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S.C. SUPREME COURT

EXHIBIT A

(Excerpt from *State v. Fabian LaMichael*
R. Green Record on Appeal)

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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JUL 16 2018

SC Court of Appeals

Appeal from Laurens County
Donald B. Hocker, Circuit Court Judge

THE STATE,

RESPONDENT,

v.

FABIAN LAMICHAEL R. GREEN,

APPELLANT

APPELLATE CASE NO 2017-001332

RECORD ON APPEAL

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1 courtroom at this time.

2 (Whereupon, these individuals as indicated by the
3 Court exited the courtroom.)

4 THE COURT: I am going to have them sworn in but I
5 will take care of that, I will take care of that. And,
6 Johnny, he can be just on the other side of the door.

7 (Whereupon, Juror, Ameca Thomas entered the
8 courtroom.)

9 THE COURT: Ms. Thomas, if you will have a seat, I am
10 going to swear you in.

11 AMECA THOMAS, being
12 first duly sworn, testified as follows:

13 THE COURT: Again, I just want to make sure your
14 guilty verdict on both charges was that and is that still
15 your verdict in the case?

16 MS. THOMAS: Yes, sir.

17 THE COURT: Okay. Is your verdict based one-hundred
18 percent on the evidence and testimony and the law
19 presented at this trial?

20 MS. THOMAS: Yes, sir.

21 THE COURT: Okay. Was your verdict influenced in any
22 way whatsoever by any communications that you may have had
23 with any of the bailiffs or any other person outside of
24 the twelve member jury?

25 MS. THOMAS: No, sir.

1 THE COURT: All right. If you had any
2 communications, if you had any communications with any of
3 the bailiffs can you relay to me what those communications
4 were, if you had any.

5 MS. THOMAS: Did not have any.

6 THE COURT: Okay, alright, okay. Thank you, Ma'am.
7 I am going to put you in another room, then bring
8 everybody else, it is still going to be a little bit. I
9 eventually will bring the whole jury back in before I
10 release you. If you can assist, Madam Clerk, on that.

11 (Whereupon, Ms. Thomas exited the courtroom.)

12 (Whereupon, Juror, Rachel Hughes entered the
13 courtroom.)

14 THE COURT: Have a seat and I just need to have you
15 sworn in and ask you a couple of questions.

16 RACHEL HUGHES, being
17 first duly sworn, testified as follows:

18 THE COURT: Can you give me your name, please.

19 MS. HUGHES: Rachel Hughes.

20 THE COURT: Ms. Hughes, I just need to ask you again,
21 the verdict of guilty on both charges, was that and is it
22 still that, your verdict in this case?

23 MS. HUGHES: Yes, sir.

24 THE COURT: Okay. Was your verdict based one-hundred
25 percent on the testimony, evidence and the law presented

1 in this case?

2 MS. HUGHES: Yes, sir.

3 THE COURT: Okay. Was your verdict in any way
4 influenced by any communications that you may have had
5 with any of the bailiffs in this case or anybody outside
6 of the twelve member jury?

7 MS. HUGHES: No, sir.

8 THE COURT: Have you had any communications during
9 this week with any of the bailiffs or any third party
10 outside of the twelve member jury?

11 MS. HUGHES: No, sir.

12 THE COURT: Alright. Thank you, go to another room,
13 I will bring the whole group back out after I do this
14 individually. Okay. Thank you, Ma'am.

15 (Whereupon, Ms. Hughes exited the courtroom.)

16 (Whereupon, Juror, Jacqueline Noffz entered the
17 courtroom.)

18 THE COURT: Have a seat and I just need to have you
19 sworn in.

20 JACQUELINE NOFFZ, being
21 first duly sworn, testified as follows:

22 THE COURT: Give us your name, please.

23 MS. NOFFZ: Jacqueline Noffz.

24 THE COURT: And, Ms. Noffz, your verdict of guilty on
25 both charges, was that and is that still your verdict in

1 this case?

2 MS. NOFFZ: Yes, sir.

3 THE COURT: Okay. Was your verdict based one-hundred
4 percent on the testimony, evidence and law presented in
5 this case?

6 MS. NOFFZ: Yes, sir.

7 THE COURT: Okay. Was your verdict in any way
8 influenced by any communications that you may have had
9 with any of the bailiffs or any third party outside of
10 this twelve person jury?

11 MS. NOFFZ: No, sir.

12 THE COURT: Did you have any communications with any
13 of the bailiffs or with any third parties outside of the
14 twelve member jury?

15 MS. NOFFZ: No, sir.

16 THE COURT: Alright. Thank you, Ma'am. She will
17 tell you where to go.

18 (Whereupon, Ms. Noffz exited the courtroom.)

19 So far my questions in keeping with our conversation?

20 MR. SHAFFER: That's correct, Your Honor.

21 MR. MOWRY: Yes, sir.

22 (Whereupon, Juror, Benjamin Bryson entered the
23 courtroom.)

24 THE COURT: Just have a seat in that first seat and I
25 need to have you sworn in.

1 BENJAMIN BRYSON, being
2 first duly sworn, testified as follows:

3 THE COURT: State your name, please.

4 MR. BRYSON: Benjamin Bryson.

5 THE COURT: Okay, Mr. Bryson, you can put your hand
6 down. Your verdict on guilty of both charges, was that
7 and is that still your verdict in this case?

8 MR. BRYSON: Yes, sir.

9 THE COURT: Was your verdict or is your verdict based
10 one-hundred percent on the testimony, evidence and the law
11 presented in this case?

12 MR. BRYSON: Yes, sir.

13 THE COURT: Okay. Was your verdict influenced, by
14 any means, in any communications that you may have had
15 with any of the bailiffs in this case, or any third party
16 outside of the twelve person jury?

17 MR. BRYSON: No, sir.

18 THE COURT: Did you have any communications with any
19 of the bailiffs or with any third party outside of the
20 twelve person jury?

21 MR. BRYSON: No, sir.

22 THE COURT: Thank you very much, sir. You can go
23 back, she is going to show you where to go.

24 (Whereupon, Mr. Bryson exited the courtroom.)

25 (Whereupon, Juror, Daniel Schrantz entered the

1 courtroom.)

2 THE COURT: Have a seat and I need to have you sworn
3 in.

4 DANIEL SCHRANTZ, being
5 first duly sworn, testified as follows:

6 THE COURT: Give me your name, please.

7 MR. SCHRANTZ: Daniel Nicholas Schrantz.

8 THE COURT: Okay. And your verdict of guilty on both
9 of the charges, was that and is that still your verdict in
10 this case?

11 MR. SCHRANTZ: Yes, sir.

12 THE COURT: Alright. Was your verdict and is your
13 verdict based totally, one-hundred percent, on the
14 testimony, evidence and law presented in this case?

15 MR. SCHRANTZ: Yes, sir.

16 THE COURT: Was your verdict influenced in any manner
17 whatsoever by any communications with any of the bailiffs
18 or any third party, not a part of the twelve person jury?

19 MR. SCHRANTZ: No, sir.

20 THE COURT: Have you had any communications with any
21 of the bailiffs or any third party, not a part of the
22 twelve person jury?

23 MR. SCHRANTZ: No, sir.

24 THE COURT: Thank you very much, sir. She will show
25 you where to go.

1 (Whereupon, Mr. Schrantz exited the courtroom.)

2 (Whereupon, Juror, Shannon Byers entered the
3 courtroom.)

4 THE COURT: Come on in and have a seat and I need to
5 have you sworn in, Ma'am.

6 SHANNON BYERS, being
7 first duly sworn, testified as follows:

8 THE COURT: Have a seat. Concerning your verdict of
9 guilty on both charges, was that and is that still your
10 verdict in this case?

11 MS. BYERS: Yes, sir.

12 THE COURT: Was your verdict and is your verdict
13 based one-hundred percent on the evidence, testimony and
14 law presented in this case?

15 MS. BYERS: Yes, sir.

16 THE COURT: Was your verdict influenced in any manner
17 whatsoever by any communications with any of the bailiffs
18 or any third party not a part of the twelve person jury?

19 MS. BYERS: No, sir.

20 THE COURT: Did you have any communications with any
21 of the bailiffs or any third party, not a part of the
22 jury?

23 MS. BYERS: No. Not about the case.

24 THE COURT: Tell me, did you have any communications
25 with the bailiffs?

1 MS. BYERS: Just if we could walk outside.

2 THE COURT: Okay. Anything else other, can we take a
3 break. I know that there was a break requested today,
4 this afternoon.

5 MS. BYERS: Right.

6 THE COURT: Any other communications?

7 MS. BYERS: No.

8 THE COURT: Thank you very much, Ma'am.

9 (Whereupon, Ms. Byers exited the courtroom.)

10 (Whereupon, Juror, Velvet Boston entered the
11 courtroom.)

12 THE COURT: I just need to have you sworn in.

13 VELVET BOSTON, being
14 first duly sworn, testified as follows:

15 THE COURT: Your verdict of guilty on both charges,
16 was that and is that still your verdict in this case?

17 MS. BOSTON: Yes.

18 THE COURT: You hesitated, are you sure?

19 MS. BOSTON: Yes.

20 THE COURT: Was and is your verdict based one-hundred
21 percent on the testimony, evidence and law presented in
22 this case?

23 MS. BOSTON: Yes.

24 THE COURT: Okay. Was your verdict influenced in any
25 manner whatsoever by any communications with any of the

1 bailiffs or any third party not connected with the twelve
2 person jury?

3 MS. BOSTON: No.

4 THE COURT: Did you have any communications with
5 either any of the bailiffs or with any third party, not a
6 part of the twelve person jury?

7 MS. BOSTON: No.

8 THE COURT: Thank you, Ma'am. She will show you
9 where to go.

10 (Whereupon, Ms. Boston exited the courtroom.)

11 (Whereupon, Juror, Stacy Ruff entered the courtroom.)

12 THE COURT: Have a seat right here, Ma'am. Thank
13 you. I need to have you sworn in.

14 STACY RUFF, being

15 first duly sworn, testified as follows:

16 THE COURT: Your verdict of guilty in this case on
17 both charges, was that and is that your verdict in this
18 case?

19 MS. RUFF: Yes, sir.

20 THE COURT: Was and is your verdict based one-hundred
21 percent on the testimony, evidence and law presented in
22 this case?

23 MS. RUFF: Yes, sir.

24 THE COURT: Was your verdict influenced in any manner
25 whatsoever by any communications with any of the bailiffs

1 or any third party not a part of the jury?

2 MS. RUFF: No, sir.

3 THE COURT: Did you have any communications with any
4 of the bailiffs or with any third party not a part of the
5 jury?

6 MS. RUFF: No, sir.

7 THE COURT: Okay, thank you, Ma'am.

8 (Whereupon, Ms. Ruff exited the courtroom.)

9 (Whereupon, Juror, Octavius Wheeler entered the
10 courtroom.)

11 THE COURT: Have a seat here and I need to swear you
12 in.

13 OCTAVIUS WHEELER, being
14 first duly sworn, testified as follows:

15 THE COURT: Your verdict of guilty on both charges in
16 this case, was that and is that currently your verdict in
17 this case?

18 MR. WHEELER: Yes, sir.

19 THE COURT: Is that a, yes sir?

20 MR. WHEELER: Yes, sir.

21 THE COURT: Okay. Was and is your verdict based
22 one-hundred percent on the testimony, evidence and law
23 presented to you in this case?

24 MR. WHEELER: Yes, sir.

25 THE COURT: Was your verdict influenced by any

1 communications with any bailiffs or any third party not
2 connected with the jury?

3 MR. WHEELER: No, sir.

4 THE COURT: Did you have any communications with any
5 of the bailiffs or with any third party not a part of the
6 jury?

7 MR. WHEELER: No, sir.

8 THE COURT: Okay, thank you, she will show you where
9 to go. Oh, we need your name for the record.

10 MR. WHEELER: Octavius Wheeler.

11 (Whereupon, Mr. Wheeler exited the courtroom.)

12 (Whereupon, Juror, Garrett Pace entered the
13 courtroom.)

14 THE COURT: Come on around, sir, and have a seat
15 right there. I need you to raise your right hand, let me
16 swear you in, please.

17 GARRETT PACE, being
18 first duly sworn, testified as follows:

19 THE COURT: Your verdict of guilty on both charges,
20 was that and is that currently your verdict in this case?

21 MR. GARRETT: Yes, sir.

22 THE COURT: Was and is your verdict based one-hundred
23 percent on the testimony, evidence and law presented to
24 you in this case?

25 MR. GARRETT: Yes, sir.

1 THE COURT: Was your verdict influenced in any way,
2 with any communications with any of the bailiffs or any
3 third party not connected with the jury in this case?

4 MR. GARRETT: No, sir.

5 THE COURT: Did you have any communications with any
6 of the bailiffs or with any third party not a part of the
7 jury in this case?

8 MR. GARRETT: Not on the case, no.

9 THE COURT: Did you have any communications with any
10 of the bailiffs or any third party?

11 MR. GARRETT: Just in a professional manner, yes.

12 THE COURT: Need to tell me what those communications
13 were.

14 MR. GARRETT: Just walking in, telling to come in,
15 come out. Did I talk to them, yes.

16 THE COURT: Anything related to this case?

17 MR. GARRETT: No, sir.

18 THE COURT: All right. And your name?

19 MR. GARRETT: Garrett Pace.

20 THE COURT: Mr. Pace, thank you, she will show you
21 where to go.

22 (Whereupon, Mr. Pace exited the courtroom.)

23 (Whereupon, Juror, Jocelyn Ellis entered the
24 courtroom.)

25 THE COURT: I need to swear you in, would your raise

1 your right hand, please, Ma'am.

2 JOCELYN ELLIS, being

3 first duly sworn, testified as follows:

4 THE COURT: Your name?

5 MS. ELLIS: Jocelyn Ellis.

6 THE COURT: And, Ms. Ellis, your verdict of guilty on
7 both charges in this case, was that and is that currently
8 your verdict in this case?

9 MS. ELLIS: Yes, sir.

10 THE COURT: Was and is your verdict based one-hundred
11 percent on the testimony, evidence and law presented to
12 you in this case.

13 MS. ELLIS: Yes, sir.

14 THE COURT: Was your verdict influenced in any manner
15 with any communications with any of the bailiffs and any
16 third party not a part of the jury in this case?

17 MS. ELLIS: No, sir.

18 THE COURT: Did you have any communications with any
19 of the bailiffs or with any third party not a part of the
20 jury in this case?

21 MS. ELLIS: No, sir.

22 THE COURT: Thank you, Ms. Ellis, she will show you
23 where to go.

24 (Whereupon, Ms. Ellis exited the courtroom.)

25 (Whereupon, Juror, Christopher Vaughn entered the

1 courtroom.)

2 THE COURT: Have a seat, I need to swear you in.

3 CHRISTOPHER VAUGHN, being

4 first duly sworn, testified as follows:

5 THE COURT: And your name again?

6 MR. VAUGHN: Chris Vaughn.

7 THE COURT: And, Mr. Vaughn, your verdict of guilty
8 on both charges in this case, was that and is that
9 currently your verdict in this case?

10 MR. VAUGHN: Yes.

11 THE COURT: Was and is your verdict in this case
12 based one-hundred percent on the testimony, evidence and
13 law presented to you in this case?

14 MR. VAUGHN: Absolutely.

15 THE COURT: Was your verdict influenced in any
16 manner, in any way, by any communications with any
17 bailiffs or any third party not a part of the jury in this
18 case?

19 MR. VAUGHN: No, Your Honor.

20 THE COURT: Did you have any communications with any
21 of the bailiffs or with any third party not a part of the
22 jury in this case?

23 MR. VAUGHN: Absolutely not, Your Honor.

24 THE COURT: Thank you, sir, she will show you where
25 to go.

1 (Whereupon, Mr. Vaughn exited the courtroom.)

2 THE COURT: I think that is the last one, Madam
3 Clerk?

4 MADAM CLERK: Yes, sir.

5 THE COURT: Okay. What I am going to do is bring the
6 jury back out, thank them for their service, give them the
7 little spill that I give and, but before they come in we
8 can certainly bring everybody back into the courtroom and
9 then excuse the jury. And then we can, I can hear any
10 matters you need to raise, you need to hold up first?

11 MR. SHAFFER: Well, Your Honor, I thought we were
12 going to question the two bailiffs as well. That is part
13 of my motion for a mistrial, I would like to question both
14 of them.

15 THE COURT: Okay, alright, we can do that then.
16 Which one do you want first?

17 MR. SHAFFER: It doesn't matter, whichever one.

18 THE COURT: Okay.

19 MR. MOWRY: Technically, Your Honor, I think the more
20 important thing with this is the, is the answers from the
21 jury.

22 THE COURT: Right. And I agree. I think that is
23 controlling as far as how they responded to my questions.
24 However, for there to be a complete record and since we
25 did have some informal talks with the bailiffs and I will

1 allow some, and I will allow you to conduct some limited
2 examination of both Mr. Easley and Mr. Bolt, just so we
3 can have a record even though I have to agree with the
4 State that I think the answers from the jury are, would be
5 controlling in this case. But I want to have a complete
6 record and I don't want to prevent you from not having a
7 complete record.

8 MR. SHAFFER: Okay, Your Honor.

9 THE COURT: Are you satisfied with you conducting
10 this?

11 MR. SHAFFER: Yes, Your Honor.

12 MR. MOWRY: Your Honor, if we could, on the motion
13 for a mistrial, if we could do that also with a cleared
14 courtroom so that is not--

15 THE COURT: Sure, I don't have a problem with that.
16 Since we are talking, you know, if, because I typically on
17 motions for a new trial I give the Defense lawyer, if it
18 is a guilty verdict, ten days to make any motions for a
19 new trial. I will be glad to give that time for motion
20 for a mistrial as well.

21 MR. SHAFFER: And, Your Honor, I actually to do a--

22 THE COURT: Excuse me?

23 MR. SHAFFER: I am happy to do it if the Court would
24 like me to within ten days. I think I can make it
25 sufficiently. I already have one realm for a mistrial

1 being the previous juror issue from the first day.

2 THE COURT: Right.

3 MR. SHAFFER: I was also going to move based off of
4 this. But I, I am happy to do it either way. I am happy
5 to do it orally or in writing.

6 THE COURT: No, we can do it now. I offer that if
7 counsel wants some time to get their thoughts together.
8 But, no, I, we can do it now, we can do mistrial motion
9 now, new trial motion now. That is not a problem, I just
10 offer that.

11 MR. SHAFFER: I should be able to do it now, Your
12 Honor.

13 THE COURT: Okay. Alright, let's, can you bring,
14 let's just bring Mr. Bolt in and you can examine him and
15 then we will bring Mr. Easley in. Okay.

16 (Whereupon, Bailiff, Johnny Bolt entered the
17 courtroom.)

18 THE COURT: Mr. Bolt, I need to have you sworn in and
19 just put something on the record concerning your
20 communications with us back in-chambers.

21 JOHNNY BOLT, being
22 first duly sworn, testified as follows:

23 THE COURT: And I am going to allow, he is going to
24 conduct just some limited questions, so I am going to
25 allow Mr. Shaffer to do that.

EXAMINATION BY MR. SHAFFER

1
2 By Mr. Shaffer:

3 Q Mr. Bolt, during your time as a Bailiff working on
4 this case you said, am I correct in saying that you had
5 some communication with jurors?

6 A Not really communication, just other than the fact
7 that when we went on break and outside there was concern
8 that they just asked me about, well they didn't really ask
9 me, just kind of came out, one individual kind of brought
10 up something that was involved, why did we have so many,
11 because I could sense there was some fear amongst them,
12 you know, because, and anyway I told them they were for
13 protection, for the Judge, the victims, for the jurors and
14 they didn't have anything to worry about. But they had
15 some, for some reason they had a lot of concerns as far as
16 fear was concerned. And that is when, because I, I had
17 one girl, one juror had asked me, says I want to ask you
18 something. I said, as long as it has nothing to do
19 concerning the trial. Because I have been doing this long
20 enough to know that I am not suppose to communicate about
21 nothing about what the trial or what, you know, goes on
22 and everything. So basically, fear of some things that
23 was noticed in the courtroom as far as some pointing to
24 the jurors going up and down the hall.

25 Q What do you mean by pointing at jurors going up and

1 down the hall?

2 A Well, one of them, it wasn't me but one of the other
3 Bailiffs had told me that one of the jurors had, not the
4 jury, one of the Defendant's member would point at them
5 going, you know, going up and down the hall. Said, you
6 know, like that, you know.

7 Q The Defendant's family member?

8 A Yes.

9 Q Do you have any details of which juror this was?

10 A No sir, I don't. Because I am used to pretty much
11 standing here. And then, of course, they see some things
12 that is going on in the courtroom as far as, you know,
13 like they had to take, I think on two different occasions,
14 had to take a family member, you know, escort them out of
15 the courtroom, I think making some kind of hand motions or
16 some kind of something which I didn't even see. I had to
17 ask later what was going on. Somebody raised their hand
18 so they took them out.

19 Q Did any, at any point during their deliberations did
20 they ever mention to you that they may be deadlocked?

21 A No, no. But they just, the Foreman did say, what
22 happens if we can't reach a, reach a, you know, that, we
23 can't reach any verdict. And I said, well, the Judge will
24 give you some details on that if something happens, that
25 you will need to write him a note and I will have to take

1 it to him.

2 Q Okay. Did you ever tell them anything about an Allen
3 Charge?

4 A Well, I was familiar and I said, well, he will give
5 an Allen charge, you know, because I have been doing a
6 lot, I have seen this and I just mentioned, you know, that
7 is usually the procedure that they do. And I said, yeah,
8 he would probably give you an Allen charge. I said, well,
9 he will just give you a charge and probably want to see
10 if, see if you can stay later, something or another, of
11 that nature.

12 Q Okay. Specifically related to the Allen charge, do
13 you recall the exact words that you said to the juror?

14 A I just mentioned name, Allen charge, and that, that
15 he may give them an Allen charge if they need.

16 Q And you told them they may have to stay later?

17 A I said once we give them the Allen charge, it is
18 based on what he told them.

19 Q Okay. And that they would have to go back and stay
20 later and deliberate?

21 A I didn't, I don't recall saying that.

22 Q What did you say specifically, because you just said
23 something about, if they gave you, you told them that the
24 Judge would probably give them an Allen charge?

25 A I mentioned the Allen charge, I did know what that

1 was. I said an Allen charge, he may give you an Allen
2 charge, you may have to, well I did say, he may ask you to
3 stay and stay later. I think that is what I said.

4 Q No further questions.

5 THE COURT: Okay. All right, Mr. Bolt, if you will
6 go on out and ask Mr. Easley to come in, please.

7 (Whereupon, Mr. Bolt exited the courtroom.)

8 (Whereupon, Bailiff, Mike Easley entered the
9 courtroom.)

10 THE COURT: Mr. Easley, I just need to have you sworn
11 in and Mr. Shaffer is going to ask you some questions.

12 MIKE EASLEY, being
13 first duly sworn, testified as follows:

14 EXAMINATION BY MR. SHAFFER

15 By Mr. Shaffer:

16 Q It is Mr. Easley, correct?

17 A Yes.

18 Q Mr. Easley, did you have any communication with any
19 juror about this case?

20 A About the case, no sir.

21 Q Okay. Did you have any communication with any of the
22 jurors about my client's family?

23 A There were questions asked to me by the jury.

24 Q What did they ask you?

25 A They would come to me, when they were coming in in

1 the mornings, one of them said that she felt uncomfortable
2 in the hallway, that the Green Family had been walking in
3 front of her and they stopped and turned around and
4 pointed at her. I had jurors this week ask where the
5 family was, are we going to be alright when we leave the
6 building. Other than that that is the gist of everything.

7 Q Did you, did you communicate in any way back with
8 them about the Green Family?

9 A Just that they would, everything would be alright
10 because we would make sure that there were no problems.

11 Q Okay. Did you have any communication or do you have
12 any knowledge about whether or not the jury was
13 deadlocked?

14 A No, I could not know what their--

15 Q Did anyone ever tell you anything about an Allen
16 charge coming from the jury?

17 A Coming from the jury, no.

18 Q Okay. What about coming from Mr. Bolt, what did Mr.
19 Bolt tell you about the Allen charge?

20 A Mr. Bolt never said anything to me personally about
21 the Allen charge. I know what it is and I know the
22 purpose of it.

23 Q Okay. And did Mr. Bolt tell you anything about being
24 deadlocked?

25 A No.

1 Q The jurors being deadlocked?

2 A No.

3 Q No further questions.

4 THE COURT: Thank you, Mr. Easley.

5 (Whereupon, Mr. Easley exited the courtroom.)

6 MR. MOWRY: Quite frankly, Your Honor, I think, as
7 far as Mr. Easley is concerned, that is exactly what the
8 Bailiffs are here for. They are here to receive jury
9 concerns and deal with those.

10 THE COURT: I understand. Let's go ahead and, let's
11 cut the jury loose, let me bring them in, thank them for
12 their service and going to cut them loose and then we will
13 take up your mistrial motion and then if you want to renew
14 your new trial motion with everybody back in we can do
15 that. Because I image your new trial motion is just going
16 to be raising issues that you have already raised anyway.

17 MR. SHAFFER: Yes, Your Honor.

18 MR. MOWRY: Do you want the family in here for this,
19 Your Honor.

20 THE COURT: Let's go ahead and leave them out so we
21 don't go back and forth.

22 MR. MOWRY: Alright.

23 (Whereupon, the jury came into open court at
24 approximately 7:11 p.m.)

25 THE COURT: In about two minutes, ladies and

1 gentlemen, I am going to cut you loose, how about that, is
2 that good news. Let me just tell you a couple of things.
3 First of all, the verdict that you reach in this case
4 matters, doesn't mean anything to me, doesn't matter
5 whether you find somebody guilty, it doesn't matter if you
6 find somebody not guilty. What matters to me is that you
7 perform your jury duty conscientiously, that you take it
8 seriously, that you work hard and that you follow all of
9 my instructions and you have done that. And that is what
10 is important to me. As I told you early on this week and
11 I think maybe one of the lawyers eluded to it, how high a
12 responsibility it is to serve on a jury. And we take it
13 very seriously and I believe you have taken it very
14 seriously as well. And so I appreciate that. It is a
15 tough job, I have never personally served on a jury,
16 naturally I won't ever serve on a jury. But I know that
17 it is tough just being a part of the judicial process in
18 the roll that I am. But even though it has been tough and
19 it has been hard and it has been long hours and now it is
20 7:15 on a Friday night, I hope that you can say that you
21 have experienced something, learned something that you
22 didn't know before. And that even though it is extremely
23 difficult, very hard to find someone guilty of serious
24 criminal charges, I hope that you can still say that it
25 has been a good experience for you in some respect, I am

1 not saying everything would be a good experience but at
2 least in some respects. And that maybe some time down the
3 road you would not be adverse to serving on a jury again,
4 whether it is in the criminal arena or whether it is in
5 the civil arena. I am going to Greenwood next week and
6 try a civil case. So, I thank you, I would like to, as
7 you are exiting, I like to shake the hands of my jury.
8 Madam Forelady, you need to hang around for just a minute
9 because you have to sign the back of both of the
10 indictments. So if you will just kind of hang, I tell you
11 what, if you would go to the, come around and get with Ms.
12 Lancaster. When you exit, just hang around here because
13 the Clerk has your checks. Don't make big plans for the
14 check. We will be engaging in the sentencing phase of
15 this trial in just a little bit. If you would like to
16 stay around for that you are more than welcome to, you
17 certainly don't have to. You are more than welcome to.
18 If you do they will assist you in coming back around and
19 sitting in the very back of the courtroom, just let the
20 deputies know that and they can assist you with that.
21 Okay. So, just exit and hang around so the Clerk can hand
22 you your checks.

23 (Whereupon, the jury was excused from open court at
24 approximately 7:15 p.m.)

25 THE COURT: We still need to keep the courtroom clear

1 and let's go ahead and do the mistrial motion and then we
2 can maybe take a short little break and finish up
3 everything else.

4 MR. SHAFFER: Your Honor, obviously in-chambers,
5 before the jury came back, we were informed about
6 essentially Mr. Bolt's communication with the jury, the
7 jurors or a juror, I am not sure how many it was. Your
8 Honor, I would, I guess I moved in-chambers for a mistrial
9 based off of that. Your Honor, I think that he is
10 entitled to, yeah, he is sufficiently entitled to a trial
11 by a jury that is free of improper influences. I cite to
12 a case called Holmes versus United States which is a
13 Fourth Circuit case from 1960. It is 284, F.2d, 716. And
14 it is a case involving, you know, similar facts, because
15 it is a little bit different issue. It is whether or not,
16 basically a court person, someone in the court informed
17 the jurors of where someone was being housed at, that they
18 were being housed in pretrial detention somewhere. I very
19 quickly read it, I haven't read the entire thing but
20 essentially the Fourth Circuit, that that was, that was a
21 Constitutional violation. There is some South Carolina
22 cases that address this issue mainly dealing with things
23 about asking a question. I think that Mr. Bolt's
24 questions, I guess his response to their question, you
25 know, what happens if we can't reach a verdict. Well, the