



## EPISODE 5: Motions, Motives & Mullen

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[00:00:00] **Liz Farrell:** Let's start with Mandy. Mandy, why don't you catch us up on this motion to compel that was filed by Dick Harpootlian and Jim Griffin last week looking for more information about a certain polygraph that was taken by Curtis Eddie Smith in the Alex Murdaugh murder investigation?

[00:00:23] **Mandy Matney:** So first of all, my voice is shot from the wedding and talking to people for the last five, six days, whatever. We had a great time, but my voice, you can tell. But there are a couple things I wanna say about this. First of all, all of this is a distraction. Let's start there. This motion to compel is a giant distraction. And honestly, my takeaway when I first read it again on wedding week, in between a million other different things, was "This is all that they came up with." Because we knew that Alex was trying to pin it on Eddie since last September. We knew Alex was gonna pin it on Eddie since last September. We'll repeat that many times because I cannot stress that enough. And the fact that it took this long for the defense to officially say "We're pointing the finger here," I felt like that meant that they didn't have much else to go off of.

[00:01:22] **Liz Farrell:** Have you ever done a polygraph, Eric?

[00:01:24] **Eric Bland:** I have for a client. It's a valuable tool for defense attorney, criminal defense attorneys.

[00:01:29] **Liz Farrell:** I've taken one myself. I've been strapped up and had the questions asked. And they spend a considerable amount of time with you talking, you know, through your background or whatever the information is that they're trying to get. They try to put you at ease and then they ask a couple questions. They ask some questions that are misdirects, meaning they want you to lie when you answer the questions so that they can see what that looks like, right? So Eddie was asked three questions. He was asked, Did you shoot either of those people at that property on Moselle Road? Did you shoot either of those people at the property on Moselle Road last June? Were you present when either of those people were shot at the property at Moselle Road? So notice they didn't use the names "Maggie" and "Paul." Is that weird?



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[00:02:13] **Eric Bland:** Not necessarily. You have to look at the polygraph and its totality to see how many other questions he failed. If there's some people that are incapable of getting an accurate reading on questions because even the foundation questions, they can't even get in a truthful manner when they are answering them truthful. So the machine itself, depending on, you know, how it's read, what the frame questions are, all that has to be looked at. So if he failed basic questions that are true and answered them true, then it's of no value. To a criminal defense attorney, it is in tremendous value. Very rarely do you ask your client, "Hey. Did you kill this person?" or "Did you rape this person?" or "Did you burn that house down?" What we do is we put them on a polygraph test and we hot mic them to see how they would do. If they would do very well and those questions that are answered around the fringes are truthful, then we'll tell the state, the prosecutor, "You can polygraph our guy." We've already polygraphed him with, you know, a former FBI guy or a former SLED guy who they respect and he passes it, then that would cause the prosecutor to pause. So a criminal defense attorney, in most cases, use these polygraph exams only if his client passes his polygraph exam.

[00:03:42] **Liz Farrell:** Right. So that sounds like trickery to me almost because, from what I understand, polygraphs are generally not admissible. So tell me how this works, like —

[00:03:51] **Eric Bland:** But they have value. They have value.

[00:03:54] **Liz Farrell:** Sure. I get that they have value, but they're not a proven science per se. They're not necessarily, so from an investigator's standpoint, I don't think that they think it has value beyond maybe the willingness of the accused to sit for one.

[00:04:07] **Eric Bland:** Well, let me give you an example. Courts have to determine what evidence comes in. And like you said, polygraph is an unproven science. But the standard for a judge is to determine under the Frye test or another case called Kumho Tire, is it a generally accepted means of scientific testing and is it the subject of peer group? So one of the things is dog barking is another thing, handwriting experts is another type of evidentiary thing that people —



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[00:04:42] **Liz Farrell:** Wait. Go back to dog barking. What is dog barking? There's like a science?

[00:04:46] **Eric Bland:** Yeah. Like if a dog is barking really, really loud, what does it, it means that —

[00:04:51] **Liz Farrell:** Stop it.

[00:04:51] **Eric Bland:** Yeah. It means that people are coming into the house. That's the same thing with handwriting experts, for instance. You know, sometimes when —

[00:05:00] **Liz Farrell:** Eric, you keep trying to move away from the dog thing, but I wanna talk more about the dog thing. So you're saying that there are scientists who study dog barks and can be brought in on like a murder trial or some sort of criminal trial.

[00:05:13] **Eric Bland:** People will try. People will try. The prosecution may try and say, "Hey, the neighbor's dog, who very rarely ever barks at three o'clock in the morning, it started barking incessantly, and that is the exact time that that person broke into the neighbor's house." And it is a science. Some people will debate whether it's an actual empirical science that peer groups study. But there are people that do that. There's a scientist and an expert for everything.

[00:05:42] **Liz Farrell:** So there's basically like the, so the prosecution or the investigators are like, have a bunch of little bricks that they're putting together to build their case. The defense doesn't have to prove anything, right? Or you're saying in this case, you've said before that because Dick has said "My client is innocent and I'm going to prove it," now, he has to sort of do that. And it's one way, I guess, of accusing Eddie Smith of murder, which is basically what they've done.

[00:06:05] **Eric Bland:** Oh, he committed defamation. He did more than just accused.

[00:06:08] **Liz Farrell:** Yeah, I was wondering about that.



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[00:06:10] **Eric Bland:** Dick just accused the man who the state has never implicated in this case, hasn't charged him as a co-conspirator, hasn't charged him, you know, before an accessory, before or after this crime, hasn't charged him with misprison of a felony — nothing.

[00:06:26] **Liz Farrell:** Why are they doing this then? Why would he risk that as, I mean, it's Dick Harpootlian. Why is he risking such, I mean, he has a lot of money to lose, right? What if Eddie Smith comes back around?

[00:06:37] **Eric Bland:** Well, he's already been charged with the fake Labor Day shooting. At or about the time this polygraph evidently took place, he was additionally charged for money laundering. And he's accused of being a drug runner for Alex. So —

[00:06:53] **Liz Farrell:** But those are all accusations. He's not been found guilty of any of those. So in a way, his reputation is just somebody who's been accused of a lot of things related to Alex. So —

[00:07:03] **Eric Bland:** The question is, did Dick strategically decide I'd rather face the defamation suit from the likes of cousin Eddie and now I can salt the public with "I found the real killer"?

[00:07:14] **Liz Farrell:** Alex Murdaugh must smell like cookies because there's very few people that I would go, I don't think there's anyone I would go to this length for, not even professionally. And Dick seems to be putting it all in the trailer and lighting a match to it. So, I'm not sure what's up with that.

[00:07:28] **Eric Bland:** There's something about Alex and something about these type of people that they will compromise a lifelong reputation of good lawyering and credibility.

[00:07:39] **Liz Farrell:** So now that they're saying that, you know, basically they're saying the state isn't giving the full, like you had said earlier about the totality of the data, so I'd be, I think, is the move here basically to say, "Look how bad the state is at investigating this case"?

[00:07:54] **Eric Bland:** Well, yeah. I mean, Dick has been, his main defense is, look, it's taking you a year before you brought these charges. You know, if the evidence was available from the start, you should have brought these charges



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from the start. You know, you've only singled your focus on Alex. You've not focused on anybody else. And now, Dick is starting to say, look, here's Eddie. Three-quarters of the way into your investigation, two months before you brought your charges, somebody fails a polygraph on the basic questions on did they shoot somebody at this property on Moselle.

[00:08:26] **Liz Farrell:** But that's the thing I think that's annoying me about this. It's just two months before you brought the charges, like we had been hearing, you know, month after month that we were, the charges were coming. The charges were coming. And it just seems like this was, I just don't know why, what SLED stood to gain from this. Do you think they did the polygraph perhaps at the request of Harpootlian or knowing that at some point, this was gonna be brought up? Because, again, if they're generally not admissible in the trial, then what is the point of this?

[00:08:55] **Eric Bland:** Well, Eddie's a cooperating witness.

[00:08:57] **Liz Farrell:** What does that mean? A cooperating, just a witness that cooperates?

[00:09:00] **Eric Bland:** There is something more to it. It depends on, you know, what he's cooperating on. But he obviously was being, cooperating on the drug purchasing, the money issues. And the state felt, you know, was the juice worth the squeeze? Evidently, he wasn't giving information that they wanted, and they decided to up the flame on him, and that's why those charges came in the spring to just let him know that we can continue to put a thumbtack to you. You know, from Dick's standpoint, I've always told you he's a .44-caliber smoke maker. So he's starting a fire over here with this polygraph. Let's get back to the scientific evidence that we have, the medical evidence. Is he attacking the medical evidence? The answer is "no." He's attacking peripheral stuff and saying, "Let's focus over here. Take your focus off the gun powder residue. Take your focus off the brain matter and the phones." The phones. Mandy, what are your thoughts about, you know, polygraph in general? I mean, I'm sure during your career as an investigative journalist, you've heard about polygraphs. Do you think they're of any value? What are your concerns regarding polygraph?

[00:10:17] **Mandy Matney:** Polygraphs are not admissible in court. They don't matter. Alex Murdaugh probably took a lot of polygraphs and he probably





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passed them because I think he's a psychopath. Eddie Smith probably isn't used to this whole game. I'm sure Eddie grew up in the low country. He knows the power of the Murdaughs. I'm sure his nerves were going nuts thinking that he's going to be the scapegoat in this double homicide. Granted, I'm not saying Eddie is completely innocent or innocent at all. I don't know.

[00:10:46] **Liz Farrell:** Okay. I wanted, let me just tell you first because this kind of, it's not funny, it's actually really grotesque, but I guess, you know, don't ask Eddie for his theories unless you wanna hear them. So while he was sitting for this polygraph, he had an alternate theory to what happened to Maggie and Paul, and that alternate theory is this. I'm gonna just read it verbatim because it'll set the scene for you. I heard that Maggie had a thing going on with the groundskeeper, which I never met him, don't know his name. And Paul went down into one of the barns and caught him and he got upset. And he went and got his rifle and was hollering and screaming. His mama, his mama was running and she fell down and she got up. And he shot her in the ass and the bullet come out the top of her head. And then he turned to the groundskeeper guy, but the groundskeeper guy already went to his truck and got a shotgun. So that is Eddie's version of what happened that night at Moselle. Now, let me just tell you something.

[00:11:36] **Eric Bland:** Is Eddie on LSD?

[00:11:38] **Liz Farrell:** How does he know that she fell and got up? Either he's been listening to our podcast or somebody told him something because her falling and getting up again is, from what we've been told by our sources, one of the critical hearts of her trying to escape getting shot. But what an explanation, huh?

[00:11:56] **Eric Bland:** Eddie's either high on LSD or mushrooms because one, I don't know if Eddie's got the skill set to even figure out a podcast and how to listen to it. But he's grasping at straws at this point because he knows he's facing many years in prison.

[00:12:12] **Liz Farrell:** How does this get introduced then when, the trial happens in January, right? The state presents its evidence.

[00:12:17] **Eric Bland:** Yeah, he's not, Dick's not introducing this polygraph.



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[00:12:19] **Liz Farrell:** So what's the point? Like what is, this is like, it's —

[00:12:21] **Eric Bland:** He's salting the earth.

[00:12:23] **Liz Farrell:** That's all it is.

[00:12:24] **Eric Bland:** You got jurors out there who read the newspaper, hear the news, listen to podcasts, talk to neighbors over the fences, have coffee at the coffee shop. He wants one juror. Liz, let's get back to that. Yes, he's saying I'm gonna, I want my client to be proven innocent, but Dick Harpootlian will walk outta that courtroom and smile if, after a judge gives the dynamite Allen charge and the jury still comes back and says, "We're hung," and the judge says, "I'm sorry. It's a hung jury," Dick Harpootlian will walk out grinning like a Cheshire cat.

[00:12:58] **Liz Farrell:** I also wanna ask Mandy to wrap this up for us, the polygraph conversation, because I think for a while now, Mandy, you've been saying that, you know, Eddie to some degree is kind of a fall guy, if we're gonna be talking about fall guys. And, you know, from the very start, you know, you had the guy with the least amount of power getting charged. So I just wanna hear your thoughts on that and if you could share that with people because, you know, we have had a lot of conversations between the two of us about Eddie and you've done a lot of reporting on that. So what do you think?

[00:13:25] **Mandy Matney:** When you look at means, motive, and opportunity, Eddie Smith does not have any of them and Alex has all of them. So, again, this is a giant distraction and we can't ignore that. And we'll be right back.

[00:13:44] **Liz Farrell:** Okay. Eric, I have a gift for you and I think you're gonna —

[00:13:47] **Eric Bland:** Well, that's nice.

[00:13:48] **Liz Farrell:** First, I just wanna give a little background. In 2017, Carmen Mullen, Judge Carmen Mullen, was involved in a —

[00:13:54] **Eric Bland:** Oh, gotcha.



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[00:13:55] **Liz Farrell:** Yep. Was involved in a situation on Hilton Head where she lives in Port Royal Plantation. And this is sort of a mythical police report. For some reason, our police reporters missed this, and it could be simply that it's because her name is misspelled throughout the police report. So if you were to do a search or ask for reports on Carmen Mullen, M-U-L-L-E-N, you would not have gotten this report. So this police report had her last name misspelled and we finally found it. I want you to read it. It's very short. It's an incident report. It's just one page. So I'm gonna text that to you right now. And while you're reading it, I'm going to let the listeners know a little bit about this report because it's a doozy. I think you're gonna be pretty shocked by this. So —

[00:14:42] **Eric Bland:** Oh, you're putting me on the spot. That's what you're doing, right?

[00:14:44] **Liz Farrell:** I had to. I think you're gonna see why I had to put you on the spot. I could not give this to you earlier because it, I think it's gonna put you in a position. So I'd rather put you in a position live on the air than, you know, behind the scenes. So here's what the report is, everybody. In December 2017, a woman called the security in Port Royal Plantation and said that she had a man living with her and she wanted him off of her property. This man, his name was Ernie Lotito and he was referred to as Ernie the attorney around Hilton Head area. And he's sort of a troubled guy. I don't wanna go too much into him. He is not a practicing attorney. So, you know, he's a guy on Hilton Head. He's one of those local personalities that people know of. And some people, you know, were taking care of him, making sure that he had a place to live and all of that. So this place where he lived on Port Royal, the woman he was living with no longer wanted him there. She called security. Security called deputies. And a deputy named, his last name was DeMars, and he was new. He had been at the Sheriff's Office for about six months at that time. So he didn't know people in the area to the degree that you would need to know in order for what the judge wanted to happen to happen.

[00:15:57] So Carmen Mullen, the judge that's been involved with the Murdaugh stuff, her name's come up quite a bit and as Eric's reading this, Eric actually filed a joint complaint against her with the Commission on Judicial Conduct along with Solicitor Pascoe. So we haven't heard anything on that. So on this particular day in December 2017, Carmen Mullen involves herself. So the deputy's inside the house talking to the owner of the house. And the





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security guard's like, hey. Judge Mullen is here. She wants to talk to a deputy. So Mullen comes in and she basically says, listen. You gotta arrest him on something. Let's find something to arrest him on. And, you know, he doesn't have a trespass notice where he can't be on this property. And the deputy's like, look. There's an eviction process. She needs to go through the eviction process. So she wants this guy off her property. His behavior, he hasn't done anything, she's not accusing him of anything. So Judge Mullen goes and speaks to the homeowner to see if she can find something that's arrestable, some sort of offense that would qualify for an arrest, and she couldn't. So instead, she starts to talk about a trespass notice that he has at a local gas station. So there's this gas station he's not supposed to go to it. So she offers allegedly, according to this report, to drive Ernie the attorney to this gas station so that the deputy can arrest him there. So she is almost facilitating an arrest of this guy, trying to find a way to get him arrested. Additionally, she finds out from the homeowner that there is an investigation going on involving Ernie at the time with the Sheriff's Office. So she says, why don't we arrest him as part of that investigation? Now, they say, well, we haven't worked up any warrants. We're still investigating it. We don't know if he's ready to be arrested on that or if he'll be arrested on that. But, you know, if we're gonna arrest him, we'll go to the magistrate and get that warrant signed. She says, well, I'm a judge. I can sign a warrant. So at that point, the new deputy is like, look. My supervisor wants me to leave the scene. We'll have somebody, you know, figure this out in the normal course of investigations and eviction process. And apparently, she was, you know, they made a note to say that she was, you know, kind to the deputy. She wasn't a jerk or anything like that. But this raises obviously a lot of questions about what she, as a judge, how she conducts herself. So it looks like Eric has read the report. Eric, you okay?

[00:18:19] **Eric Bland:** Okay. Did you hear me gulp Did you hear me gulp?

[00:18:22] **Liz Farrell:** No, I didn't. Tell me. What are you thinking?

[00:18:25] **Eric Bland:** Well, you obviously want to kill my legal career if I have me answer questions again about Judge Mullen. But yeah, in all seriousness, it's a troubling report that I just read. You know, judges are humans. And so, on one hand they have to dispense justice. Do it equally. It's not currying favor, friends to reward, enemies to punish. On the other hand, they do live in a neighborhood and they want to be protected. You know, we do hear cases where, you know, litigants come to a judge's house and they shoot people like



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the judge's family in New Jersey, the federal court judge, they shot her husband and killed him and the son.

[00:19:03] **Liz Farrell:** To be clear though, this was not at her house. This is at a neighbor's house like half a mile away. So this isn't even like she —

[00:19:10] **Eric Bland:** She injected herself in this, where she was not asked to come and get involved nor was it her place to get involved. I'm troubled by a number of things that took place here, which was, look. Let's figure out a way to get an outcome to get this guy arrested, not go through the proper channels of — I'm very troubled by Judge Mullen's statement. If it's correct in the narrative by the deputy where she said, look, I sign arrest warrants all the time. Just get me an arrest warrant and I'll sign it. But she clearly jumped into something where she had no business being a part of. And now, it would be equally problematic if an arrest warrant was presented to her and she was to issue an arrest warrant because she would be conflicted out.

[00:20:03] **Liz Farrell:** So that raises an interesting question that you just said. Dick Harpootlian intimated at one of Alex's hearings in the double murder trial that Mullen has signed at least one warrant related to that case. So does this now throw into question every warrant that she signed? What does this do for her moving forward?

[00:20:23] **Eric Bland:** It doesn't help her reputation. Look. Even though she issued a warrant supposedly that would be a search warrant against Alex's interest, it could be said, well, she's trying to do it in order to clean her reputation, which Bland and Pascoe sully with reporting her to the bar. Listen. It's the appearance of impropriety that judges have to be concerned about, not the actual conflict. This is an outcome determinative confrontation here where she's determined to get this guy arrested under any set of circumstances. So I'm very surprised that this, well, I'm not surprised. I was gonna say I'm surprised that she was not reported by this, by the police officers, but they have to appear before her. You know, it's such a small county. You know, prosecution cases rely on police officers. Police officers rely on judges to issue warrants. You know, I'm not saying that Judge Mullen is a vindictive person, but if they reported her to ODC in 2017 for this, all hell would've broken loose in that circuit. Duffie Stone's office would've really had a problem with the police reporting a judge who sits on every one of her cases.



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[00:21:43] **Liz Farrell:** And then, Mandy, what was your initial reaction when you read this report? What were you thinking?

[00:21:48] **Mandy Matney:** I hope, I hope that the ODC gets it together and understands that, look, if she's not investigated and if she's not suspended from the bench, then our entire justice system is at stake and our entire justice system is officially in shambles if we do not fully investigate this judge. She should not be ruling on the bench right now, not only from this report but from her alleged involvement in the Satterfield case.

[00:22:17] **Eric Bland:** Let me bring this further home on the appearance of impropriety. I have reported Judge Mullen. I do not want her to pass judgment on any issue for any of my clients in the future based on my reporting her. I'm not saying that she could not be objective, but it is the appearance of impropriety. So, for instance, we have a motion that is coming up in Charleston and Judge Mullen is the presiding judge on that motion. We just got a calendar. We wrote her and we said, Judge Mullen, you know, in light of the fact that Eric Bland reported you, along with David Pascoe, we would ask that you not sit in judgment on this motion. To her credit, to her credit, she wrote back and said, not only why I not sit on this motion, but I will never sit again on anything having to do with Bland Richter. That is the appropriate response. That is her saying to herself, it would create the appearance of impropriety if I sat on this case. Now, why didn't she do it with this Ernie case? I have no idea.

[00:23:28] **Liz Farrell:** I do. No one was watching back then. There was no Eric Bland back then.

[00:23:33] **Eric Bland:** Somebody who's listening to this, if this is true, this needs to be addressed by our state.

[00:23:39] **Liz Farrell:** I would also say to people listening, if they've had experiences with judges in South Carolina that are similar to this, they should definitely give us a call or send us an email because it's super disturbing. But here's a sentence that, Judge Mullen advised we need to find something to arrest Lotito with and remove him. I contacted my supervisor and advised them of the judge's request. Now, you can see the gravity there, right? Sort of like this judge is requesting this thing. It's not of this, you know, neighbor's request. It's the judge. She's using her full authority in this matter. Judge



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Mullen went to the front door of the residence and spoke with the complainant to determine if there was any offense that had occurred where Lotito could be arrested. Judge Mullen stated that she knew Lotito had a trespass after notice at a gas station in Beaufort. Judge Mullen said she'll find him a ride to that gas station and then call deputies to arrest Lotito. That is chilling to me. I know this is just like a —

[00:24:38] **Eric Bland:** Have you, did you try to get Judge Mullen's side of the story, Liz?

[00:24:42] **Liz Farrell:** Yeah. We emailed her for a comment. Yeah.

[00:24:45] **Eric Bland:** What was her response?

[00:24:46] **Liz Farrell:** We didn't hear back, and that is not surprising.

[00:24:49] **Eric Bland:** Well, I'm surprised because if I was attacked as a judge, I would have a lawyer or somebody respond and say that is categorically untrue, and I disagree with the desk deputy's narrative of what was discussed.

[00:25:04] **Liz Farrell:** Right. But see, here's the thing is there's gonna be a cad and there's going to be recordings, so she better be sure, you know, of what's on the recordings. You know, when it comes to what did they radio in, what were those conversations with the supervisor, those might be worse for her, honestly.

[00:25:19] **Eric Bland:** And we'll be right back.

[00:25:25] **Liz Farrell:** So one thing I wanna do is just to go back and read this second paragraph that I've marked here. "The resident advised Judge Mullins there was a breach of trust incident that was being investigated by Investigator Chin. Judge Mullins inquired on an arrest for breach of trust. I advised Judge Mullins I would have to present the facts of the case to Judge Coffey to issue an arrest warrant." And Judge Coffey is the magistrate on Hilton Head. "Judge Mullins advised she signs arrest warrants all the time, and she would sign the warrant. At this point I contacted my supervisor a second time."



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[00:25:59] **Eric Bland:** Because he obviously is really feeling uncomfortable. Says I gotta contact my supervisor. I'm getting squeezed here. I'm getting squeezed.

[00:26:11] **Liz Farrell:** That's right. So, you know, they do make a point, like the very last sentence of this report says "Judge Mullins was very cordial with deputies." So, again, you know, that kind of makes me think the opposite. But who knows?

[00:26:24] **Eric Bland:** What do you mean makes you think the opposite?

[00:26:26] **Liz Farrell:** Well, why would a deputy make it a point to say that Judge Mullen was very cordial to deputies? Why put that in there?

[00:26:32] **Eric Bland:** That's self-serving, right?

[00:26:33] **Liz Farrell:** Yeah. Right. Okay. And that's how this all happens.

[00:26:36] **Eric Bland:** Try not to make her look so, so bad. You know what I mean? Or, you know, he did hammer her. If you read this, there's no way you can read this other than he's hammering Judge Mullen in this narrative. It's not doing her any favor.

[00:26:50] **Liz Farrell:** No, no. I mean, and again, he's a young deputy, he's new, but imagine if he weren't, so like this is something that got reported. What are the things that don't get reported out there about judges who are used to, you know, being able to say that doesn't go in the report or —

[00:27:06] **Eric Bland:** Or judges oftentimes say to the court reporter, don't record this, don't report this, or strike that. You know? Not because they're doing something wrong but it could be an extemporaneous statement that they make. They have a tendency, sometimes, some judges, and I'm not saying it's wrong, but they say to the court reporter, I don't want that on the transcript.

[00:27:28] **Liz Farrell:** So Eric, you know, when you were saying earlier like that this could put your legal career in jeopardy, and I know Judge Mullen is not going to be hearing any cases or hearings involving your firm anymore moving forward, but the reason I presented this to you on the air is because I





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knew that you might have an obligation to report her. Is that, would that have been true?

[00:27:48] **Eric Bland:** It's that also, but there's also the intangibles. You know, lawyers aren't, you know, shouldn't really every day talk about judges in a way that you and I are talking about them on this podcast. And again, the issues I'm seeing with Judge Mullen, I never see with any other judges. I don't see these issues that are repeating themselves. That's not to say that Judge Mullen hasn't done a great job in other cases, you know, sitting on a, you know, a jury trial doing the correct thing, you know, her appellate reversal rate may be exemplary. But these kind of things are troubling where a judge would inject herself into something that was going on way down the street without being asked either by law enforcement or by the neighbor to get involved. Now, again, she is a resident there. You know, I do understand that judges are people, judges live in a house. They're, you know, they have a tough job. They go out to restaurants, people recognize them. You know, I've been with a judge before and somebody came up to the table and said, Judge, you know, so-and-so, I appeared before your court and you sentenced me to jail. Now, I was sitting there scared to death, wondering what was gonna happen, and the person said, I want to thank you for doing that. The two years I spent in jail did more for me to rehab me and right the ship, and now I have a job. I've gone back to my family. You did a great job for me, a great service, and I want to thank you. That's the rare occasion.

[00:29:32] **Liz Farrell:** Wow. Yeah. I was gonna say.

[00:29:33] **Eric Bland:** The other occasion is Jack Swerling who represented somebody who was convicted. That person broke outta jail. That person went to Jack's house and held him, his wife hostage for 14 hours at gunpoint with a ski mask on. And Jack finally recognized who it was, that it was a former client. So there are situations where crazy stuff can happen. So I understand Judge Mullen's concern for safety. But I do not understand why she would've personally invested herself in this.

[00:30:10] **Liz Farrell:** And, you know, we don't know the circumstances of what led her. Did somebody go fetch her? Did she, you know, was she out walking her dogs and saw this happening and decided to help? And, you know, Ernie Lotito is, you know, somebody with a criminal history or at least of being accused of making threats and such.



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[00:30:26] **Eric Bland:** Well, you said he's, nobody ever felt that they were physically in danger from him. You know, I'm sure —

[00:30:33] **Liz Farrell:** I wouldn't, I wouldn't say that actually. I mean, I wouldn't say that nobody felt like they were in physical danger. I think there are people and lawyers out there who have restraining, had or have had restraining orders against him. He's mentally ill and that is why the bar put his license on hold and he might even, I'll have to check the status of his license right now, but he's somebody that people looked out for, you know? There were people on the island that certainly looked out for his interest because mental illness is, doesn't mean you need to get rejected, you know, outright and kicked out of the, kicked off the island as it were. But, you know, certainly, it's not okay to make threats against people and. But in this circumstance, this incident, he was not, according to this report, making any threats. He was simply talking to himself. You know, I said basically my observation of Lotito was he appeared to be a mental subject but was not a threat. That's literally what the report says. So this is what the judge inserted herself into.

[00:31:27] I wanna go back to something that you were saying though earlier about judges and, you know, they're humans and all that. And you'd said this to me one time just in a personal conversation that we're having that being a judge is a lonely job.

[00:31:40] **Eric Bland:** It's the worst.

[00:31:40] **Liz Farrell:** Can you just tell people a little bit, and why do you think it's the worst? 'Cause it's one of those things that's like, there's such great respect for judges just automatically granted to them, right?

[00:31:51] **Eric Bland:** We have great judges throughout our state court system. We have great judges, really good judges on the federal level. Now, everybody knows that the federal judges seem to have a higher pedigree. They graduated from the higher law schools. They clerked either for other federal judges or sometimes for the appellate court judges. They tend to be viewed more serious. Sometimes, we don't get the best and the brightest of the state court judges because, you know, they weren't successful, totally successful in their practices. Other times, you have very successful lawyers who were successful in their private practices, like Judge Clonus, who became a judge, Judge Casey Manning. But other judges, sometimes they were just



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staff attorneys for state department or they had a smaller town practice. Not that they weren't great attorneys, but you don't get the Ronnie Crosbys being a judge. You don't get the --- being a judge. You don't get Dick Harpootlians being a judge or Mark Tinsleys being a judge. And the reason is —

[00:32:57] **Liz Farrell:** And why?

[00:32:58] **Eric Bland:** They're making so much money in private practice, millions of dollars that they earn, justly earn, from good representation. And judges don't earn that much money. It's a state salary. You do get benefits. You do get retirement. The reason it becomes lonely is you spend your day as a 50-year-old judge with a 23-year-old law clerk because when you become a judge, you almost have a shield around you. Everybody's afraid to have a personal relationship with you. Judges are afraid of that appearance of impropriety, so they don't want to be seen with Eric Bland golfing or drinking or tailgating at a USC football game.

[00:33:47] **Liz Farrell:** Some of them don't. I think some of them have no problem being seen because during the Trial Lawyers Association conference here every year, you know, there's lots of parties involving judges and lawyers, particularly the Murdaughs back in the day, back in their heyday two years ago.

[00:34:01] **Eric Bland:** That's a different crowd. The crowd that I run in, I don't see judges. And we had a situation years and years and years ago, Liz, where judges were only sitting in their home county. And that created the appearance that you would get home cooked if you were not a lawyer in that county and you were litigating a case in that county. Let's say Greenville going to Beaufort. So then, the legislature had the idea, which is a great idea, well, let's send them around on a circuit. So let's send Beaufort lawyers to Clarendon County so that they would have to sit there and they wouldn't be able to presumably home cook. Well, what happened then is judges would be taken out to dinner every night by different law firms, a better dinner here than they would be taken to a USC basketball game. Well, then, that practice stopped. And now, you have judges, you see 'em all the time. Like when I go to No Name Deli, I'll see a traveling judge, Judge Macaulay from Anderson, eating lunch with his law clerk. Can you imagine? You know, if you're a 53-year-old person spending your day with a law clerk, yes, they're interesting young people, but they're not your contemporary. They don't have the life



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experiences that you do. So being a judge is an incredibly lonely, lonely job, and I don't envy them.

[00:35:24] **Liz Farrell:** So do you think that we're gonna see some action now that this report is out there?

[00:35:29] **Eric Bland:** Well, I'm sure if David Pascoe's listening to this podcast, he's not gonna be pleased.

[00:35:34] **Liz Farrell:** No, certainly not.

[00:35:35] **Eric Bland:** And I don't know whether anybody on the Judicial Conduct Committee listens to our podcast. I highly doubt it. I would hope.

[00:35:42] **Liz Farrell:** I bet they're listening now.

[00:35:43] **Eric Bland:** We say some interesting and provocative things. And I know there are lawyers that listen to our podcast because they, you know, message us. They Instagram, they do Twitter and stuff like that. This is very serious. I'm not saying it happened. It's clearly a one-sided report because it's from a deputy. So —

[00:36:05] **Liz Farrell:** So I wanna just throw in one question here to end this with. But do you think there's any hope for the low country when it comes to judges?

[00:36:15] **Eric Bland:** Yes. I think as time goes on, we're getting new judges and younger judges. You know, remember these younger judges don't have the same relationships that the older lawyers have that they built up over a 30- or a 40-year period. Look, again, Judge Mullen has done some wonderful things on the bench. I am absolutely sure of that. I'm sure she's made, you know, hundreds of really good, just decisions. But I am troubled by the number of things that I'm hearing about Judge Mullen. And for somebody like David Pascoe, who is a prosecutor, a current prosecutor, to have reported her, that's a very big problem. And it speaks to, you know, she may have to make a decision whether she wants to remain on the bench. That's her call. But, you know, it is my hope that the report that David and I made in the spring be investigated. I wouldn't have made it if I didn't want it to be investigated. Look, I'm certainly investigated when everybody makes reports



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against me. I'm being investigated when Dick Harpootlian reported me for, you know, my public statements. So judges should not have any special license that they're not investigated. They drink from the same cup of justice that we should drink from. So if I'm investigated based on a complaint, even if it's not a meritorious complaint, investigate it and then dismiss it. If they investigate our complaints and they determine after full investigation that nothing should be done, then so be it. But at least let's have an investigation. We don't want two systems of justice in our state.

[00:38:05] **Mandy Matney:** The Murdaugh Murders podcast is created by me, Mandy Matney, and my fiance, David Moses. Our executive editor is Liz Farrell.

[00:38:14] **David Moses:** Produced by Luna Shark Productions.

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