

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT OF
THE STATE FLORIDA, IN AND FOR PASCO COUNTY
CASE NO. CRC14-00216CFAES

STATE OF FLORIDA,

Plaintiff,

vs.

CURTIS J. REEVES,

Defendant.

_____/

PROCEEDINGS: Excerpt of Testimony of:
AARON SMITH

DATE: March 2, 2017

BEFORE: The Honorable Susan Barthle
Circuit Court Judge

PLACE: Robert D. Sumner Judicial Center
38053 Live Oak Avenue
Dade City, Florida 33523

REPORTED BY: Charlene M. Eannel, RPR
Court Reporter

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2 (Thereupon, the following excerpt from the Trial
3 Testimony of Aaron Smith was transcribed per request of
4 Counsel.)

5 DIRECT EXAMINATION

6 BY MR. MARTIN:

7 Q. Good morning. State your name for the record
8 and spell your last name.

9 A. Detective Aaron Smith, S-M-I-T-H.

10 MR. MARTIN: And Judge, do you need me to advise
11 him he is still under oath or did we take care of it?

12 THE COURT: He just got sworn in again.

13 MR. MARTIN: Okay.

14 THE COURT: So now he's really double under
15 oath.

16 BY MR. MARTIN:

17 Q. And what is your occupation?

18 A. I'm a detective with the Pasco County Sheriff's
19 Office.

20 Q. And how long have you been so employed?

21 A. Approximately seven years.

22 Q. All right. You've already testified once in
23 this case. We know your background regarding your
24 employment previous to the Pasco Sheriff's Office, right?

25 A. Yes, sir.

1 Q. What is your current assignment?

2 A. My current assignment is a major crimes
3 detective.

4 Q. All right. Are you associated with a particular
5 team known as a DIVERT team?

6 A. Yes, sir. I'm what's considered a task force
7 officer with the Federal Bureau of Investigation, and I'm
8 also trained as a DIVERT detective, which is the digital
9 image and video recovery team.

10 Q. All right. Explain the purpose of that team.

11 A. DIVERT was created just to provide training to
12 law enforcement on the proper recovery of digital video in
13 the field and any type of criminal case, mass event, just
14 to ensure that the video was collected properly and that
15 we could then edit it for time, get it to media to
16 generate leads and submit it as evidentiary copies when
17 needed.

18 Q. When did you begin your involvement with the
19 DIVERT team?

20 A. It would have been in approximately April of
21 2014.

22 Q. You told us a little bit about the purpose, but
23 specifically as a DIVERT team member, what would your
24 specific duties be?

25 A. Generally speaking, if there's either a mass

1 event with a lot of video or a technically difficult
2 system, we would be called out just to evaluate the system
3 to figure out how to best deal with the DVR and get the
4 proper copies of video off of it.

5 If you have an owner of the DVR system that may
6 not understand how to run it and the detective who was on
7 scene couldn't figure it out, then they would call us in
8 to assist.

9 Q. All right. And what training did you receive in
10 order to be a member of the DIVERT team and to carry out
11 those duties?

12 A. The FBI has a DIVERT training program that
13 travels throughout the country, and I trained here at the
14 Tampa FBI office for that class. It's not a true
15 certification. It is a familiarization and training
16 class.

17 Q. All right. And how many hours did you spend in
18 training?

19 A. It's approximately a four-day course.

20 Q. Okay. And what topics did they cover?

21 A. We cover the basics of digital video to get an
22 understanding of how it works, and then we have a hands-on
23 portion of the class which involves multiple brands and
24 types of DVRs to learn how to work with them, because each
25 could be very different from the other.

1 And then we learn basic digital editing
2 techniques so that we can then put these videos out for
3 social media release to the public for law enforcement
4 release for identification purposes.

5 MR. ESCOBAR: Judge, may I object at this point
6 in time. If he's going to be offering an opinion as
7 to the proper way of recovering that, if the Court
8 rules when Mr. Koenig was here, I tried to elicit
9 that particular information from Mr. Koenig as to how
10 they were to recover similar digital media and his
11 work with the FBI. The Court had ruled that that was
12 not relevant, and so we stayed away from it.

13 So if he's going to come in now and start
14 talking about, you know, post this particular
15 incident how the federal system works in preserving
16 digital evidence, I think that's highly unfair in
17 that I was not given that opportunity to do then to
18 refute what he's going to be saying.

19 MR. MARTIN: The reason you didn't let him do it
20 is because Mr. Koenig didn't have the training and
21 experience as a DIVERT team. Back when Mr. Koenig
22 was with the FBI, they did not have a DIVERT team
23 task force, so his training and experience did not
24 lend itself to provide that information to the Court.

25 Mr. Koenig was simply offered as an ex-FBI

1 laboratory agent at the time, because they were
2 agents at the time, familiar enough with the editing
3 of the video, not the collection and preserving. So
4 he did not have the life experience and training to
5 allow him to offer that type of information.

6 Now -- and there's no way Mr. Escobar can
7 correct that. You can't undo his life experience.
8 It never occurred, therefore, he'll never have it.
9 So even calling Mr. Koenig back, he can't have the
10 same life experience and training that is going on
11 since, you know, he left the bureau many, many years
12 ago.

13 So, you know, to come in and say, well, we
14 didn't have that opportunity to develop Mr. Koenig,
15 it's really true because they couldn't. He never had
16 the life experience. What we're doing with Detective
17 Smith is explaining how things are done now. Because
18 when Mr. Koenig was with the FBI, it was all analog.
19 It wasn't until after he left it became digital. Now
20 we're in digital world. We have DVR. So it's apples
21 and oranges.

22 Mr -- Detective Smith will provide information
23 about the training that he has received, and it is
24 post incident; however, but once you hear that, the
25 Court can make its own determination of whether or

1 not the way in which the evidence was collected on
2 the 14th -- I mean, on January 13, 2014, was anyway
3 consistent with what's done today in this day and
4 time.

5 And that's the reason it's being offered,
6 because no matter what we do, there's going to be
7 some type of argument about the collection process.
8 Even though it's been -- chain of custody has been
9 stipulated to and it's been stipulated to
10 authenticity, we're just trying to give the Court a
11 basis for the way things occurred -- are supposed to
12 be done today.

13 MR. ESCOBAR: Your Honor, just very briefly, I
14 disagree. I think the record speaks for itself. We
15 were about to lay the proper predicate with Mr.
16 Koenig, and this particular area was excluded
17 altogether because the Court, I believe -- and I
18 don't want to put words in the Court's mouth -- but
19 something to the effect that Mr. Koenig's experience
20 in doing that was not relevant to how the Sheriff's
21 Office did it on that particular day.

22 And so now what counsel here is saying is, well,
23 listen, you know, now we've taken some courses after
24 and somehow that's relevant to what was done on the
25 day of this incident, and I would respectfully

1 disagree, but I think we've got certainly a record
2 concerning Mr. Koenig's situation.

3 THE COURT: All right. Mr. Koenig was very
4 learned in many areas. I had to review my notes and
5 see exactly on what basis, if it was closer to
6 Mr. Martin's indication or Mr. Escobar's, but, you
7 know, in the grand scheme of things, is there some
8 indication that the videos that I have seen are
9 somehow altered or not proper or not good or somehow
10 tampered with? Is there some indication of that?

11 I have not heard that yet. So does it really
12 matter how it got to be here? I don't -- you know,
13 that doesn't -- doesn't do much for me if it's going
14 to take hours or even, you know, a whole lot of the
15 Court's time that we've already gone over. I don't
16 really care how we got it as long as it was lawful
17 and it wasn't tampered with.

18 I've seen many, many, many snippets and pieces
19 of the video, none of which are overly, you know,
20 wonderful. But as long as there's not some question
21 that I need to be aware of as to that what I've been
22 seeing isn't real or isn't, you know, even close to
23 the original or that it has been tampered with, I
24 don't really care how it was obtained. I really
25 don't.

1 MR. MARTIN: Well, I don't know what Mr. Escobar
2 is going to argue. I've been surprised by some of
3 the arguments based on the stipulation. But one of
4 the things that Mr. Escobar has indicated, and even
5 through Mr. Koenig, you might recall that they relied
6 on what they referred to as Q6.

7 Q6 for Mr. Koenig was the hard drive that was in
8 the plantar box that was locked up, and he indicated
9 that he did not want to use his Q3, which was the
10 thumb drives that Eric Andrews downloaded onto the
11 computer at Cobb Theater onto a thumb drive and
12 Myers -- Fred Myers provided to Detective Smith.

13 He made the statement without explaining it
14 because those thumb drives were encoded that he did
15 not want to use them.

16 Now, the inference is there's something wrong
17 with, quote, "those thumb drives being encoded."
18 Now, the only way that I can attempt, so that's not
19 lingering out there, whatever argument Mr. Escobar is
20 going to make, I need to deal with that issue, and
21 the only way I can deal with that is to go through
22 this type of testimony and get to the point of how
23 things are exported, exactly what encoding and
24 decoding mean, exactly what a codec is, because
25 they've made the statement to you that what we have

1 as LAWS when it came to them was encoded, and
2 therefore, there was something wrong with it.

3 I don't know what arguments he's going to make.
4 Now, if he'll stand up here and say, Judge, that's
5 absolutely not an issue, there won't be any argument
6 about it whatsoever, I can save about 15 minutes.
7 But I can't take that risk because they've put that
8 out through their expert. I have to deal with it and
9 I need time to deal with it and develop his knowledge
10 so that you can then rely on him as to what encoding
11 decoding and a codec means in the digital world.

12 And that's -- the whole purpose of that is
13 because of Koenig's testimony. They didn't want to
14 use Q3, they totally set it aside. Q6 is the best
15 evidence, and that's -- we are going to refute that.
16 And that's the problem. I don't know what his
17 argument is going to be.

18 MR. ESCOBAR: Judge, I think if you look at the
19 stipulations, we've stipulated to the thumb drive not
20 having any tampering, any issues with the thumb drive
21 whatsoever. I think if you remember Mr. Koenig's
22 testimony, his position was that he wanted to deal
23 with actually hard drives because that thumb drive
24 had been done by someone else, and he wanted to look
25 at the raw material and he wanted to develop the raw

1 material.

2 At no point in time have we said that that thumb
3 drive -- we looked at the thumb drive to make sure
4 whether there was any alterations or any deletions or
5 any manipulation of that thumb drive.

6 I would have never stipulated to the thumb drive
7 coming in if we had any idea that it was manipulated.
8 So that's -- that's pretty clear. So I don't know if
9 that's what he was under the impression that somehow
10 we were going to say that the thumb drive is a faulty
11 type of demoralization of the video.

12 It wasn't our position and it hasn't been our
13 position. We attacked the investigation for other
14 reasons, and I think the Court -- we've argued that.

15 THE COURT: Uh-huh.

16 MR. ESCOBAR: Because everything is important
17 when you're doing an investigation.

18 THE COURT: Now, the second part of my concern
19 is also brought up by Mr. Escobar. How -- if he's
20 had all this training afterwards, how is it relevant?
21 Was this done, you know, his -- his extraction of
22 whatever video or material he did, was what done
23 after his training?

24 MR. MARTIN: No, Judge. Everything that
25 occurred on January 13, 2014 occurred before his

1 training. On January 13, 2014, he didn't know he was
2 doing it right, but now he has the knowledge to
3 explain that, look, I took all this training and we
4 did do it right, and now I know that what the
5 encoding and everything is.

6 So you have -- you have to acquire the knowledge
7 somehow, so whether you acquire it before or after,
8 you have to show when it occurred, you know, the
9 knowledge, and that the knowledge is accurate so it
10 can be applied to facts.

11 Now, whether or not you acquire the knowledge
12 before or after the facts, I think is immaterial as
13 long as you can explain what the facts are and relate
14 your knowledge back to the facts.

15 THE COURT: Well --

16 MR. MARTIN: But it's up to you on what -- I
17 mean, if the Court is comfortable and if the Court is
18 comfortable with Mr. Escobar's explanation, you can
19 understand why I had some concern with Mr. Koenig
20 saying, oh, we just tossed that aside. It was
21 encoded.

22 THE COURT: I remember his testimony and I have
23 understood his reasoning clearly as being called as
24 an expert. You have to do everything, you know, that
25 you need to do.

1 MR. MARTIN: Well, see, that's the problem. He
2 said we wanted to do everything right so we did it
3 from the hard drive. The implication is everything
4 that the FBI did was wrong because they did it from
5 the thumb drive. See the inference that you can --
6 you can get, and I just didn't want that to be
7 hanging out there.

8 THE COURT: I didn't get that impression. Quite
9 candidly, I got the impression that he wanted to use
10 something that had not been touched by anyone else,
11 you know, start from fresh. But I've gone many years
12 without having to learn about encoding and encryption
13 and all of the fine workings of computers and DVRs.
14 I know how to turn them on, I know how to use them
15 and I know how to print.

16 I don't think this is going to help me. Quite
17 frankly, as long as it has not been tampered with
18 and, you know, as long as what I'm seeing on that DVR
19 or on that TV is -- was lawfully obtained and hasn't
20 been tampered with, I'm not -- it's just not going to
21 make my brain feel any better if I have to learn how
22 it was obtained and under, you know, what kind of
23 coding and what things you had to do. It's not going
24 to help me.

25 MR. MARTIN: It's my opinion, based on the

1 stipulations, that the content is exactly the same.
2 It's just the bucket that it came in. You know, the
3 content is the same but you've got to put it in a
4 different bucket for it to be played here and there.
5 That's -- that's what we're talking about.

6 THE COURT: I'm sure that's right but...

7 MR. MARTIN: But I just wanted to -- I had to
8 cover all bases. So if you want me to move on and if
9 that's the understanding --

10 THE COURT: Yeah, go ahead.

11 MR. MARTIN: -- I can -- I mean, I can just --
12 I'm not going to go through this. I mean if
13 that's --

14 THE COURT: Right.

15 MR. MARTIN: -- if we all have an understanding
16 that my impression maybe was overconservative, and as
17 you can imagine why it might be, then I'm going to go
18 to another topic and we're going to move on.

19 THE COURT: Okay.

20 MR. MARTIN: Is that --

21 THE COURT: That's fine with me. I'm -- I am
22 satisfied that --

23 MR. MARTIN: As long as we don't have that
24 argument that I've just --

25 THE COURT: All right. Well, if we do, I'll --

1 I remember what Mr. Koenig said, and I've, you know,
2 been sitting through everything and I think I've got
3 a pretty good grasp on that as much as I need to
4 have.

5 MR. MARTIN: All right, Your Honor. Then, if I
6 could just have a few minutes so that we can go right
7 to the case and put this evidence in.

8 THE COURT: Okay.

9 MR. MARTIN: Let me just reconfigure my
10 computer, please.

11 THE COURT: All right.

12 BY MR. MARTIN:

13 Q. All right. Detective, based on the
14 conversations with the Court and Mr. Escobar, we're going
15 to move on to what you did in this particular case. All
16 right?

17 A. Yes, sir.

18 Q. Let me take you back to January 15, 2014. Did
19 you have an occasion to return to Cobb Theater?

20 A. Yes, I did. And --

21 Q. Go ahead.

22 A. -- I'd been contacted by one of the other
23 detectives who was at the theater the evening before, on
24 the 14th, and they informed me that the video backup was
25 complete and that they were just looking for me to

1 retrieve it and bring them a letterhead request.

2 Q. All right. And did you, in fact, obtain a
3 letterhead request requesting specific backups of specific
4 cameras?

5 A. We had requested the day of the incident that
6 they back up all of the cameras, I believe it was for
7 either an hour or two hours before the event because we
8 didn't know what we were going to find on the video. So
9 my request was very general, just for all of the video
10 they had backed up for us.

11 Q. When you went to Cobb Theater on January 15th,
12 2014, who did you meet with?

13 A. I met with Tom Peck, the general manager; and
14 also Fred Meyers, who was the operations manager for Cobb.

15 Q. Where did they take you within Cobb Theater?

16 A. We went upstairs to -- I guess you'd call it the
17 server room and the projector room above the theater that
18 contained some of the video equipment up there.

19 Q. Okay. Were you able to have a phone conference
20 with Eric Andrew?

21 A. Yes. When we were up in that office or on our
22 way up there, I believe Mr. Meyers called him by cell
23 phone and put him on speaker phone. He identified him as
24 the IT director for Cobb.

25 Q. While in the server room with Mr. Meyers and

1 yourself, was Eric Andrew on the phone participating in
2 the conversation between the three of you?

3 A. Yes, he was.

4 Q. While in the server room, did Eric Andrew
5 offsite play anything for you on the monitor at the Cobb
6 Theater on January 15, 2014?

7 MR. ESCOBAR: Judge, I'm going to object to that
8 with improper predicate. He wasn't there. He was
9 offsite in Alabama. If he could rephrase it, I think
10 it will come in.

11 BY MR. MARTIN:

12 Q. Did an individual on the phone who identified
13 himself as Eric Andrew, even though he was not there,
14 provide you with videos to view on the monitor at Cobb
15 Theater?

16 A. Yes. When we came into the office, Mr. Meyers
17 explained who Mr. Andrew was and that he would be remotely
18 controlling the DVR from where he was.

19 Q. And because no one else was touching the keys,
20 can you tell from the monitor when someone is remotely
21 having access to the computer?

22 A. Yes. As you're watching it, obviously the
23 playback is as if someone had been using the computer
24 there.

25 Q. You see the mouse going around and --

1 MR. ESCOBAR: Judge, we will stipulate that they
2 were doing that remotely. He doesn't have to go
3 through that process.

4 THE COURT: Okay. Thank you.

5 BY MR. MARTIN:

6 Q. Were you able to watch five video clips
7 prepared -- your understanding -- prepared by Eric Andrew?

8 A. Yes. Mr. Andrew said that he had been
9 reviewing --

10 MR. ESCOBAR: Objection, Your Honor. Hearsay.
11 That is different.

12 MR. MARTIN: Well, Judge, it doesn't go for the
13 truth of whether or not he prepared them, but it goes
14 for as the effect on Mr. Smith that he was viewing
15 something that was being provided pursuant to his
16 letter, and that he would rely on that to go back and
17 view, not only the monitor, but the eventual thumb
18 drive.

19 MR. ESCOBAR: We will stipulate to that.

20 THE COURT: Yeah. Move on.

21 MR. ESCOBAR: And we'll stipulate to all that,
22 Judge. He can -- that he viewed it, that he looked
23 at it, all of that kind of good stuff.

24 THE COURT: Okay. Thank you.

25 BY MR. MARTIN:

1 Q. Did you, in fact, view five video clips?

2 A. Yes.

3 Q. Did you view those five video clips in their
4 entirety?

5 A. Yes.

6 Q. The five video clips that you viewed, did the
7 entire video clip contain video footage of interest or was
8 there more than what was of interest?

9 A. In those five video clips, there was more of the
10 incident -- I'm sorry, the clips of interest from the time
11 period.

12 Q. But it contained other matter, too?

13 A. I received more than one thumb drive. Some of
14 them contained other cameras throughout the building that
15 were back hallways, kitchen, things like that, not
16 necessarily of interest with the five clips we're speaking
17 of that were identified as areas that we were concerned
18 with.

19 Q. All right. Once you viewed the five video
20 clips, did you believe that those five video clips had
21 video footage of interest that would be relevant to the
22 case?

23 A. Yes.

24 Q. And after you viewed those five clips, did you
25 receive anything from Mr. Meyers?

1 A. After reviewing the clips, I received copies on
2 three separate thumb drives of the video that we viewed
3 upstairs, and then received those via one of our property
4 receipts that I had him sign.

5 Q. Okay. And what did you do with those thumb
6 drives that you now had in your hand?

7 A. Once I had the thumb drives, I viewed the video
8 on the thumb drives to make sure it was consistent with
9 what I had seen at the theater, and then made a working
10 copy of those so that they could be played for the State
11 Attorney's Office and other investigators.

12 MR. ESCOBAR: Judge, we'll stipulate to all
13 this -- all this chain just so that if Mr. Martin
14 wants -- he may want to go through it, but I just
15 want to let the Court know we'll stipulate to that
16 whole chain of custody. We've already done that.

17 THE COURT: All right. I thought that was the
18 case.

19 MR. MARTIN: I appreciate that, but I need to
20 lay a little bit of a record. So we're only talking
21 about another five minutes here.

22 THE COURT: That's fine.

23 BY MR. MARTIN:

24 Q. All right. Once you made a working copy onto
25 your computer, was there a bond hearing scheduled

1 immediately after that day?

2 A. There was a bond hearing scheduled very quickly
3 after that, but then it had been continued to -- I believe
4 it was a couple of weeks down the road.

5 Q. All right. When did you place the three thumb
6 drives into evidence?

7 A. Originally, I maintained custody of the thumb
8 drives to come up to the State Attorney's Office for the
9 invest. I was asked by the State Attorney to retain
10 custody just because the bond hearing was supposed to be
11 coming up quickly. Once I was notified of the
12 continuation, then those three thumb drives were placed
13 into sheriff's office evidence.

14 Q. All right. Now, subsequent to placing them into
15 evidence, was there a bond hearing scheduled?

16 A. Yes.

17 Q. Was there a request by the defense team for a
18 copy of the surveillance video?

19 A. Yes. Sometime during that continuation period,
20 they had asked for copies.

21 Q. Now, did you place a working copy of all three
22 thumb drives onto your computer?

23 A. Yes. I copied them onto my own portable hard
24 drive.

25 Q. All right. And can you tell me whether or not

1 you gave the defense team an option of either copying the
2 original thumb drives out of property -- evidence or
3 obtained the copies off your hard drive?

4 A. Yes. I was contacted by the State Attorney's
5 Office who said the defense had made a request for video.
6 I informed him that I had the working copy of the video
7 readily available, if that's what they wanted, and made
8 copies of that.

9 Q. All right. And did someone from the defense
10 team then come with an external hard drive to get the
11 copies off your computer?

12 A. Yes. I don't remember the gentleman's name. I
13 believe it was a private investigator that met me at our
14 district office and I made the copies for them.

15 Q. The thumb drives that you received that had the
16 files involving the video, the files on the thumb drives,
17 are they executable files or non-executable files?

18 A. They are executable files that the DVR outputs
19 for playback in any computer system.

20 Q. So if you have the right codec on your camera or
21 video drive, you can -- it will find whatever media player
22 is on your computer and it will play?

23 A. Yes, sir. They included a copy of the codec for
24 the player with the files, that way they can -- it could
25 be installed on any machine, and then your default media

1 player that you have in your computer will play the
2 videos.

3 MR. MARTIN: Approach?

4 THE COURT: Yes.

5 BY MR. MARTIN:

6 Q. Let me show you what's been marked for
7 identification as State's Exhibit C. Go ahead and look at
8 that, please.

9 A. These are the three thumb drives that I
10 collected from Mr. Meyers.

11 Q. Okay. And that is marked, as far as your item
12 number, as 1AWS, 2AWS and 3AWS?

13 A. That's correct.

14 Q. The video that is contained on those hard
15 drives -- I'm sorry, on those thumb drives, they were
16 exported from the GeoVision system?

17 A. Yes, sir.

18 Q. Right off the hard drives?

19 A. Yes, sir. They were exported using the
20 (inaudible) that the DVR comes with.

21 Q. Any enhancement on those at all?

22 A. There's no enhancement of these files. They are
23 as I received them.

24 Q. It's just the raw video?

25 A. It is.

1 Q. Nothing done to them?

2 A. It's -- other than -- it's the video in the
3 state it came out of the DVR in, yes, sir.

4 Q. Okay.

5 MR. MARTIN: Your Honor, at this time, I would
6 move into evidence State's Exhibit C marked for
7 identification into evidence next in order.

8 MR. ESCOBAR: We had an order for the Court
9 already on that issue. We've stipulated to it.

10 THE COURT: Okay. Then it will be admitted.
11 Fourteen?

12 THE CLERK: Fifteen.

13 MS. SUMNER: Fifteen.

14 THE COURT: Thank you.

15 MR. MARTIN: Judge, at this time, so the Court
16 can have the benefit of what the raw video looks
17 like, there are five clips on the thumb drive 1AWS.
18 I would like to publish those for the Court so you
19 can see whatever you perceive as the difference
20 between the absolute raw video and any of the
21 enhancements.

22 I will only play up until the critical, you
23 know, events, and because there's a lot of stuff
24 after it we'd be here forever. But I think it would
25 be helpful for the Court to see what the raw video

1 looks like.

2 So if we could ask Mr. Smith to step down, he
3 can then do it appropriately on my computer so that
4 we don't damage these hard drives.

5 THE COURT: All right.

6 BY MR. MARTIN:

7 Q. Detective Smith, would you step down with the
8 equipment that you need in hand with Exhibit -- with thumb
9 drive 1AWS. And if you'll take a few moments to place
10 that in the -- in my computer. While you're doing that,
11 I'll...

12 MR. ESCOBAR: Your Honor, may I move?

13 THE COURT: You may, please.

14 MR. MARTIN: We are getting everything warmed up
15 here ready to go. We will play them through with a
16 little bit of an explanation as to how it's loading.
17 I think that's important.

18 BY MR. MARTIN:

19 Q. Okay. Do you have it installed?

20 A. Yes, sir.

21 Q. Before you do that, go ahead and make sure it
22 works before we load it up on the screen.

23 A. (Witness complies.)

24 MR. MARTIN: Just making sure everything works,
25 Judge. Just give us a second.

1 THE COURT: No problem.

2 MR. MARTIN: Would it be all right if Detective
3 Smith stood by the computer and manipulated the
4 computer for me?

5 THE COURT: Yes.

6 MR. MARTIN: And, with your permission, I'd like
7 to be able to just ask him a few questions to set up
8 each one.

9 THE COURT: Go ahead.

10 MR. MARTIN: All right.

11 BY MR. MARTIN:

12 Q. Now, what have you placed now on the -- on the
13 computer?

14 A. This is the original thumb drive that I received
15 from Cobb Theater. It's been inserted with what we call a
16 right blocking device. That just ensures there's no
17 changes made to the drive. It can't delete files, things
18 like that. So it's just a pass-through device. I've just
19 opened the folder or opened the drive itself that shows
20 the video files on the drive.

21 Q. The five files that we see up on the screen, are
22 those the five files that you reviewed at Cobb Theater?

23 A. Yes, sir.

24 Q. Now, if would you go ahead and begin the process
25 of opening up the first file.

1 A. Each of the files have an extraction process
2 that it goes through when you open it. This is a process
3 that an executable file that's inserted by the DVR when
4 you export it. So each one of these will run through this
5 process when you open it just so the file is viewable with
6 the metadata.

7 Q. And what is the computer doing when it opens the
8 file? Where is it placing the content of the file?

9 A. The way this particular system works, Your
10 Honor, is this is commonly referred to as a ZIP file.
11 Information is compressed. It extracts it and it puts the
12 actual playable files on your computer hard drive in your
13 windows temporary folder, and then it plays the file from
14 there just so it plays more smoothly.

15 THE COURT: I've got it on my screen too, here.

16 MR. MARTIN: Oh, I didn't know that.

17 THE COURT: I know how to push those buttons.

18 MR. MARTIN: Well, I don't know the resolution
19 of that screen either compared to what's in front of
20 you.

21 BY MR. MARTIN:

22 Q. Would you go back to its small state? Just so
23 the record is clear, open it up to just normal -- no,
24 right there. Right there. Step around here.

25 Just so the record is clear, we're looking at

1 the thumb drive 1AWS. The number went away. Back it up.
2 I'm sorry, I need to get this number on the -- in the
3 record. Go back. Stop it. Stop it. All right. Come
4 back around here.

5 This number right here, what is that number?

6 A. It's file 20140113132009.

7 Q. So on the thumb drive, that is the file number
8 that we're watching?

9 A. Yes, sir.

10 Q. Okay. And the numbers that we see right here?

11 A. That is what we refer to as metadata that the
12 DVR applies over the top -- well, the player applies.
13 It's included with the DVR export. That includes the
14 time, the date, and the frame numbers.

15 Q. And the numbers down here?

16 A. That is a time and date stamp included by the
17 DVR that it overlays in the video.

18 Q. All right. And who named the file folders on
19 here?

20 A. That would have been Mr. Andrews.

21 Q. And this is customer service?

22 A. Yes, sir.

23 MR. MARTIN: All right. Judge, may we just go
24 ahead and play the video through?

25 THE COURT: Uh-huh.

1 MR. MARTIN: And we'll stop it after the point
2 of interest is over with, so we don't waste time.

3 THE COURT: Okay.

4 BY MR. MARTIN:

5 Q. You can stop it there as the point of interest
6 has expired. And if you would go to the next file,
7 please, sir.

8 A. (Witness complies.)

9 Q. Now, before you go, the next file is labeled
10 what?

11 A. This is Entrance 10.

12 Q. All right. And can you drag it so we can get
13 the file number off of it, the file number? All right.
14 So we'll get it off the frame. Would you go ahead and
15 begin the process?

16 Now, you explained to us that during this
17 process, the file is being placed in the temporary file
18 within the hard drive of that computer?

19 A. Yes, sir.

20 Q. Now, from the temporary file, can that file be
21 played?

22 A. Yes, sir. You could navigate to that folder and
23 play it from there.

24 Q. And if you look and a string comes up, stop it
25 so we can get the file number off for the record.

1 A. Yes, sir.

2 Q. All right. Detective, if you would place the
3 file number on the record, please?

4 A. The file number is -- that is going to be file
5 20140113132122.

6 Q. All right. Go ahead and play.

7 A. (Witness complies.)

8 Q. Thank you, Detective. The point of interest has
9 expired.

10 What's the title of the next video clip?

11 A. The next one is labeled "Right Side Customer
12 Service."

13 Q. All right. If you would go ahead and begin the
14 process of extracting that video.

15 MR. ESCOBAR: Your Honor, may I take a picture?

16 THE COURT: Sure.

17 BY MR. MARTIN:

18 Q. File number on the record, please?

19 A. File 20140113125908.

20 Q. If you would play the video?

21 A. (Witness complies.)

22 Q. Can you stop the video as the points of interest
23 have expired.

24 The next file was labeled as what?

25 A. Theater 10 and a Number 1 next to it.

1 Q. Paren 1?

2 A. Yes.

3 Q. All right. If you would go ahead and begin the
4 extraction process.

5 A. (Witness complies.)

6 Q. If you will stop it, so we could get the file
7 number.

8 A. It is file 20140113130012.

9 Q. And based on your familiarity with this case, is
10 that the view we've been referring to as Camera 12?

11 A. Yes.

12 Q. Okay. If you could go ahead and play the video?

13 A. (Witness complies.)

14 Q. All right. Detective, you can stop the video.
15 The next file on 1AWS?

16 A. It's Theater 10, left side.

17 Q. If you would go ahead and begin extraction
18 process.

19 And would you please place the file number that
20 we're going to view on the record?

21 A. It's file 20140113131442.

22 Q. And based on your familiarity with this case, is
23 this the view from the camera we've been referring to as
24 Camera Number 11?

25 A. Yes.

1 Q. All right. Would you go ahead and play the
2 video. Stop the video now.

3 The five video clips that we just reviewed, is
4 that the five video clips that you received from
5 Fred Meyers after they were downloaded by Eric Andrew on
6 January 15, 2014?

7 A. Yes, sir.

8 Q. And that -- those five video were in their raw
9 state?

10 A. They're in the state that they were extracted
11 from the DVR, yes.

12 (Testimony of Aaron Smith was concluded.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF PINELLAS)

I, CHARLENE M. EANNEL, RPR, certify that I was authorized to and did stenographically report the foregoing proceedings; and that the transcript is a true record of the proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties hereto, nor am I a relative or employee of such attorney or counsel, nor do I have any interest in the outcome or events of this action.

DATED this 2nd day of March, 2017.

/S Charlene M. Eannel
CHARLENE M. EANNEL, RPR