have the
16 documentation to where I was appointed counsel. I even had to
17 sign the waiver when Martin Spratlin for him to participate
18 and help me on my representation, and if you give me a minute,
19 and I'll try to find it.

20 **THE COURT:** Okay. But I thought since that, that you
21 decided you didn't want counsel at all, and Judge Hyman went
22 over your Faretta warnings with you to be sure you understood
23 how dangerous that was?

24 **MR. BOLICK:** Your Honor, this is my word to you as a man
25 before God, Judge Faretta (sic) talked me in to asking for

1 counsel. When he gave me the *Faretta* warnings and everything
2 else, Your Honor, at the end of that he said how would you
3 like Mr. Martin Spratlin?

4 **THE COURT:** And what was your response to that?

5 **MR. BOLICK:** Yes, and I said yes, okay. And he appointed
6 me Martin Spratlin to represent me. And the next day, for ...
7 some reason, Martin Spratlin is not there. The trial goes on
8 without me and without counsel.

9 **THE COURT:** Let me deal with that one issue right now.
10 What's the state's position on that?

11 **MS. RICHARDSON:** Your Honor, the transcript indicates
12 that Mr. Spratlin, he was given overnight to decide he wanted
13 shadow counsel. They actually consulted with three different
14 public defenders, Mr. Spratlin, Kia Wilson, and James Galmore
15 were all brought in by the Court. The next day Mr. Spratlin
16 did appear. He was who had also contacted Mr. Bolick and
17 indicated to the Court that Mr. Bolick did not want their
18 services. So that was put on the record. And, Your Honor, I
19 would point to the case of *State v. Ferry*, I can give Your
20 Honor and Mr. Bolick a copy of that. That's a case right here
21 in Horry County, kind of under similar circumstances. But
22 Your Honor, as an Officer of the Court Mr. Spratlin testified
23 or indicated to the Court that he had not wish to have his
24 services when he gave him overnight to consider it. And, Your
25 Honor, he waived that by conduct by failing to appear and

1 avail himself or advised the Court in any way about that.

2 **MR. BOLICK:** Your Honor, may I have the Court see this,
3 please?

4 **THE COURT:** Yes, sir.

5 **MR. BOLICK:** Your Honor, there again, in *State v.*
6 *Thompson* and *State v. Robinson* my failure to appear does not
7 waive my right for counsel. I had been appointed a counsel.
8 I signed that waiver right there.

9 **MS. RICHARDSON:** And Judge Hyman specifically found on
10 the record that he had waived his right to counsel and wished
11 to represent himself.

12 **MR. BOLICK:** No, Your Honor, I would disagree. Judge
13 Hyman appointed me that counsel right there, Martin Spratlin,
14 and Martin Spratlin sat in Court with me and he said I need
15 you to sign this, and I signed that. Read that, it's plainly
16 says I'm requesting counsel in that document, Your Honor.

17 **THE COURT:** Okay. All right. What else you want to tell
18 me?

19 **MR. BOLICK:** Your Honor, there again, the cases that the
20 Court -- they're wishing the Court to consider, they all have
21 *State v. Beekman*, *State v. Cutro*, they all have something that
22 is the same. These crimes were committed in the same place,
23 in the same place, Your Honor. They are alleging three
24 different burglaries, although they would allege they're the
25 same with food and beverage, but let's just say they're all

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1 businesses. No, one of them was a bar, one of them is a
2 restaurant, and one of them is a liquor store. They would
3 allege that only money was taken. My reading of the police
4 reports, liquor was taken, keys was taken, multiple things was
5 taken. They would allege that they were all three broken into
6 an air conditioning system. So there that is false. They
7 were broken in through vents, through air conditioning system,
8 and this is plain, this is manifested in the police report.
9 He has circumvented my right to confront this. He wants to
10 bring these allegations, these false allegations to the Court
11 and have the Court consider them as fact, when they're not.
12 When they're not. He had a chance, Your Honor, on April 15th.
13 Bring that evidence to this Court. He had over a year to
14 prepare for that motion for mistrial. I filed that motion for
15 mistrial in April of 2020. We didn't hear it until 2021. The
16 Court of Appeals remanded that case back here in February. He
17 continued it multiple times without me ever being notified,
18 basically told me we're going to do this we're going to do
19 that. He was more in touch with Mr. -- Mr. Hiller than he was
20 with me. He had his chance to bring the evidence to this
21 Court, Your Honor. He didn't. He didn't bring no evidence to
22 this Court, now he's bringing false allegations to this Court.

23 **THE COURT:** I understand. My understanding though, he
24 didn't have a judge to bring it before, because the other
25 judges had recused themselves.

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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 **MR. BOLICK:** Well, the same person that he's saying is
2 the lead detective.

3 **THE COURT:** Well, I understand. But just the fact that
4 it's in the police report, that might be exactly what that
5 detective testified to in trial, but just because it's in the
6 ~~police report, police reports aren't admissible, and sometimes~~
7 they're not accurate. Sometimes police are doing something in
8 a hurry on the trunk of a car, and they find out later that
9 they may have made a mistake and those facts aren't correct.
10 But that's why that police report don't come into evidence.
11 It's somebody putting their hand on that Bible and swearing to
12 tell the truth that's in evidence.

13 **MR. BOLICK:** Actually, Your Honor, though the Giff's
14 Liquor Store, the video footage of the crime scene actually
15 showed that it's a fan. It shows where the person came in ---

16 **THE COURT:** Coming through the ceiling though?

17 **MR. BOLICK:** Yes.

18 **THE COURT:** So all three of them come through the
19 ceiling.

20 **MR. BOLICK:** All three came through the ceiling.

21 **THE COURT:** So ---

22 **MR. BOLICK:** And he would argue that Giff's Liquor Store
23 at the same time to my recollection always have a steel bar, a
24 steel gate like most of the liquor stores in the front at
25 Myrtle Beach.

1 THE COURT: Right.

2 MR. BOLICK: There wasn't but one other way out and that
3 was the back door.

4 THE COURT: All right. So you will agree, at least the
5 facts that whoever burglarized these three establishments came
6 through the ceiling, through some vent, through some fan,
7 through some air conditioning, but they all came through the
8 ceiling; you agree with that?

9 MR. BOLICK: I guess I would. I have to.

10 THE COURT: And that whoever burglarized it went out the
11 back door, so those are common. Whether it was a vent or an
12 air condition, whoever came in came through the ceiling and
13 they left out the back door, so I'll take that into
14 consideration.

15 MR. BOLICK: Your Honor, then with *State v. Tate* if you
16 look at *State v. Tate*, the man -- both of them were checks
17 that the man was passing were government checks. In both
18 cases, he held himself out -- once he held himself out to be a
19 government agent. In the second one, he held out somebody
20 else to be a government agent. They were similar, but not the
21 same, Your Honor.

22 THE COURT: All right.

23 MR. BOLICK: And all these other cases he's -- *Beekman*,
24 *McGaha*, all these other, what I call pedophile cases and
25 pervert cases, these are cases where these things happened in

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 so when the Supreme Court or Court of Appeals looks at it,
2 they may decide that, you know, I shouldn't have heard it
3 again. I don't think they will, but we'll see.

4 **MR. BOLICK:** Your Honor, I pray it don't because honestly
5 I've never heard of a mistrial undeclared.

6 **THE COURT:** I understand.

7 **MR. BOLICK:** I'm not saying you can't, I just never have
8 heard of one.

9 **THE COURT:** Well, I can -- we all make mistakes and I
10 mean, and I'm not real sure a mistrial was proper in the first
11 place with this, that wasn't proper for me to grant in the
12 first place, but rule on your motions is what I should have
13 done. But ---

14 **MR. BOLICK:** I'd argue that it was, Your Honor, that you
15 did exactly what the law said.

16 **THE COURT:** Well, I don't know. We'll see. I'll go back
17 and read the law and go back 40 years to see if I can
18 understand what the Supreme Court means now and where we are.

19 **MR. BOLICK:** Your Honor ---

20 **THE COURT:** They come out with new cases every day that
21 change the way I have to do business and change the way I do
22 it and sometimes I think they're right and sometimes I think
23 they're wrong, but I got to do what they say.

24 **MR. BOLICK:** His desperation showed when he was citing
25 9th Circuit case, Your Honor. When he's citing a 9th Circuit

1 case about possession of firearms. That's, you know, we got
2 enough cases right here in the State of South Carolina the 4th
3 Circuit and the Supreme Court on joinder. His desperation was
4 showing then. He simply has no argument. This is not a
5 pedophile case. This is not shaken baby syndrome case; this
6 is not anything like that. This is a burglary. There is no
7 single piece of evidence that is the same in either case, not
8 one piece, and even though through his false statements,
9 through his false statements, they may find some similarities,
10 but there's not enough to join these cases.

11 **THE COURT:** All right. I appreciate that and I
12 understand what you're saying. You might be absolutely right,
13 and I'll let y'all know.

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

15 **MR. RICHARDSON:** Your Honor, I have the proposed order
16 since he made the motion for bond, denying his motion for
17 bond. I have simply filled in the bottom saying that he
18 failed to appear for trial, his motion for bond is denied.

19 **THE COURT:** Okay. And you can -- after I make my motion
20 -- I mean make my ruling, you can decide, you know ---

21 **MR. BOLICK:** I've also made a motion to dismiss the
22 indictments, Your Honor.

23 **THE COURT:** Okay. All right.

24 **MR. BOLICK:** At the least, the state's conduct on July
25 23rd and 24th was improper, that it was unwise, whatever. I

1 would argue that it levels to -- especially with the forging
2 of the Judge's Order, and the constant falsification and lies
3 he's submitted to the Court, that his -- there is no good
4 faith when you lie. There is no good faith when you are
5 forging Judge's orders, that his conduct arose to the level of
6 misconduct, Your Honor, but at the least, it was improper
7 conduct.

8 **THE COURT:** I understand. I looked at Judge John's
9 order. It looks like to me it's his signature, but you know,
10 we'll -- that's not necessarily before me. I'm going to rule
11 on what is before me and let you know. Okay. Good luck to
12 you.

13 **MS. RICHARDSON:** Thank you, Your Honor.

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

15 **(COURT IN RECESS)**

16 **THE COURT:** Okay. Is everybody ready?

17 **MR. TERRELL:** Your Honor, this is the State of South
18 Carolina versus Theodore Jerry Bolick. This is indictments
19 2016-GS-26-04947, 04953, and 5081. We're back on the record
20 for, I believe, Your Honor's ruling on the defendant's -- on
21 the state's motion to reconsider.

22 **THE COURT:** Okay. I listened yesterday to the state's
23 argument on their motion to reconsider. I reviewed the
24 memorandum submitted to me by the solicitor's office, as well
25 as the documents I received from Mr. Bolick. I reviewed the

1 cases involved in joinder, and all of the other issues
2 involved in this case. I read a portion of the transcript
3 from Judge Hyman about how the trial started and what he did -
4 --

5 **MR. BOLICK:** Your Honor, if I may? I've never seen no
6 transcript or anything.

7 **THE COURT:** Well I may can get you a copy of it. Anyway,
8 the -- in looking at where the Court's been over the last 30
9 or 40 years and how they're dealing with joinder, and looking
10 at *Tucker*, and *Rice*, and *Beekman*, and *Cutro*, and the facts
11 involved in this case and the connects involved in this case.
12 And based on what was before Judge Hyman at that time I think
13 -- and the Court's have gotten away from more of that chain of
14 circumstances and looked at kind and place and character. And
15 in this case -- and they've pretty well stayed away from
16 burglary cases and they are more with other cases, but this
17 case has a lot of similarities in the fact that the businesses
18 were close to each other, that access to the businesses were
19 all obtained from the roof area whether it was from the fans
20 or ventilation or HVAC system. The evidence in these cases
21 were very similar in that there were video in two of them of
22 the subject entering with a skull cap. The dress, the gloves,
23 all of the similarities that were involved in this case ---

24 **MR. BOLICK:** Your Honor, if I may?

25 **THE COURT:** No, you can't. You can't interrupt me. I'll

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

1 opportunity, and they left that glove there.

2 **THE COURT:** I understand that. But the jury heard all of
3 that testimony and they could give it whatever weight that
4 they thought was appropriate under the circumstances.

5 **MR. BOLICK:** The jury heard that testimony without
6 counsel, Your Honor. There was no way and no time to ---

7 **THE COURT:** But you left. You could have been there and
8 refuted that.

9 **MR. BOLICK:** But that does not say that I waive my right
10 to counsel, Your Honor.

11 **THE COURT:** I understand.

12 **MR. BOLICK:** I did not waive my right to counsel. I just
13 --

14 **THE COURT:** Judge Hyman ruled on that. Judge Hyman ruled
15 on that.

16 **MR. BOLICK:** What did he rule, Your Honor? I haven't
17 seen no transcript. Why didn't the state give me a copy of
18 this transcript. See the unfairness of this?

19 **THE COURT:** It has not all been ---

20 **MR. BOLICK:** Do you see the unfairness, Your Honor.

21 **THE COURT:** We both can't talk and get it on the record.

22 It hasn't all been typed yet. I'm sure if you decide to
23 appeal that decision and my decision that's come back from the
24 Court of Appeals, now it will go back to the Court of Appeals
25 and you'll have the benefit of that transcript.

1 **MR. BOLICK:** You just said it hasn't been typed yet, but
2 yet you're using it and the state's using it, but I can't.
3 Where's the fairness in that?

4 **THE COURT:** I have a portion of it typed. The entire
5 trial ---

6 **MR. BOLICK:** I haven't had that.

7 **THE COURT:** And I will see that you get a copy of this.

8 **MR. BOLICK:** Wouldn't that be a little late after you've
9 done the motion to reconsider, after you've done took the
10 state's facts as lies and considered them to be truthful?
11 Wouldn't that prejudice me, Your Honor?

12 **THE COURT:** No. You can't change this, it's the Court
13 record. You weren't even here.

14 **MR. BOLICK:** I need a copy of this transcript and a copy
15 of the April 15th transcript. I need a copy of the pretrial
16 transcript. I need a copy of all of the transcripts in this.
17 My appeal is pending. It's in abeyance.

18 **THE COURT:** Okay.

19 **MR. BOLICK:** This is definitely going to be appealed.
20 And I'm going to ask the Court to show me one case in the
21 United States history where a mistrial has been undeclared.
22 My sentence has been vacated. My mistrial has been declared,
23 now this is emotional trauma to me. How are you going to take
24 away my sentence, grant me a mistrial? I can show you cases
25 where a Judge improperly granted a mistrial, Your Honor, and

1 by wrongfully a man was able to get away with murder because
2 the Judge declared the mistrial wrongfully.

3 **THE COURT:** I understand.

4 **MR. BOLICK:** You declared this mistrial.

5 **THE COURT:** And I was wrong and I had to reconsider. I
6 changed my mind.

7 **MR. BOLICK:** That's it. How do you undeclare a mistrial,
8 Your Honor? Show me one case? I ask the state or you to show
9 me one case where a mistrial is undeclared?

10 **THE COURT:** I did not give the state and adequate
11 opportunity the first time I ruled.

12 **MR. BOLICK:** Your Honor, the Court of Appeals remanded
13 this case because the state had over a year to prepare for the
14 case for the mistrial. The Court of Appeals remanded this
15 back here. And not only did they remand it back for a
16 hearing, the state continued to stall. The Court of Appeals
17 has steady been saying what's up, what's up, what's up. Give
18 us a status update on this case, give us a status update. He
19 had plenty of chance to prepare for April 15th. And if you
20 blew his chance, why should that prejudice me? If you made a
21 bad decision, Your Honor, and forced him to do something, how
22 is that allowed to prejudice me?

23 **THE COURT:** I gave him, just like I give everybody an
24 opportunity to have ten days to file a motion to reconsider.
25 That goes in every case. He filed that motion on a timely

1 basis. I came back and heard the case. I should have given
2 him an opportunity at the time, but he did not anticipate
3 having to go into joinder and all of those other issues. And
4 I should not have -- in hindsight I should not have ruled at
5 all. I should not have ruled at all, but I did. I'm changing
6 my mind. This ruling stands. You can appeal it.

7 **MR. BOLICK:** I clearly -- this is appealable?

8 **THE COURT:** Absolutely.

9 **MR. BOLICK:** This is appealable right now to the Court of
10 Appeals?

11 **THE COURT:** Yes, sir. You can go appeal it.

12 **MR. BOLICK:** I give notice of appeal right now.

13 **THE COURT:** Okay. Thank you, sir.

14 **MR. BOLICK:** Can I have counsel on it? Can I be
15 appointed counsel on it?

16 **THE COURT:** You'll have to apply for that and that'll go
17 through them.

18 **MR. BOLICK:** Your Honor, can I have the court transcript
19 from back when Mr. Terrell told a lie about me being a
20 habitual felon? From all the lies Mr. Terrell has told in
21 this court I just can't believe Your Honor. I just can't
22 believe you did this.

23 **THE COURT:** I understand. But I have thought about this
24 long and hard.

25 **MR. BOLICK:** They got to you, Your Honor.

1 **THE COURT:** I slept over it. I think he's right. We'll
2 see.

3 **MR. BOLICK:** We'll see, won't we?

4 **THE COURT:** I'll come up with a proposed written order.
5 If you want to do a proposed order on this, it may help.

6 **MR. TERRELL:** I can do that. Before he is sent away, he
7 might need a minute to calm down. We do need a ruling on the
8 rest of his motions, which you might have just done in that --
9 his motion for appointed counsel. Did Your Honor grant that?

10 **THE COURT:** No.

11 **MR. TERRELL:** Okay.

12 **THE COURT:** I mean do you want me to appoint him counsel?
13 I mean usually he has to do that through the Appellate, we're
14 not going to start over here. I'm going to let him apply
15 through them and they can appoint him counsel on the appellate
16 level. I'm not appointing him one to handle anything in front
17 of this Court, this is over with.

18 **MR. TERRELL:** Okay.

19 **THE COURT:** Until Court of Appeals or Supreme Court sends
20 it back.

21 **MR. TERRELL:** Okay.

22 **MR. HILLER:** I'd ask to be relieved as ---

23 **THE COURT:** Granted.

24 **MR. TERRELL:** Okay. With that goes his motion for
25 consideration or reconsideration that was originally filed

1 where he was asking the Court to take notice of his motion for
2 new trial and motion for mistrial.

3 **THE COURT:** You know I've listened to that, I've
4 reconsidered, I don't think he's entitled to a new trial. And
5 I think it was properly joined.

6 **(COURT IS ADJOURNED)**

C E R T I F I C A T E

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I, the undersigned, Sallie Beth Todd, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete portion of the transcript of the Transcript of Record of the hearing held in the interest of State of South Carolina versus Theodore Jerry Bolick in the Court of General Sessions for Horry County, Horry County Courthouse, Conway, South Carolina, on June 8 - 9, 2021.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.

S. B. Todd
Sallie Beth Todd, CVR
Official Reporter

September 12, 2021.

ARREST WARRANT

2016A2620602250

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Myrtle Beach

THE STATE

16-019007

against

Theodore Jerry Bolick

Address: 2600 S Ocean Blvd #206

Myrtle Beach, SC 29577-4756

Phone: (843)575-9121 SSN: 240-25-0246
Sex: M Race: W Height: 6 Weight: 170

DL State: SC DL #: 0102081033

DOB: 10/7/1964 Agency ORI #: SC0260600

Prosecuting Agency: Myrtle Beach Police Department

Prosecuting Officer: T Macpherson - 6185

Offense: Burglary / Burglary (Non-Violent) - Second degree

Offense Code: 0080

Code/Ordinance Sec: 16-11-0312

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant Theodore Bolick
on 8-28-2016

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
PO Box 677
1301 2nd Avenue
Conway, SC 29528

ORIGINAL

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ORIGINAL

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Myrtle Beach

Personally appeared before me the affiant T Macpherson

being duly sworn deposes and says that defendant Theodore Jerry Bolick

did within this county and state on or about 8/27/2016

State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of Myrtle Beach

in the following particulars:

Description of Offense: Burglary / Burglary (Non-Violent) - Second degree

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:On August 27, 2016 Officers responded to a Burglary call at Giff's Liquors located at 1490 S. Kings Hwy., which is in the City
Limits of Myrtle Beach. At approx. 02:40 hours (night time) Officers met with the owner of the business after the alarm was
activated and it was learned that the business was broken into and \$150 cash was stolen. A right hand work glove was left at the
scene of the burglary. On 8/27/2016 the Defendant was arrested for a burglary of similar Modus Operandi (South end business,
entry through roof, exit through rear door, night time hours). On 8/27/2016 a search warrant was conducted on the Defendant's
residence and Officers located a left hand work glove that matched the right hand glove left at the scene of the burglary.

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Myrtle Beach

Affiant's Address 1101 Oak Street
Myrtle Beach, SC 29577-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 8/27/2016 defendant Theodore Jerry Bolick

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of Myrtle Beach) as set forth below:

DESCRIPTION OF OFFENSE: Burglary / Burglary (Non-Violent) - Second degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable
Sworn to and subscribed before me

on 8/28/2016

Signature of Issuing Judge

William Frontz

Judge Code: 8194

(L.S.)

Judge's Address 1101 Oak Street
Myrtle Beach, SC 29577-

Judge's Telephone (843)918-1356

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL

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AFFIDAVIT

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 515

who

violate the criminal laws of the

)

FILED
Horry County
SEP - 7 AM 8:41
CLERK OF COURT

Pg 403

Pg 385 396

ARREST WARRANT

2016A2620602251

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Myrtle Beach

THE STATE

16-018940

against

Theodore Jerry Bolick

Address: 2600 S Ocean Blvd #206

Myrtle Beach, SC 29577-4756

Phone: (843)575-9121 SSN: 240-25-0246

Sex: M Race: W Height: 6 Weight: 170

DL State: SC DL #: 0102081033

DOB: 10/7/1964 Agency ORI #: SC0260600

Prosecuting Agency: Myrtle Beach Police Department

Prosecuting Officer: T Macpherson - 6185

Offense: Burglary / Burglary (Non-Violent) - Second degree

Offense Code: 0080

Code/Ordinance Sec: 16-11-0312

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Theodore Bolick on 8-28-2016

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
PO Box 677
1301 2nd Avenue
Conway, SC 29528

ORIGINAL

ORIGINAL

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ORIGINAL

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Myrtle Beach

Personally appeared before me the affiant T Macpherson

being duly sworn deposes and says that defendant Theodore Jerry Bolick

did within this county and state on or about 8/26/2016

State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of Myrtle Beach)

in the following particulars:

DESCRIPTION OF OFFENSE: Burglary / Burglary (Non-Violent) - Second degree

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

On August 26, 2016 Officers responded to a Burglary call at the China Chef located at 1470 S. Kings Hwy., which is in the City Limits of Myrtle Beach. The Suspect broke into the Business through the roof and stole approx. \$330 in cash from a cash drawer. Video surveillance at the business captured the Defendant burglarizing the business at approx. 06:31 hours. Sunrise on that date in Myrtle Beach did not occur until 06:45 hours. On 8/27/2016 the Defendant was arrested on a separate burglary in which the same Modus Operandi was used. The business was entered through the roof, in the south end of town during night time hours eight days prior to this burglary.

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Myrtle Beach

Affiant's Address 1101 Oak Street
Myrtle Beach, SC 29577-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 8/26/2016 defendant Theodore Jerry Bolick

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of Myrtle Beach) as set forth below:

DESCRIPTION OF OFFENSE: Burglary / Burglary (Non-Violent) - Second degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 8/28/2016

Signature of Issuing Judge

William Frontz

Judge Code: 8194

Judge's Address 1101 Oak Street
Myrtle Beach, SC 29577-

Judge's Telephone (843)918-1356

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL

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ORIGINAL

AFFIDAVIT

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

who

violate the criminal laws of the

RECEIVED
CLERK OF COURT
HORRY COUNTY, SC

FILED
HORRY COUNTY
2016 SEP - 7 AM 8:42
CLERK OF COURT

19 386-397

19 407

ARREST WARRANT

2016A2620602245

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Myrtle Beach

THE STATE

16-018296

against

Theodore Jerry Bolick

Address: 2600 S Ocean Blvd #206

Myrtle Beach, SC 29577-4756

Phone: SSN: 240-25-0246

Sex: M Race: W Height: 6 Weight: 170

DL State: SC DL #: 0102081033

DOB: 10/7/1964 Agency ORI #: SC0260600

Prosecuting Agency: Myrtle Beach Police Department

Prosecuting Officer: T Macpherson - 6185

Offense: Burglary / Burglary (Non-Violent) - Second degree

Offense Code: 0080

Code/Ordinance Sec: 16-11-0312

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Theodore Bolick on 8-28-16

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
PO Box 677
1301 2nd Avenue
Conway, SC 29528

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Myrtle Beach

Personally appeared before me the affiant T Macpherson

being duly sworn, deposes and says that defendant Theodore Jerry Bolick

did within this county and state on or about 8/18/2016

violate the criminal laws of the

State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of Myrtle Beach)

in the following particulars:

DESCRIPTION OF OFFENSE: Burglary / Burglary (Non-Violent) - Second degree

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

On August 18, 2016 Officers responded to a Burglary call at the Barrel Bar and Grill located at 2303 S. Kings Hwy. within Myrtle Beach. At approx. 04:54 hours (night time) Officers met with the owner of the business after the alarm was activated and it was learned that the business was broken into and a bottle of liquor and keys were stolen. Video surveillance at the business captured the image of the burglar at the time of the theft and a green handled knife with the words "Zombie Killer" was left behind by the Suspect. On 8/27/2016 the Defendant was identified as the person seen in the video surveillance burglarizing the business and placed under arrest. Search incident to arrest revealed that the Defendant had a green handled knife with the words "Zombie Killer" in his possession that matched the knife left at the scene.

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Myrtle Beach

Affiant's Address 1101 Oak Street
Myrtle Beach, SC 29577-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 8/18/2016 defendant Theodore Jerry Bolick

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of Myrtle Beach) as set forth below:

DESCRIPTION OF OFFENSE: Burglary / Burglary (Non-Violent) - Second degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me on 8/27/2016

Signature of Issuing Judge

William Frantz

Judge Code: 8194

(L.S.)

Judge's Address 1101 Oak Street
Myrtle Beach, SC 29577-

Judge's Telephone (843)918-1356

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

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AFFIDAVIT

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

Pg 387398

FILED
Horry County
2016 SEP -7 AM 8:41
CLERK OF COURT

Pg 405

WITNESSES

J. Duesting
Myrtle Beach Police Department

Daniel Eddy

REST WARRANT NUMBER

2016A2620602260
CDR: 0088 16-11-0312(B)
DOA: 8/28/2016

ACTION OF GRAND JURY

TRUE BILL

Ben Melby
Foreperson of Grand Jury OCT 20 2016

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2016-GS-26-04947

The State of South Carolina
County of Horry

Thomas Green Temple, III 16HM4590

COURT OF GENERAL SESSIONS

OCTOBER, 2016 TERM

THE STATE

VS.

Theodore Jerry Bolick
W/M
2600 S Ocean Blvd #206
Myrtle Beach, SC 29577-4759
DOB: 1984-10-07
SSN: 240260248

ATTORNEY: W. Thomas Floyd

Indictment for

BURGLARY, SECOND DEGREE
(VIOLENT)

Jimmy A. Richardson, II, Solicitor

FILED
HORRY COUNTY

2016 OCT 21 PM 3:21

MELANIE J. JAMES-WARD
CLERK OF COURT

DATE RECEIVED FROM
GRAND JURY

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on October 13, 2016, the Grand Jurors of Horry County present upon their oath:

BURGLARY, SECOND DEGREE
(VIOLENT)

CDR: 0086 16-11-0312(B)

That Theodore Jerry Bolick did in Horry County on or about August 27, 2016, enter without consent and with the intent to commit a crime therein, Giffs Liquors, a building located at 1490 S. Kings Hwy., within the city limits of Myrtle Beach, and the defendant, Theodore Jerry Bolick, did enter the building in the nighttime, in violation of Section 16-11-0312(B), S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

Pg 400

~~Pg 389~~

Pg 65

Attachment B

DOCKET NO. 2016-GS-28-04953

The State of South Carolina
County of Horry

Thomas Groom Temell, II 16H04591

COURT OF GENERAL SESSIONS

OCTOBER, 2016 TERM

THE STATE

vs.

Theodore Jerry Bolick
W/M
2800 S Ocean Blvd #208
Myrtle Beach, SC 29577-4758
DOB: 1964-10-07
SSN: 240250246

ATTORNEY: W. Thomas Floyd

Indictment for

BURGLARY, SECOND DEGREE
(VIOLENT)

Jimmy A. Richardson, II, Solicitor

WITNESSES

Amanda Crago
Myrtle Beach Police Department

Daniel Eddy

ARREST WARRANT NUMBER

BA2820802251
CBR: 0088 16-11-0312(B)
DOA: 8/28/2016

ACTION OF GRAND JURY

TRUE BILL

Dee Melby

Foreperson of Grand Jury
Date: OCT 20 2016

VERDICT

Foreperson of Petit Jury
Date:

FILED
HORRY COUNTY
2016 OCT 21 PM 3: 22

MELODY J. WARD
CLERK OF COURT
DATE RECEIVED FROM
GRAND JURY

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

INDICTMENT

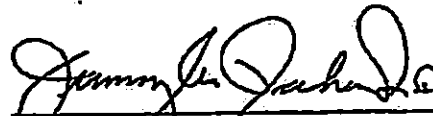
At a Court of General Sessions, convened on October 13, 2016, the Grand Jurors of Horry County present upon their oath:

BURGLARY, SECOND DEGREE
(VIOLENT)

CDR: 0088 16-11-0312(B)

That Theodore Jerry Bolick did in Horry County on or about August 26, 2016, enter without consent and with the intent to commit a crime therein, China Chef, a building located at 1470 S. Kings Hwy., in the city limits of Myrtle Beach, and the defendant, Theodore Jerry Bolick, did enter the building in the nighttime, in violation of Section 16-11-0312(B), S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

Attachment A

Pg 410

WITNESSES

Legan Cooper
Myrtle Beach Police Department

Jester Cook

ARREST WARRANT NUMBER

2820802245
CDR: 0088 18-11-0312(B)
DOA: 8/28/2018

ACTION OF GRAND JURY

TRUE BILL

[Signature]

Foreperson of Grand Jury
Date:

NOV 17 2016

DICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2016-GS-26-05081

The State of South Carolina

County of Horry

Thomas Groom Terrell, III

16H04588

COURT OF GENERAL SESSIONS

NOVEMBER, 2016 TERM

THE STATE

VS.

Theodore Jerry Bollok
W/M
2800 S Ocean Blvd #208
Myrtle Beach, SC 29577-4766
DOB: 1984-10-07
SSN: 240250248

ATTORNEY: W. Thomas Floyd

Indictment for

BURGLARY, SECOND DEGREE
(VIOLENT)

Jimmy A. Richardson, II, Solicitor

FILED
HORRY COUNTY

2016 NOV 23 AM 8:23

MELANIE HUGGINS-WARD
CLERK OF COURT

DATE RECEIVED FROM
GRAND JURY

Pg 403

~~Pg 392~~

~~Pg 68~~

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

INDICTMENT

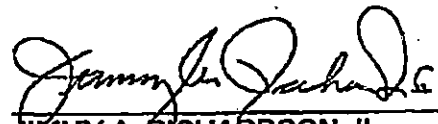
At a Court of General Sessions, convened on November 17, 2016, the Grand Jurors of Horry County present upon their oath:

BURGLARY, SECOND DEGREE
(VIOLENT)

CDR: 0086 16-11-0312(B)

That Theodore Jerry Bolick did in Horry County on or about August 18, 2016, enter without consent and with the intent to commit a crime therein, the Barrel Bar and Grill, a building located 2303 S. Kings Hwy in Myrtle Beach, and the defendant, Theodore Jerry Bolick, did enter the building in the nighttime and/or was armed with a deadly weapon, in violation of Section 16-11-0312(B), S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

Pg 404

~~Pg 393~~

~~Pg 49~~

STATE OF SOUTH CAROLINA

COURT OF APPEALS

Appeal from Horry County
Larry B. Hymaw Jr., Circuit Court Judge
Appellate Case No. 2020-001497

The State

Respondent

V

Theodore Jerry Bolick

Appellant

PROOF OF SERVICE

I hereby certify a copy of the Amended
Record on Appeal and Certification of
Record on Appeal was placed in the U.S.
Mail, postage pre-paid and addressed as
follows

William M. Blitch

P.O. Box 11549

Columbia, S.C. 29211-1549

April 3, 2023

Theodore Bolick

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