

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT OF
THE STATE FLORIDA, IN AND FOR PASCO COUNTY
CASE NO. CRC14-0216CFAES

STATE OF FLORIDA,

Plaintiff,

vs.

VOLUME I

CURTIS J. REEVES,

Defendant.

PROCEEDINGS: Stand Your Ground Motion

DATE: February 20, 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 THE COURT: All right. Everybody is present
3 here on State of Florida versus Curtis Reeves. We
4 have Mr. Garcia, Ms. Sumner and Mr. Martin for the
5 State. Mr. Escobar. I see Mr. Reeves is present.
6 Mr. Michaels and Mr. Shah for the Defense.

7 Are we ready to begin?

8 MR. MICHAELS: We're ready to begin, Your
9 Honor, Defense is.

10 THE COURT: All right.

11 MR. MARTIN: I think there's just a couple
12 matters, then we can get started.

13 THE COURT: All right. What do we need to
14 address first?

15 MR. MARTIN: Yesterday, as you know, the State
16 filed a response -- filed a Motion in Limine to
17 exclude the testimony of Dr. Cohen. It was based not
18 only on my opinion under 701, but also under 702,
19 and also citing Daubert.

20 As the Court's well aware, Friday -- about
21 10:00 in the morning last Friday, the Florida
22 Supreme Court declined to adapt the Daubert standard
23 as it applies to procedural matters in the state of
24 Florida.

25 That's kind of put us in a little bit of a

1 flux. I don't believe that Dr. Cohen is going to be
2 the first witness. The Defense has filed a response
3 to my motion. I have filed a reply to that
4 addressing specifically now the three opinions that
5 they're going to call Dr. Cohen on.

6 What I'd like to do is provide you with a
7 courtesy copy at this point. I'd also like to file
8 my original pleading, and I would suggest to the
9 Court that prior to Dr. Cohen testifying this
10 morning, if we can just take a short five-minute
11 break to discuss logistically how we're going to
12 proceed, I think that would help both Mr. Michaels
13 and myself as to our presentation, both in direct
14 and cross, not only for Your Honor's benefit, but
15 for the appellate record.

16 Is that acceptable to the Court?

17 THE COURT: That sounds fine. Defense?

18 MR. MICHAELS: Good morning, Your Honor. One
19 of the problems here is that we got this Motion in
20 Limine last week, a week before trial, which forced
21 us to respond. As the Court knows, we responded
22 with case law -- tabbed and provided the case law,
23 provided some -- some transcripts of some of the
24 depositions.

25 The State, I don't recall the date, but this

1 was a deposition that was taken on June 30, 2016,
2 and now we're having these issues. I think the last
3 time we were here the Court decided that we would
4 have Dr. Cohen testify. The Court has both the
5 State's Motion in Limine, our response, and now the
6 State's reply, which we received some time after
7 11:00 last night. So frankly, Your Honor, I'm not
8 in a position to be able to intelligently argue
9 that.

10 I was up, but I still had not had an
11 opportunity to research the issues that Mr. Martin
12 broached in that reply. It looks kind of like
13 they're just kind of the same objections as before,
14 and I know that's what he was kind enough to speak
15 to me about.

16 So what I would suggest, we proceed as we -- as
17 we planned before, have Dr. Cohen testify, and have
18 the Court make the decision. The State said, I'm
19 not going to argue anything else. I provided my
20 Motion in Limine. We're in a similar position.

21 We've argued in our motion that's a response to
22 their motion. We intend on calling her this
23 afternoon, so certainly there's -- there's no issue
24 in addressing it right now. So I would suggest that
25 we proceed as we planned last week, have her

1 testify, and then have the Court make a decision
2 after the State has the opportunity to cross-examine
3 her after my direct examination.

4 THE COURT: Response, Mr. Martin?

5 MR. MARTIN: I don't think that's anything
6 different than what I suggested to the Court. The
7 only nuance is, is try to figure out exactly how we
8 are going to proceed procedurally now that, as of
9 Friday of last week, we're in a little bit of a
10 quandary, as far as the gatekeeping standards, that
11 the Court has to apply.

12 I have some suggestions on that, but I don't
13 think we need to do that now. That's why I suggest
14 if I can just file my response, if we could take a
15 break at the appropriate time, let's talk through
16 logistically how we're going to do this now, since,
17 at the time we made that decision, we didn't have
18 the Florida Supreme Court pulling the rug out from
19 under our feet right before we're going to have a
20 hearing.

21 And I don't say that disparagingly, but that's
22 what happened. This placed us in a position where
23 we drafted everything, researched everything, and
24 now we need some Court direction from the Court.

25 So I don't think anything that I said is any

1 different from what Mr. Michaels said. We're just
2 going to need some time with the Court to
3 logistically go through it, and then we're going to
4 proceed. That's all.

5 MR. MICHAELS: If it's just going to take a
6 couple minutes, Judge, I don't have a problem with
7 that, but if we're going to be arguing the merits of
8 Dr. Cohen's potential testimony, then that I do have
9 a problem with.

10 So if we're just going to talk about, you know,
11 we'll let her testify and we'll be able to file some
12 legal argument concerning both standards and that
13 sort of thing, then I'm fine with that so we can do
14 that later on, if the Court's is amenable to that.

15 THE COURT: All right. We're going to just
16 proceed as we had previously indicated. It is a
17 little snag that the Supreme Court came out with
18 that decision Friday, but we will deal with it. We
19 are well familiar with both standards, and we can
20 proceed accordingly.

21 So more than likely, we're going to proceed
22 just as we indicated earlier, and obviously, we
23 don't have a jury, so I'm going to be the gatekeeper
24 either way, so there's no sense in us doing Frey and
25 Daubert hearings separately. We're just probably

1 going to proceed and we will go from there.

2 MR. MARTIN: May I approach the Court with a
3 courtesy copy of my reply?

4 THE COURT: Yes, you may.

5 MR. MARTIN: May I file the original with the
6 clerk?

7 THE COURT: And obviously with the late filing,
8 I haven't had a chance to review it as -- the same
9 with Defense's, I think it was about 600 pages that
10 were filed on Friday that I received late Friday. I
11 did not get through much of it.

12 MR. ESCOBAR: We have also hard copies for you
13 with the tabbed cases.

14 THE COURT: I've got them.

15 MR. ESCOBAR: You do? Okay.

16 THE COURT: Yeah. Fran printed them out for me
17 on Friday.

18 And one other housekeeping matter, please be
19 mindful of our stenographer over here. I know
20 sometimes Counsel gets rattling off quickly and
21 she's got a rough job as it is, and it's going to be
22 a long two weeks for her, so please be mindful of
23 her.

24 I may interrupt if you get going too quickly,
25 particularly when you're reading stuff, so.

1 All right. Mr. Martin?

2 MR. MARTIN: Judge, I filed an -- on December
3 14th of 2016, a State's Request for Judicial Notice
4 of the Florida Administrative Code, specifically
5 Rule 11B-27.00212, regarding the maintenance of an
6 officer's certification.

7 I also filed a Request for Judicial Notice for
8 Florida Administrative Code, Rule 11B-27.00212(14),
9 and I also filed a Request for Judicial Notice of
10 Rule 11B-27.014, and that one deals specifically
11 with the implementation of the Federal Law
12 Enforcement Officer Safety Act of 2004, which is
13 referred to in the Florida Administrative Code.

14 You'll hear a term called an "HR218 license,"
15 and basically that's what it is. The significance
16 and the relevance is that Mr. Reeves has an HR218
17 license, and, therefore, he's subject to the
18 firearms qualifications pursuant to the Florida
19 Administrative Code, as promulgated by the Florida
20 Department of Law Enforcement.

21 And what I'm asking the Court at this time is
22 to go ahead and take judicial notice of that
23 administrative code, and it should be in the court
24 file. I have a copy here, if you would like to look
25 at it, but I anticipate that may be even the second

1 witness that I will be using the information in that
2 particular code. Would you like --

3 THE COURT: Any objection to that?

4 MR. SHAH: Your Honor, no objection. We
5 actually specifically cited the Law Enforcement
6 Officer Safety Act of 2004, on the Stand Your Ground
7 Motion, and we will certainly be addressing that
8 issue because we've contended that he was a retired
9 law enforcement officer so under the statute, so no
10 objection, Your Honor.

11 THE COURT: Okay. Thank you.

12 MR. MARTIN: All right. So may I, then, if the
13 Court's going to accept that judicial notice, during
14 the cross-examination of the witnesses that I feel
15 is appropriate subject to any type of relevancy
16 argument, may I go ahead and freely refer to the
17 administrative code in the cross of those
18 individuals?

19 THE COURT: You may.

20 MR. MARTIN: Thank you.

21 THE COURT: All right. Are we ready to
22 proceed? Does either side wish to have a brief
23 opening?

24 MR. ESCOBAR: Your Honor, we do.

25 MR. GARCIA: There's one other matter that we

1 need to address. I spoke to Mr. Escobar this
2 morning. I think we're in agreement that Mrs.
3 Oulson is obviously going to be here for the
4 proceedings and throughout the entire proceedings.

5 THE COURT: All right. And is there any --
6 first of all, somebody want to invoke the rule?

7 Thank you, Mr. Garcia.

8 MR. GARCIA: Yes.

9 THE COURT: And are there any witnesses present
10 other than Mrs. Oulson?

11 MR. ESCOBAR: There are, Your Honor.

12 THE COURT: Is there an agreement as to Mrs.
13 Oulson's presence?

14 MR. ESCOBAR: There's no objection, Your Honor.

15 THE COURT: All right. Thank you.

16 Okay. Are you ready for a brief opening?

17 MR. MICHAELS: Yes, Your Honor.

18 (Opening arguments were reported, but not
19 transcribed per request of Counsel.)

20 THE COURT: Mr. Escobar?

21 MR. ESCOBAR: Soon enough, Your Honor.
22 Tomorrow is my -- is my turn.

23 THE COURT: Mr. Michaels?

24 MR. MICHAELS: We would call Jennifer Shaw.

25 THE COURT: Jennifer Shaw?

1 THE BAILIFF: Step this way, stand right here.
2 Face the clerk, raise your right hand to be sworn.
3 (Thereupon, the witness was duly sworn on oath.)

4 THE BAILIFF: Come have a seat up here. Adjust
5 the mic. Speak in a loud and clear voice for the
6 Court.

7 THE COURT: Go ahead, Mr. Michaels.

8 DIRECT EXAMINATION

9 BY MR. MICHAELS:

10 Q. Please state your name.

11 A. Jennifer Shaw.

12 Q. And is it Mrs. Shaw?

13 A. It is still Mrs. Shaw, but I am in the process
14 of going through a divorce.

15 Q. What is your maiden name, please?

16 A. Reeves.

17 Q. And how are you related to Curtis Reeves?

18 A. He is my father.

19 Q. And your mother's name?

20 A. Vivian Reeves.

21 Q. How long have they been married?

22 A. This year in October, it will have been 50
23 years.

24 Q. And do you have any siblings?

25 A. I do. I have one brother, Matthew Reeves.

1 Q. And how old is he?

2 A. He is 40.

3 Q. What does he do for a living?

4 A. He is a police officer for the City of Tampa.

5 Q. And what do you do for a living?

6 A. I am a branch manager for a bank in -- here in
7 Dade City.

8 Q. And do you have any children?

9 A. I do. I have one daughter.

10 Q. And how old is she?

11 A. Her name is Madison, and she's five.

12 Q. And do you have any family in the area?

13 A. Yes, sir. We have pretty much all of my family
14 on my mom's side and my dad's side live here. All of my
15 immediate family. I have one uncle that lives in
16 Oklahoma. But outside of that, everybody's in the
17 Tampa/Orlando area.

18 Q. And are you -- would you describe yourself as a
19 close-knit family?

20 A. Very much so. We get together on all of the
21 holidays and have barbecues and get the kids together to
22 play and all of that.

23 Q. Now, where do you live?

24 A. I live in Brooksville with my parents.

25 Q. And how long have you lived with your parents?

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A. I've lived with my parents since April of 2013.

Q. And is that because of the divorce and that situation?

A. Yes, sir, it is.

Q. And does your -- your daughter live there as well?

A. Yes, sir. I have 50 percent custody of my daughter, and the other half of the time she's with her father. When she's with me, she does live there.

Q. Now, where did your parents live prior to Brooksville?

A. They lived in Lutz.

Q. For how long?

A. Gosh, for as long as I can remember. The same house that I was born in. They -- let's see. They moved to Brooksville in 2005 so -- and I was born in '73, so for that period of time. I'm not sure how much prior to that they lived there.

Q. And why did they move?

A. I think part of the reason was --

MR. MARTIN: Your Honor, I'm going to object. That calls for speculation. May we approach please, Judge?

(Sidebar conference conducted.)

1 MR. MARTIN: Judge, we're here on an immunity
2 hearing and the issue of what is relevant is what
3 Mr. Reeves knew at the time of the shooting based on
4 his knowledge, based on the circumstances of what he
5 knew.

6 Now, painting a picture of him being a family
7 man and having kids, that is not what we're talking
8 about in an immunity hearing. Most everybody has
9 that and just because you have a family and kids, is
10 not one of these -- I want to say elements of
11 criteria. It is actually irrelevant in determining
12 whether or not his actions were reasonable.

13 Now, all they're doing here is painting a
14 picture of Mr. Reeves throughout this entire life.

15 What is relevant, I might suggest, is his
16 background as a police officer, his physical
17 ailments, that is what is relevant because the
18 reason that he pulled a gun is not because he has a
19 daughter, it's because he pulled a gun because he
20 could get hurt. He wanted to prevent great bodily
21 harm.

22 So all his training as a police officer he is
23 able to discern danger, all of that is relevant, but
24 all this family stuff and how many kids I have and I
25 love them, I go to church, that is all irrelevant.

1 Now, I understand that he is charged with
2 second degree murder and maybe at the trial his
3 character would be relevant, but we are not at a
4 trial. We are at an immunity hearing.

5 So what I'm suggesting, and I'm going to object
6 and get it out of the way first, I'm objecting to
7 this line of questioning about all of his background
8 because he will go on forever that he mows his lawn,
9 he picks up his paper, he doesn't let the dog -- you
10 know, whatever. That is -- it's just not relevant.

11 THE COURT: All right.

12 MR. MICHAELS: Judge, I'm not asking about
13 whether he picks up his paper or mows his lawn, we
14 are talking about what his background is and that
15 certainly is relevant while we're dealing with a
16 case of perception because that's what we are
17 dealing with.

18 I appreciate, you know, the prosecutor's
19 direction as to what areas to inquire on, but his
20 character is relevant in a case where we are dealing
21 with the perception of the individual.

22 So we need a big picture, not just necessarily,
23 you know, skimmed it down to what the prosecutor is
24 asking.

25 THE COURT: I'm going to allow it to some

1 extent. We don't need to spend days on this, but I
2 will overrule it for now.

3 And for the stenographer's purposes, let's
4 just -- we don't have a jury, we can just argue in
5 open court. We are not going to approach. So keep
6 that in mind, too, as far as your argument unless it
7 is very sensitive --

8 MR. MARTIN: I thought --

9 THE COURT: -- and I appreciate it.

10 MR. MARTIN: Am I to -- then I will rely on the
11 Court. When you've had enough, you will stop it and
12 tell me to just sit down?

13 THE COURT: Yes, I will.

14 MR. MARTIN: Is that --

15 THE COURT: I will indicate with "Let's move
16 on." You are welcome to object and make the same
17 objections.

18 MR. MARTIN: I understand, but I don't want
19 to -- you've said that you will let it go to a
20 certain point, so I'm assuming you're going to say
21 let's move on at some point?

22 THE COURT: I will, but if it is particularly
23 --

24 MR. MARTIN: I understand.

25 THE COURT: -- you're welcome to object as

1 well. We can just...

2 MR. MARTIN: If it is along these lines, I
3 apologize for interrupting, but I will just indicate
4 that I have a 402 objection based on the same
5 argument I made at the bench.

6 THE COURT: Thank you.

7 (Sidebar conference concluded.)

8 BY MR. MICHAELS:

9 Q. So you grew up in Lutz; is that correct?

10 A. Yes, sir.

11 Q. Now, were you aware that -- what your father
12 did for a living?

13 A. Yes, sir, I was.

14 Q. Okay. That he was a police officer?

15 A. Yes.

16 Q. Did you become aware that he also went to
17 college while he was a police officer?

18 A. Yes, sir.

19 Q. Tell me, then, as a child, I guess, you must
20 have never seen him around the house; is that true?

21 A. No, sir, not at all. I'm not sure. I mean,
22 we're so -- everything's so busy and rushed, it seems,
23 today and I don't know how he'd fit in all the time with
24 the family that he did spend.

25 Q. What sort of things would he do with you?

1 A. My brother was -- my brother played soccer and
2 my dad coached the team.

3 MR. MARTIN: Your Honor, I'll have the same 402
4 objection.

5 THE COURT: Overruled for now.

6 THE WITNESS: I was in Girl Scouts, Matt was
7 in Boy Scouts. I played piano. My dad was involved
8 in all of those things. Earning badges -- like if
9 you're familiar with the Girl Scout and Boy Scout
10 manuals, you can earn different badges by doing
11 different things, and there were weekends where my
12 dad would open the book and say, you know, "Let's do
13 this one this weekend," and that kind of thing.

14 But there's -- I don't really remember, when I
15 think back on my childhood, a time that he wasn't
16 present.

17 BY MR. MICHAELS:

18 Q. Now, like all children, I would imagine you
19 weren't a perfect child.

20 A. No sir.

21 Q. So did there come a time when you were ever
22 disciplined?

23 A. Yes, sir, I was.

24 Q. By your father?

25 A. Yes, sir.

1 MR. MARTIN: I object under the 402, relevance.

2 THE COURT: Sustained. Let's move on.

3 MR. MICHAELS: Judge, if I may, again, this is
4 an issue regarding -- the prosecutor has made an
5 argument, frankly, during opening statements that
6 Mr. Reeves acted out of anger, and Mr. Reeves acted
7 in a way -- in a revengeful way because he didn't
8 like popcorn thrown in his face.

9 I think his character is relevant throughout
10 the years of painting a picture that that's not the
11 kind of man he was, that he was a kind man. Even in
12 punishment, he didn't react out of anger. That's
13 what I'm trying to -- to get out of this witness,
14 Your Honor.

15 THE COURT: All right. I agree. I'll allow
16 that.

17 MR. MARTIN: My only objection would be that --
18 the timing. I mean, we only know -- this could be
19 30 years ago, so my objection is 402 and without the
20 timing we have a 403 argument. People change.

21 THE COURT: I'll allow it to that extent but
22 let's, again, stay focused.

23 BY MR. MICHAELS:

24 Q. Okay. What -- what kind of age were you at
25 when we're talking about spankings?

1 A. I would say 14 and younger.

2 Q. Did your father ever spank you while angry?

3 A. Not that I can remember. I mean, I made him
4 angry plenty of times but usually the protocol that Matt
5 and I would remember is being sent to our room to think
6 about what we've done.

7 And then he would come in to talk to us about
8 it and there was a discussion that took place, and then
9 he decided whether or not you were getting spanked or if
10 you were going to be on restriction or both or -- but I
11 was never slapped or spanked or hit out of anger right --
12 right at the moment.

13 Q. Now, as a child, I remember learning how to
14 cuss driving around with my mother, frankly.

15 Did you have occasion to drive around in a car
16 with your father when you were younger?

17 A. Absolutely.

18 Q. Did you ever see him exhibit any kind of road
19 rage of any sort?

20 A. No.

21 MR. MARTIN: I'm going to object, Judge, 402,
22 same argument at the bench.

23 THE WITNESS: Not as a child or as an adult.

24 THE COURT: How about a time frame?

25 BY MR. MICHAELS:

1 Q. Okay. Tell me whether you remember any
2 specific incident of an accident or something, your
3 father's reaction?

4 A. Yes, sir. I do remember, and it's been -- I
5 might have been, like, 13 or 14. We were rear-ended in
6 North Carolina camping.

7 MR. MARTIN: Excuse me, Judge, I'm going to
8 object. If we're talking character evidence,
9 character evidence cannot be proved by a specific
10 act. It has to be with a reputation in the
11 community. So I object to the form of the question
12 and the admission of specific acts as it deals with
13 character pursuant to the Evidence Code.

14 THE COURT: Response?

15 MR. MICHAELS: Again, Judge, it's a similar
16 argument. The allegation here is that Mr. Reeves
17 acted in a certain way because he didn't get his
18 way. And certainly the prosecutor has made it an
19 issue now here at the trial, and so I think it's
20 fair to flesh out what his character was throughout
21 the years to determine whether or not his actions
22 were reasonable.

23 The prosecutor may not have a problem with his
24 perception. I don't know. We'll get to that. But
25 if we're talking about what Mr. Reeves' reaction

1 was, then certainly it's -- it's relevant because it
2 goes to what his character was and it goes to what
3 his background is.

4 THE COURT: Response?

5 MR. MARTIN: Judge, he indicated exactly what I
6 objected to. He wants to go through specific
7 incidences over time saying at this time -- at this
8 time this did not occur. That's not the way you
9 prove character. It's by reputation within the
10 community. And as the Court's well aware in an
11 immunity hearing, the rules of evidence apply --
12 strictly apply.

13 I object to specific incidences in order to
14 prove character that would, then, go to argue that
15 the character on 1/13/2014 is consistent with
16 specific incidences, and that is not acceptable
17 under the rule.

18 THE COURT: All right. For purposes of this
19 hearing, I'm going to be a little -- I'm going to
20 allow a little more than I might. I'm not going to
21 be quite as strict as I would if we were having a
22 jury over there. Obviously I'm the trier of fact.
23 The rules of evidence apply. I'm going to allow
24 some of this testimony for the big picture of Mr.
25 Reeves -- who he is.

1 As far as character evidence, Mr. Martin is
2 correct that this isn't -- it's not really
3 appropriate to show his character. Clearly, there's
4 the insinuation and argument or statement by the
5 prosecutor that this -- that this was done out of
6 anger and resentment of having something -- someone
7 tell him, you know -- not respond in the way that
8 Mr. Reeves indicated. That was in the opening
9 statement, no doubt.

10 Is this proper testimony for character? Unless
11 you're going to have, you know, 10 or more witnesses
12 as to that, I'm going to have to agree with
13 Mr. Martin. But this sort of evidence, in my humble
14 belief, is similar to hearing testimony about
15 someone wearing a seat belt. They always wore a
16 seat belt, always wore a seat belt. Did they wear a
17 seat belt on the night in question? We don't know.

18 So, I'm going to utilize it for that purpose.
19 It certainly will help me get an understanding of
20 Mr. Reeves' background and who he is, which is what
21 the Defense is hoping to do. So for all of those
22 reasons, I'm going to allow this line of
23 questioning. Again, though, let's not go too far --
24 too far with it.

1 BY MR. MICHAELS:

2 Q. Did you ever see your father react angrily as a
3 result of an auto accident?

4 A. No, sir.

5 Q. Do you have any specific examples?

6 A. Just the one that I started talking about where
7 we were rear-ended in North Carolina, and it bent a rack
8 that my father had on the back of his car. He got out of
9 the vehicle, resolved it amicably. Told the guy don't
10 worry about it. He would bend the rack back and fix it
11 and it was over with.

12 Q. Now, the man you married was a police officer,
13 correct?

14 A. Yes, sir.

15 Q. Do you remember going to your father and
16 telling him about the divorce?

17 A. Yes, sir, I do.

18 Q. Tell me about that, how did your father react?

19 MR. MARTIN: Your Honor, I will object, 402.

20 THE COURT: Overruled.

21 BY MR. MICHAELS:

22 Q. How did your father react? Did he try to get
23 involved and tell you what to do? What was his reaction?

24 A. No, sir. My father was very angry because my
25 husband had been unfaithful but he didn't --

1 MR. MARTIN: Your Honor, again, we have not
2 only a 402 argument, but now even a 403 argument
3 even though you're the trier of fact. This is the
4 type of testimony that's totally inappropriate.

5 THE COURT: Response?

6 MR. MICHAELS: Judge, I'll ask a different
7 question.

8 THE COURT: Thank you.

9 BY MR. MICHAELS:

10 Q. Did your father try to take charge of the
11 situation?

12 A. No, sir, he did not. He just offered support
13 and let me know that he was there and asked if he -- if I
14 wanted him to come over.

15 Q. So he didn't tell you what to do?

16 A. No, sir.

17 Q. He didn't confront your soon-to-be ex-husband?

18 A. No, sir.

19 Q. Growing up, do you remember your father being
20 into fitness at all?

21 A. Yes, sir.

22 Q. Tell us about that and give me a time period of
23 what you -- what you remember.

24 A. Growing up, dad had to maintain physical --
25 being physically fit for the police department. He also

1 was commander of a SWAT team, and he had to maintain a
2 high level of fitness for that. For a number of years, I
3 remember as a teenager he would run at night. He would
4 go out running.

5 And I don't ever remember him being heavily
6 involved in a gym or a gym membership or anything like
7 that, but just really staying active at home and the
8 running.

9 Q. And at some point did he stop running?

10 A. He did stop running.

11 Q. Around what time period are we speaking of?

12 A. I'm not certain of the time period. I'm going
13 to guess it was somewhere right around 14, 15. He had a
14 problem with his sciatic nerve that bothered him.

15 MR. MARTIN: Your Honor, I'm going to object.

16 It calls for speculation and a lay opinion as far as
17 the medical condition.

18 THE COURT: Sustained.

19 BY MR. MICHAELS:

20 Q. Okay. Let me ask you: Did you observe your
21 father having difficulty running?

22 A. On several occasions, I tried -- I couldn't
23 keep up but I tried to run with him.

24 Q. Okay. But at some point, did he have
25 difficulty in running?

1 A. Yes, sir, he did.

2 Q. Okay. And you observed that, correct?

3 A. On several occasions. I didn't run with him
4 all the time but I have observed that.

5 Q. And at some point, did he stop running?

6 A. Yes, sir.

7 Q. Do you know how old he was?

8 A. I'm not certain.

9 Q. Do you know how old you were?

10 A. I might have been around 14 or 15.

11 Q. Was he still with the police department when he
12 stopped running?

13 A. Yes, sir.

14 Q. And do you know if he stopped running because
15 he got lazy?

16 A. No, sir.

17 MR. MARTIN: Your Honor, again, calls for
18 speculation.

19 THE COURT: I will overrule it. She can tell
20 what she observed.

21 BY MR. MICHAELS:

22 Q. Did he take up another form of fitness?

23 A. Yes, sir. He took up riding a -- rode a bike,
24 bicycling.

25 Q. Okay. And again, to maintain cardiovascular

1 fitness?

2 A. Yes, sir.

3 MR. MARTIN: Your Honor, I'm going to object.

4 It's leading and calls for speculation.

5 THE COURT: Sustained.

6 BY MR. MICHAELS:

7 Q. Now, let's talk a little bit about your mother,
8 okay?

9 A. Okay.

10 Q. How old is your mother?

11 A. My mom is 70.

12 Q. And do you know if she is being treated for --
13 she was being treated at a hospital of any sort?

14 MR. MARTIN: Your Honor, I'm going to object to
15 this line of questioning as being not relevant under
16 402 based on the discussions at the bench.

17 MR. MICHAELS: Judge, it's relevant because we
18 have an elderly woman who also is declining in
19 health in the movie theater. Certainly, Mr. Reeves
20 is justified if he's acting to thwart an attack or
21 thwart any imminent threat of attack to himself or
22 to his wife.

23 So I think it's important that we hear this
24 testimony so that we can understand Mr. Reeves'
25 state of mind and his perception with the big

1 picture that he is sitting next to his wife and
2 she's also in declining health and getting older.

3 MR. MARTIN: Then Mrs. Reeves can take the
4 stand and testify when, where, and why she was in
5 the hospital, and where she was sitting. But for
6 Ms. Shaw to come up here and be a conduit for
7 Ms. Reeves is inappropriate.

8 THE COURT: To the extent that she has personal
9 knowledge and that alone, I'll overrule.

10 MR. MARTIN: We would ask for a date.

11 THE COURT: And times.

12 BY MR. MICHAELS:

13 Q. All right. Do you know any specific dates?

14 A. No, sir.

15 Q. Or time periods?

16 A. Well, I know that she's had -- she had a knee
17 replacement in the last couple of years. She's also --

18 MR. MARTIN: Your Honor, it's nonresponsive to
19 the question. The question was: Do you know any of
20 the dates when she was in the hospital, and now the
21 responses are hearsay and calls for a medical expert
22 testimony, but the only way she would know that is
23 if Mrs. Reeves told her, therefore, it is hearsay.

24 THE COURT: She's her daughter. To the extent
25 that she knows, I don't need medical details, just

1 basically the recitation of time period and
2 procedure.

3 BY MR. MICHAELS:

4 Q. So about two years ago -- do you agree or
5 disagree with me that about two years ago your mother
6 received some sort of treatment?

7 A. Yes, she had a knee replacement.

8 Q. Okay. So she had some sort of surgery; is that
9 fair to say?

10 A. Yes, sir.

11 Q. And do you agree or disagree with me that your
12 mother has also been visiting Moffitt Cancer Center?

13 A. Yes, sir.

14 Q. And is that for a period of years now?

15 A. Yes, sir. It has been over a period of years.

16 Q. Now, you -- are you aware of whether or not
17 your mother and father exercise together?

18 A. They do on occasion. Yes, they do.

19 Q. And what sort of exercise?

20 A. Sometimes they will -- well, prior to -- what
21 time frame are we talking about?

22 Q. Prior to 2013.

23 A. Okay. Yes, they would walk together in the
24 neighborhood. At that point in time, I guess my mom's
25 doctors at Moffitt had told her there was a possibility

1 she might have to have surgery and that she needed to get
2 in shape so that recovery could --

3 MR. MARTIN: Your Honor, again, they're talking
4 about -- I object. First, it's hearsay, what her
5 mother told her, and the question was walking so it
6 is nonresponsive also.

7 THE COURT: Sustained. Let's go back to it.

8 MR. MICHAELS: Thank you, Judge.

9 BY MR. MICHAELS:

10 Q. In 2000 -- between 2013 and 2014, did your
11 mother and father exercise together?

12 A. Yes, sir.

13 Q. Okay. And what sort of physical activities did
14 your father do between 2013 and 2014, that you're aware
15 of?

16 A. Together?

17 Q. Just your father.

18 A. Oh, just my father. He walked with my mother.
19 He also rode his bike and then he did calisthenics, just
20 kind of stretching exercises.

21 Q. And what sort of bike did he ride? Was it a
22 road bike or mountain bike?

23 A. No. Well, he has both bikes. If he rode with
24 my mother, he would typically ride a mountain bike. And
25 then if he rode with friends or by himself for

1 exercise -- more so for exercise, he would ride a road
2 bike.

3 Q. Okay. And let's talk about your daughter. Her
4 name is Madison?

5 A. Yes, sir.

6 Q. And how old is she?

7 A. She's five.

8 Q. When she was born, that means your -- was your
9 father already retired at that point?

10 A. Yes, sir, he was.

11 Q. And tell me whether or not your parents helped
12 you to care for the newborn?

13 A. Yes, sir. I stayed home with her for three
14 months, and then they kept her for six months before she
15 went into day care.

16 Q. Are you aware of any plans that your father had
17 for retirement before Madison came?

18 A. Yes, sir.

19 MR. MARTIN: Your Honor, again, I'm going to
20 object. We're far afield based on my objection at
21 the bench for a 403 -- I mean, 402.

22 THE COURT: Response?

23 MR. MICHAELS: Again, we're -- we're getting
24 background on Mr. Reeves. We're trying to paint the
25 big picture here. We're going to get to the police

1 certifications. We're going to get to all of that
2 but that's not the only person he is in that
3 theater. He's both sides of that.

4 I think we can expect that the prosecutor's
5 going to argue something to the effect of, well,
6 he's a retired police officer who didn't get his
7 way, and therefore he's being authoritative and
8 that's what this is all about.

9 And so I think that it's important to hear that
10 in retirement that that's not what Mr. Reeves is
11 about. In retirement, he's -- he's a family man.
12 In retirement, he's a grandfather. In retirement,
13 he's -- he's -- he's not a police officer 24 hours a
14 day.

15 MR. MARTIN: Again, Mr. Michaels has identified
16 specific acts of conduct that they want to be able
17 to argue that he acted in conformity there with on
18 January 13, 2014. The Court's well aware of the
19 specific acts of conduct in regarding character to
20 determine how a person acted on a particular time is
21 not -- is not admissible. It's character by
22 reputation within the community. That's how we
23 prove character, not by specific acts.

24 THE COURT: Response to that?

25 MR. MICHAELS: Judge, I'm going to connect it

1 up to his disabilities and actually interacting with
2 the child, and so this is just kind of laying the
3 foundation to get to that point.

4 THE COURT: We're laying a pretty big
5 foundation. Let's narrow it down a little bit, but
6 I will overrule it.

7 MR. MICHAELS: Okay.

8 BY MR. MICHAELS:

9 Q. So are you aware of whether or not your father
10 changed his retirement plans in order to stay home with
11 the child, with your little girl?

12 A. Changed his plans in retirement, not to retire.
13 He had already retired, but yes, he did. Him and my mom
14 decided not to travel to stay home and watch Madison.

15 Q. Okay. And did they help you take care of
16 Madison?

17 A. They did.

18 Q. For how long?

19 A. It was about six months.

20 Q. And whose idea was it to do that? Was that
21 your idea?

22 A. No, sir. We hadn't even -- I hadn't even
23 discussed it with my parents because I knew their travel
24 plans, and I knew having a child was my responsibility
25 and my husband's responsibility. So no, I never asked

1 them to watch her. It's something that they came to me
2 and said we feel like this is important for family and
3 we'd like to do that.

4 Q. Okay. Now, when Madison was a toddler, did
5 your father play with Madison, did you observe that at
6 all?

7 A. Yes, sir, I did.

8 Q. What sort of things would he do with her?

9 A. He would do all kinds of things with her.
10 There were limitations as far as him crawling around on
11 the floor and the things that she wanted him to do. But
12 he played with her all the time as far as reading her
13 books and playing games with her and singing songs and...

14 Q. Now, when she was a baby, when she was a
15 toddler, did your father pick her up?

16 A. I have seen him pick her up, yes, sir.

17 Q. And is he still able to do that?

18 A. No, sir, not really. I don't think I've seen
19 that in the last couple of years.

20 Q. And do you remember an occasion where your
21 father was trying to play with Madison on the floor and
22 couldn't get up?

23 A. Yes, sir.

24 MR. MARTIN: Your Honor, again, I'm going to
25 object to the leading nature of the question at this

1 time.

2 MR. MICHAELS: Judge, number one, it wasn't
3 leading. I asked her if she remembers. I didn't
4 say, "You remember, don't you?" That's leading. If
5 I give the witness a choice to answer the question
6 yes or no, that's not leading, number one.

7 Number two, if we're going to talk about the
8 degenerative process here, certainly Ms. Shaw's
9 observations of her father's limitations and his
10 diminishing capacity are relevant in this case.

11 THE COURT: I'll overrule.

12 MR. MARTIN: Judge, it's only relevant if we
13 have a date. Every question needs to have a date
14 frame, otherwise we're just throwing it out there
15 and I can't -- we can't make it relevant without a
16 date.

17 THE COURT: Time frame.

18 MR. MICHAELS: Okay.

19 BY MR. MICHAELS:

20 Q. How old is Madison now?

21 A. She's five.

22 Q. Okay. So that means she's been here on this
23 earth five years. So it was sometime during -- between
24 the time she was born and now, right, when your father
25 couldn't get up?

1 A. Yes, sir.

2 Q. Okay. Do you know more specifically? Was she
3 two years old, three years old, four years old? How old
4 was she?

5 A. I've seen it on more than one occasion that
6 that's occurred. It's rare that he gets down on the
7 floor with her, but when he -- when he has, he doesn't
8 get up very easily and it takes a little while and a
9 little help.

10 Q. Okay. And does he ever try now to get on the
11 floor, or that's over with?

12 A. No, sir. I think that's over with.

13 Q. Now, when you were growing up, what were the
14 sort of things your father did with his hands? What sort
15 of hobbies, what did he like to do?

16 A. He did woodworking, he did leather work. I
17 can't remember what he couldn't do. He could kind of do
18 a little bit of everything.

19 Q. Does he still do woodworking?

20 A. He has tinkered with it. Being confined to the
21 house, I think one of his friends got him into making
22 some toys for churches around the area and gave him --
23 bought him the wood and the patterns and the materials he
24 needed to make those toys. So dad's been making toys for
25 those kids.

1 Q. Does he work at it like he used to for hours at
2 a time?

3 A. No, sir, not at all. And I believe I heard him
4 say at one point in time he even simplified a couple of
5 the patterns.

6 MR. MARTIN: I will object to hearsay.

7 MR. MICHAELS: I'll move on, Judge.

8 THE COURT: Thank you.

9 BY MR. MICHAELS:

10 Q. Now, as a child, would your father kind of take
11 you out and do things in the great outdoors?

12 A. Yes, sir. We spent most of our time outside as
13 kids riding bicycles, hiking in the woods, camping,
14 fishing, canoeing.

15 Q. Okay. And kayaking?

16 A. Yes, sir.

17 Q. And did you -- have you kayaked recently with
18 your father?

19 A. The last time we went kayaking was actually in
20 April of 2013.

21 Q. And at that point, did he have any difficulties
22 with any of the equipment associated with kayaking?

23 A. Yes, sir. The paddles, the two-part paddles
24 that you would put together and have to pull apart, he
25 was not able to pull them apart.

1 Q. But in that instance, is it true that the
2 paddles were pretty stuck and you had to help him pull it
3 apart?

4 A. Yes, sir.

5 Q. Have you ever seen before that on occasion
6 where he couldn't pull them apart and they weren't that
7 difficult to get apart?

8 A. Not that I witnessed.

9 Q. Your father got a motorcycle after retirement;
10 is that true?

11 A. Yes, sir, he did.

12 Q. Okay. He didn't have any problem riding it,
13 did he, or did he not?

14 A. The riding part I don't think is the hard part.
15 I think the getting on and off and getting started and
16 stopping and that kind of thing. It --

17 MR. MARTIN: Your Honor, again, I'm going to
18 object. She kept saying, I think this is the
19 problem, I think this is a problem. And when he
20 retired, he retired from Tampa Police Department, he
21 retired from Busch Gardens. Again, we don't have
22 time frames.

23 THE COURT: Let's get specific time frames and
24 if she doesn't have personal knowledge, then I'm not
25 going to allow it.

1 BY MR. MICHAELS:

2 Q. Have you had occasion with your husband to be
3 on a motorcycle?

4 A. That's correct.

5 Q. Have you had occasion with your husband to be
6 on a motorcycle and have your father and your mother also
7 on a motorcycle at the same time?

8 A. Yes, sir.

9 Q. On their own motorcycle?

10 A. Yes, sir.

11 Q. Now, what time period are we talking about?
12 You obviously were with your husband then.

13 A. Sure. It would have been prior to the birth of
14 my daughter, so it would have been the several years
15 prior to February 2nd of 2012.

16 Q. Okay. And you observed your father getting on
17 and off of the motorcycle, correct?

18 A. Yes, sir.

19 Q. And was it a smooth transition, was he just
20 able to swing his leg over and get on the thing or no?

21 A. No, sir.

22 Q. Describe what you observed.

23 A. As a child, kind of watching that and watching
24 my mother get on and off the back, it's a little scary.
25 But they -- occasionally, he would have to kind of tell

1 her to stop, you know, wait -- wait a minute, let me hold
2 the bike up, that kind of thing to try to get them both
3 on and get them going. So no, it wasn't a swing your leg
4 over and get on.

5 Q. Now, are you aware of whether your father had a
6 fall in December of 2014 in the house?

7 A. I can't remember exact month, but yes, sir, I
8 am aware of when he fell.

9 Q. And --

10 MR. MARTIN: Your Honor, I'm going to object to
11 the -- to this testimony, and it occurred after the
12 incident of January 13 of 2014. What occurred and
13 what injuries occurred afterwards is not relevant
14 for this particular case. If they can try to tie it
15 up with Dr. Foley, then we'll see if they can do it.

16 But right now I'm suggesting to the Court that
17 there is no relevancy because it's after the
18 incident. Therefore, it would not be part of the
19 knowledge that Mr. Reeves knew at the time of
20 January 13, 2014.

21 MR. MICHAELS: But it would be evidence, Judge,
22 of the continuing aging process. It would be
23 evidence that part of the degenerative changes Mr.
24 Reeves was suffering from is lack of bone density.
25 Mr. Foley [sic] will indeed be able to testify as to

1 that's what happened. We're going to be able to
2 look at the x-rays.

3 The Court's going to see that he has an
4 artificial hip in the x-rays and Dr. Foley is going
5 to be able to say that old people's bones get
6 brittle, therefore, when they fall, they can't take
7 it like when they're young, and therefore, Mr.
8 Reeves had this degenerative condition.

9 Dr. Cohen's going to further be able to -- to
10 tie it up by saying that's what happens with old
11 people, that's how they know they're vulnerable.
12 Here's further proof that this is a vulnerable old
13 man. So I believe that it is relevant in this case,
14 even though it happened post January of 2014.

15 THE COURT: Anything further?

16 MR. MARTIN: Well, briefly, Judge, the
17 relevancy, as the Court is well aware, is the
18 knowledge of the defendant on January 13, 2014, at
19 the time of the shooting. He had none of that
20 knowledge.

21 It cannot be considered as being one of the
22 factors. Whatever happens before that, I believe is
23 probably fair game but not afterwards.

24 MR. ESCOBAR: Your Honor, may I respond as
25 well?

1 THE COURT: One at a time.

2 MR. ESCOBAR: Judge, may I have a moment, then?

3 MR. MARTIN: Judge, maybe Mr. Escobar put it a
4 little more articulate than I did -- articulately.
5 Essentially, this is relevant because it goes to
6 show the difference between an old person and a
7 young person. In this particular instance, Mr.
8 Reeves is on the back porch playing with his
9 granddaughter, walking there, falls, breaks a hip
10 and needs a hip replacement, and that doesn't happen
11 to a 43-year-old.

12 And so it's relevant to show the aging process,
13 to show his vulnerability, to show that he had
14 recognition of his vulnerability.

15 THE COURT: How can anything, really, that
16 happened afterwards be considered relevant to his
17 state of mind and feelings at the time?

18 MR. MICHAELS: Because his feelings at the time
19 were that, hey, I'm an old man. I can't -- I can't
20 let somebody -- I can't take a punch from somebody.
21 I can't. Because if I do, I could sustain great
22 bodily harm. If I do take a punch from somebody, I
23 could die or be killed, and so this is further
24 evidence that that was true. Not only is it a
25 perception but it was true because his bones are

1 deteriorating.

2 THE COURT: All right. There just -- I can't
3 allow stuff after -- after the event. It just
4 doesn't jive, and I don't really need corroboration
5 from a witness to say that this happened afterwards
6 to know that every day that goes by we all age. So
7 I get it. I don't need to hear about stuff that
8 happened afterwards just to corroborate that.

9 And I'm not seeing any other purpose for it,
10 and it simply can't have any relevance to his state
11 of mind at the time of the incident, so I'm going to
12 sustain that.

13 BY MR. MICHAELS:

14 Q. Now, growing up your father was a police
15 officer. Did he treat you at home like a police officer
16 treats a suspect?

17 A. No, sir.

18 MR. MARTIN: Your Honor, I'm going to object to
19 that. How would she know how he treats someone on
20 the street?

21 THE COURT: I'm going to sustain that. I mean,
22 rephrase.

23 BY MR. MICHAELS:

24 Q. Okay. Growing up was your father a bossy,
25 authoritative person?

1 A. No, sir.

2 Q. Do you agree or disagree that your personality
3 is similar to your father's?

4 A. Yes, sir.

5 Q. And what do you mean by that?

6 A. Just my brother is more similar to my mom, I'm
7 more similar to my dad in that my dad and I are pretty
8 direct people. If we have something to say, we say it.
9 We're kind of -- we can be kind of stubborn at times
10 and...

11 Q. Do you agree or disagree that your father may
12 be all of those things but he's not an aggressive person?

13 A. That is the truth.

14 Q. Now, you know your father was in a position of
15 authority all those years in the Tampa Police Department,
16 do you not?

17 A. Yes, sir.

18 Q. Now, tell me why you think your father was in a
19 position of authority.

20 A. My father was in a position of authority based
21 on his leadership skills.

22 MR. MARTIN: Your Honor, I object to that.

23 That calls for speculation as opposed to she said I
24 saw his captain's badge, he's a captain. Well, he's
25 a supervisor but not what, you know, character-wise

1 why he was in a position of authority.

2 THE COURT: Response?

3 MR. MICHAELS: Judge, one of the issues here is
4 that -- just that he's a captain and he has a
5 captain's badge, and so the State has essentially
6 made this an issue here as to whether or not Mr.
7 Reeves acted in a way that shows he was a frustrated
8 police officer, a captain who always got his way,
9 that sort of thing.

10 This testimony is to demonstrate that that
11 wasn't who Mr. Reeves was. That again, we have to
12 look at kind of a dichotomy. There's -- there's the
13 job that he did and there was Mr. Reeves as a
14 person, both before he retired and after he retired.
15 So I think it's important that Ms. Shaw be able to
16 testify concerning his leadership ability as opposed
17 to, you know, he was in a position of authority
18 because he was an authoritative kind of a guy.

19 THE COURT: Anything further?

20 MR. MARTIN: Just quickly. There's no way that
21 she'll know how the deciding individuals at the
22 Tampa Police Department made a determination to
23 promote Mr. Reeves from one position to another.
24 That criteria is unique to the police department
25 itself, and there's absolutely no way that Ms. Shaw

1 could have even an inkling of an idea of that
2 process and what they would go through in order to
3 make those promotions in placing him in a leadership
4 position.

5 MR. MICHAELS: Judge, that may very well be --
6 that may very well be true that she's not part of
7 the police department, but certainly as his daughter
8 she saw him in church leading the congregation. She
9 saw him in the Boy Scouts being a leader in the Boy
10 Scouts. She saw him in the Girl Scouts being a
11 leader in the Girl Scouts. She saw him as a coach
12 during Little League soccer.

13 So she's seen him in leadership positions and
14 it's not a stretch for her to say my father was in a
15 position of authority. I know because I see what a
16 fabulous leader he was.

17 MR. MARTIN: Okay. We're back to specifically
18 incidences of contact to confirm that someone acted
19 in conformity there with on a particular date. I
20 apologize for keep standing up and doing the same
21 objection, but it's over and over and over again.

22 THE COURT: All right. Mr. Michaels, clearly
23 we're getting into exactly what Mr. Martin has
24 objected to. Mr. Reeves' character is not an
25 essential element of this crime alleged, so the

1 rules are kind of clear that it's specific instances
2 of acting in conformity to a certain character is
3 not admissible.

4 MR. MICHAELS: Okay.

5 THE COURT: So we're going to have to really
6 limit where you're going with this witness. And
7 unfortunately, we've been -- we've spent more time
8 talking about her testimony than we've actually
9 heard. But Mr. Martin is correct. Let's tailor
10 this down to what might be admissible evidence and
11 move on.

12 MR. MICHAELS: So just so I understand the
13 Court, then the State can't argue later that Mr.
14 Reeves acted in conformity with some kind of
15 authoritative personality he had as a police
16 captain. Is that what I understand?

17 THE COURT: That sort of -- this sort of
18 testimony might be brought out if the door is opened
19 through cross, but not to just be offered as
20 circumstantial evidence to show that he acted in
21 conformity with some character.

22 So to answer that in a nutshell, he may -- he
23 may open that door. I wouldn't -- from what I've
24 heard already, that may very well be a possibility.
25 And at that point, of course, there's the

1 opportunity for rebuttal or further cross depending
2 on who the witness is.

3 MR. MICHAELS: Can I have one moment, Judge?

4 THE COURT: You may.

5 BY MR. MICHAELS:

6 Q. Can you describe for the Court specific
7 instances of observations you made regarding your
8 father's deterioration or limited physical capacity?

9 MR. MARTIN: I'm just asking for a time frame,
10 Judge, again. Just -- I assume we're talking about
11 prior to January 13, 2014. So when prior to that
12 would be helpful.

13 MR. MICHAELS: Judge, I asked for specific
14 instances so I don't know -- we'll wait to see what
15 she says.

16 THE COURT: We'll see what she says.

17 THE WITNESS: Can you repeat the question,
18 please?

19 BY MR. MICHAELS:

20 Q. Specific instances of observations you made
21 regarding your father's diminishing capacities.

22 A. Sure. I've watched both of my parents over the
23 years deteriorate, basically, in age as part of the aging
24 process. It's not that I put a time frame around any of
25 that and could tell you that on this day this is what I

1 observed.

2 But what I have observed is that my parents
3 have trouble functioning on everyday normal activities
4 that you and I take for granted, but I can't put a time
5 frame and say that on this date he couldn't tie his shoe,
6 and I've seen that. And I can't say a time frame on this
7 day his fingers locked up and he couldn't hold a cereal
8 spoon but I've witnessed that. But I can't tell you the
9 dates that that occurred.

10 Q. Okay.

11 A. I can't tell you the date where he tried to
12 pick up Madison and had to put her back down because he
13 couldn't stand up and hold her. I don't know those dates
14 but those are things that I've witnessed and that I see
15 on a daily basis.

16 You know, I've witnessed my daughter imitating
17 his hands locking up and saying, "Oh, look grandpa, my
18 fingers won't move." I've seen her use examples of when
19 she doesn't want to do something, "I think my hip is
20 hurting," or things like that. Those are things that a
21 child notices.

22 So, yeah I've seen all of it. I've seen the
23 deterioration. I've seen them not be able to do what
24 they thought they could do. I've seen my dad push his
25 limits to try to stay healthy and thinking that he is

1 doing his body good after all the damage he's put it
2 through, whether it be with police department training or
3 SWAT team training. He was determined to slow down that
4 aging process by --

5 MR. MARTIN: I apologize for interrupting but
6 now we're getting into speculation about what may or
7 may not have occurred at the police department, what
8 he felt that he needed to do. The question was
9 specific: What are the observations? And I let it
10 go to an extent but now she's just speculating about
11 what Mr. Reeves was thinking about over the years so
12 I object.

13 THE COURT: Sustained. Let's move on.

14 BY MR. MICHAELS:

15 Q. Do you shoot sporting clays?

16 A. Yes, sir, I do.

17 Q. And how were you introduced to that?

18 A. Through my father and my ex-husband.

19 Q. And what is that exactly?

20 A. It's where we -- there's clay pigeons that are
21 round and a machine or a trap throws the pigeons into the
22 air and you fire and shoot them with a gun.

23 Q. And what sort of shotgun did you use?

24 A. When I was married, I used my husband's gun,
25 which I believe was a 12-gauge Browning, and then I've

1 been using my -- the gun my father gave me, which is a
2 12-gauge Benelli SuperSport.

3 Q. Is that a gun that your father also used when
4 he would shoot clays?

5 A. Yes, sir, it is.

6 Q. And tell me about that gun. Is there a lot of
7 recoil? Does is it hurt to use it?

8 A. No, sir, not at all. I think one of the
9 reasons my father bought is because there isn't --

10 MR. MARTIN: Your Honor, again, I object. It's
11 speculation and if she knows he said it, it's
12 hearsay.

13 BY MR. MICHAELS:

14 Q. Was your father able to shoot with that gun?

15 A. Yes, sir, he was.

16 Q. Did you observe him shooting with the gun?

17 A. I did.

18 Q. And was he able to shoot with that gun, or was
19 he able to shoot with other guns before that?

20 A. I'm sure he did. Yes.

21 Q. And when did he get that Benelli SuperSport?

22 A. I'm not sure when he acquired it.

23 Q. Okay. Was it sometime after he retired?

24 A. I believe so, yes, sir.

25 Q. Was it sometime after you noticed the kind of

1 changes in his ability to do the things that he could do
2 before?

3 A. I'm not certain on that.

4 Q. In other words, was it around the time he
5 couldn't pick up your daughter, those sorts of things?

6 A. I'm not sure if he bought it before or after
7 that. I know that it's -- I don't think it's a very old
8 gun.

9 Q. Okay. And is the gun light; is that fair to
10 say?

11 A. Very light.

12 Q. So you didn't have any problem shooting it?

13 A. No, sir, not at all.

14 Q. In fact, your mother could shoot it as well; is
15 that true?

16 A. Yes, sir.

17 MR. MICHAELS: Could I have a moment, Judge?

18 THE COURT: You may.

19 BY MR. MICHAELS:

20 Q. Now, before you were interrupted by the
21 prosecutor, I know you were talking about the changes you
22 saw in both of your parents.

23 Do you remember that?

24 A. Yes, sir.

25 Q. Did that happen before January of 2014?

1 A. Yes, sir.

2 MR. MICHAELS: I don't have anything else.

3 Thank you, Your Honor.

4 THE COURT: Thank you.

5 Cross?

6 MR. MARTIN: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. MARTIN:

9 Q. Good morning.

10 A. Good morning.

11 Q. I'm going to start backwards a little bit so
12 it's just a little bit fresh in your mind. Let's talk
13 about the sporting clays, all right?

14 A. Okay.

15 Q. Is that the Tampa Bay Sporting Club here in
16 Pasco?

17 A. Tampa Bay Sporting Clays, yes.

18 Q. How many times have you been there? And I'm
19 going to keep my questions to prior to January 13, 2014.
20 How many times were you there with your dad in
21 2013?

22 A. Maybe half a dozen.

23 Q. Okay. You're familiar with the course?

24 A. Yes, sir.

25 Q. There's two, three courses there?

1 A. Three courses.

2 Q. Okay. And have you fired on all three courses?

3 A. I have.

4 Q. The -- I'll call it the path or road, but it's
5 a road kind of narrow maybe for an ATV or a truck just to
6 get by but most people walk it, golf cart?

7 A. Yes, sir.

8 Q. All right. Made of dirt?

9 A. Yes, sir.

10 Q. While they -- there is some slight elevation,
11 it's relatively level?

12 A. Yes, sir.

13 Q. All right. When it rains or whatever, you can
14 see for a while small indentations, pot holes, maybe some
15 gravel from the water, but pretty much it's just level,
16 flat with a gravel dirt road, right?

17 A. It's not gravel, it's just dirt.

18 Q. Just dirt?

19 A. Yes, sir.

20 Q. Okay. Hard, packed dirt or soft dirt?

21 A. There's areas of soft dirt, but mostly hard
22 packed.

23 Q. All right. Now, when you and Mr. Reeves go to
24 that particular club, he normally walks?

25 A. Yes, sir.

1 Q. And in 2013, he would walk those six times,
2 right?

3 A. How many times? Oh, throughout the year, yes.

4 Q. Yeah. All right. He did not use a walker?

5 A. No.

6 Q. He did not use a cane?

7 A. No.

8 Q. He carried his own shotgun?

9 A. Correct.

10 Q. He carried his own chips?

11 A. Yes.

12 Q. All right. He didn't ask for any assistance to
13 walk down that dirt road from station to station, did he?

14 A. Correct.

15 Q. All right. Now, did you shoot the 50-round
16 course or the 100-round course?

17 A. Well, the courses are -- are -- you can shoot
18 whatever you want on course. We never used score cards
19 or kept score or anything like that. We used --
20 typically shot 50 rounds.

21 Q. All right. And there's 14 stations?

22 A. It depends. They switch the courses up over
23 the years. They change everything around.

24 Q. So anywhere from 10 to 15 stations?

25 A. Sometimes less than that depending on what

1 course you were on.

2 Q. But you would still shoot 50 rounds?

3 A. Yes, sir.

4 Q. And at each particular stage, you would place
5 that shotgun on your shoulder and shoot two flights, two
6 birds, whatever you want to call it?

7 A. Four or six or whatever we decided at that
8 station.

9 Q. That is true. The shotgun and the rules are
10 that it holds two shotgun shells at a time, that's all
11 that you can load, correct?

12 A. The Benelli, yes.

13 Q. Okay. Well, yours too. That's the rules,
14 right?

15 A. Correct.

16 Q. All right. So two birds will only come out at
17 the time. If you want to shoot four while you're still
18 at the station, then you're going to have to reload.

19 A. Correct.

20 Q. All right. Now, in this particular case,
21 you're talking about Benelli SuperSport, right?

22 A. Yes, sir.

23 Q. All right. And were you shooting 2 3/4-inch
24 shells or 3-inch shells?

25 A. I'm not sure.

1 Q. Okay. Were you shooting --

2 A. Depending on what was on sale.

3 Q. Whatever was on sale?

4 A. Yes.

5 Q. All right. Fair enough. Were you shooting
6 target levels?

7 A. I'm not sure what that is.

8 Q. All right. Are you aware of the rules at the
9 range that you're only supposed to use seven shots?

10 A. Yes, sir.

11 Q. Okay. So that's what you were shooting?

12 A. Yes, sir.

13 Q. All right. Now, your particular shotgun, is it
14 an automatic, semiautomatic shotgun or is it double
15 barrel where you can actually open it up and break it?
16 Do you know what I'm talking about?

17 A. Semiautomatic.

18 Q. Semiautomatic. And you, in fact, inserted the
19 shells into the loading port of your shotgun, right?

20 A. Correct.

21 Q. When you loaded your shells into the loading
22 port of that shotgun, the loading port of the shotgun is
23 underneath the shotgun, right in front of the trigger
24 guard, is it not?

25 A. Correct.

1 Q. All right. And did you have the shotgun shells
2 in your pocket or in a bag, in a box?

3 A. Usually in a pouch or in my pocket.

4 Q. All right. And would you take it out one at a
5 time?

6 A. Yes, sir, usually.

7 Q. And what was your technique in loading the
8 shotgun shell into the loading port? Did you push it in
9 with your thumb, did you push it in with your finger,
10 what did you do?

11 A. I believe I used my thumb.

12 Q. Okay. Now, in the tube that's underneath the
13 barrel where the magazine tube for the shotgun shells
14 there's a spring, correct?

15 A. I'm not sure about that.

16 Q. When you place your shotgun shell into the
17 loading port, you have to use force with your thumb to
18 push it in -- into the loading port, did you not?

19 A. Yes, sir.

20 Q. It just didn't fall in?

21 A. Correct.

22 Q. Okay. And then when you took your second
23 shell, you also then used your thumb and placed your
24 thumb on the back of the shell and pushed it into that
25 loading port, did you not?

1 A. Correct.

2 Q. And the second one was just a little bit harder
3 than the first one because the spring had been
4 compressed, right?

5 A. Once you load the first one, you push a button
6 and it -- I don't recall it being any more or less
7 difficult.

8 Q. Okay. Right. You -- there's a button called a
9 bolts release and the bolt goes forward, placing the
10 shotgun shell into the battery, correct?

11 A. I don't know the terminology but...

12 Q. But have you to put two shells in, right?

13 A. Correct.

14 Q. And you did that?

15 A. Yes.

16 Q. All right. Now, after you did that and you
17 placed your shotgun onto your shoulder, did you not?

18 A. Yes, sir.

19 Q. All right. You put your cheek on the butt
20 stock of the shotgun?

21 A. Yes, sir.

22 Q. All right. And when the birds fly in front of
23 the station, you actually have to hold that shotgun in
24 your hand and wait for the bird and then you swing the
25 shotgun as the bird flies, correct?

1 A. Correct.

2 Q. All right. If you don't swing the shotgun,
3 what happens? You shoot behind the bird, right?

4 A. Or you just completely miss.

5 Q. You -- well, you miss.

6 A. Over, under, behind, in front of.

7 Q. Right. So the whole purpose when we're
8 shooting sporting clay is to keep that shotgun moving
9 while it's held up in the air. As the bird flies, we're
10 constantly moving and we pull the trigger as the gun is
11 moving. Theoretically, the shot will fly in front of the
12 bird and you hit your target, right?

13 A. Correct.

14 Q. All those are body movements that have to take
15 place in order to participate in that sport.

16 A. Correct.

17 Q. The stages that you went to at the Tampa Bay
18 Sporting Club -- Sporting Clay, some of them have stairs
19 that you actually have to walk up into the stage area,
20 correct?

21 A. Correct.

22 Q. And you made it up those stairs?

23 A. Yes, sir.

24 Q. All right. Now, not all of them have stairs,
25 right?

1 A. No, sir.

2 Q. But some of them do?

3 A. Yes.

4 Q. All right. Now when you were there with your
5 father, he also had a semiautomatic shotgun, right?

6 A. He was shooting that same gun.

7 Q. The Benelli?

8 A. Correct.

9 Q. Okay. Now, he loaded it the same way. He took
10 one shell out, used his thumb and placed that shell into
11 the loading port of the shotgun?

12 A. I know he loaded the gun. I do not know his
13 technique.

14 Q. He had to use his fingers, right?

15 A. Yes.

16 Q. A little bit tongue in cheek. That's the only
17 way can you do it. You can't use your toe or elbows,
18 right?

19 A. Correct.

20 Q. You have to use your fingers to get the shell
21 into the loading port?

22 A. Correct.

23 Q. Okay. So whatever technique he used, he used
24 his fingers, his wrist, his arm in order to take the
25 shell out and load that shotgun shell into the loading

1 port of the shotgun?

2 A. Correct.

3 Q. And he had to do that twice and just like -- is
4 that correct?

5 A. Yes.

6 Q. And just like you, he then had to place the
7 butt of that shotgun onto his shoulder, right?

8 A. Yes.

9 Q. All right. He's right-handed?

10 A. He's left-handed but he does things with both
11 hands.

12 Q. Is he right-hand dominant when he shoots a gun
13 or?

14 A. I have no idea.

15 Q. Does he place the shotgun on his right shoulder
16 or his left shoulder?

17 A. I don't know.

18 Q. He places it on one of them, though, doesn't
19 he?

20 A. Yes, he does.

21 Q. All right. Fair enough. His technique has to
22 be the same as yours. If you're going to be successful
23 in shooting that bird out of the air, you have to hold
24 that shotgun up for the amount of time it takes for the
25 bird to fly, you twist your body, put the shotgun in

1 front of the shell of the bird, and you fire the shotgun
2 while you're moving, correct?

3 A. Sure. And the amount of time you refer to is
4 seconds.

5 Q. Sure. Sure. Two seconds, three seconds, maybe
6 five seconds?

7 A. It depends on the stand.

8 Q. Right. So as you're going and you have a
9 little button there, right, and you ask the person are
10 you ready, right, and you have to hit the button in order
11 to make the bird fly.

12 A. Correct.

13 Q. And while you're standing there waiting for the
14 bird to fly, you're standing there with the shotgun up
15 ready to go?

16 A. Not necessarily.

17 Q. Okay. What was his technique? There are two
18 techniques and you're correct.

19 A. Sure. I don't know.

20 Q. Okay. Now, Mr. Reeves also walked up the
21 stairs to the station just like you did?

22 A. Correct.

23 Q. Okay. While carrying his shotgun?

24 A. Yes, sir.

25 Q. All right. With his ammo, right?

1 A. Yes, sir.

2 Q. All right. Again, he didn't ask for an
3 elevator. A little facetious, I know, but he walked up
4 the stairs with no problems, right?

5 A. Well, I mean, I don't know if he used the
6 handrail or not. I didn't pay attention.

7 Q. Sure. Mr. Reeves, then, would walk from
8 station to station along that dirt road, right?

9 A. Correct.

10 Q. Now, depending on the number of the stations
11 and how many birds you shoot, what does it take, an
12 hour-and-a-half, maybe two hours to go through a
13 particular stage?

14 A. I'm not really sure. Maybe an hour, a little
15 over.

16 Q. All right. And during that time, Mr. Reeves
17 would be standing the whole time?

18 A. Yes, sir.

19 Q. He would be holding his shotgun the whole time?

20 A. No, sir.

21 Q. Okay. There's a station by the stage where you
22 can actually take the shotgun and put it on a rest while
23 another person shoots, right?

24 A. Correct.

25 Q. All right. And then after you're done with

1 that stage, you will pick up that shotgun and then you
2 will safely carry it to the next stage?

3 A. Yes, sir.

4 Q. Okay. And he carried his own shotgun?

5 A. Yes, sir.

6 Q. Okay. Now, because the shotgun did not break,
7 it was a semiautomatic, do you know if he carried it
8 straight up holding it with his hands, did he put it on
9 his shoulder and carry it? Do you know how he did it?

10 A. I don't know.

11 Q. Okay. But he was responsible for getting his
12 gun from place to place?

13 A. Correct.

14 Q. Okay. We're going to move on, all right?

15 A. Okay.

16 Q. All right. You talked about Mr. Reeves saying
17 his, quote, "fingers locking up."

18 Are you talking about both hands?

19 A. Yes, sir.

20 Q. All right. And you're talking about the index
21 finger?

22 A. I think there's been several where it's been
23 more than one finger.

24 Q. Including the index?

25 A. I'm not sure which ones.

1 Q. Okay. And you say when that happens, that he
2 can't hold a cereal spoon, right?

3 A. I've seen that happen.

4 Q. Okay. All right.

5 A. I'm not saying that happens every time.

6 Q. All right. And then it goes away?

7 A. Eventually, yes, sir.

8 Q. You talked about, on direct, about you've never
9 been with your father when he's been or exhibited conduct
10 that Mr. Michaels described as road rage. Do you
11 remember, were you ever in the car when he got angry?
12 Okay.

13 And you don't ride around in the car every day
14 with your father, do you?

15 A. Not every day, no, sir.

16 Q. All right. In fact, I think it would be best
17 to describe that a great, great majority of the time
18 you're not in the car when your father's driving. He's
19 off doing his thing and you're off doing your thing?

20 A. What time frame are we talking about?

21 Q. Probably -- let's just take 2013.

22 A. No, sir. I mean, we went to family dinners and
23 that kind of thing, but for the most part, you're
24 correct.

25 Q. For the most part, the great, great majority of

1 the time, you're not with Mr. Reeves when he's in a car.

2

3 A. Not in the car, no, sir.

4 Q. All right. So when you indicated that you've
5 never seen that, that was based on your very, very
6 limited experience of being with Mr. Reeves?

7 A. No, sir. That was based on a lifetime of being
8 his daughter.

9 Q. All right. Let's talk about the lifetime. The
10 same question to you: Would you not agree that even
11 though you grew up and you're his daughter, you were not
12 in the car every time Mr. Reeves was driving on the
13 street?

14 A. Correct.

15 Q. Okay. You indicated that -- and I believe the
16 time frame was prior to January 2014 -- that Mr. Reeves
17 had trouble picking up your daughter?

18 A. Yes, sir.

19 Q. Picking her up from the floor?

20 A. Correct.

21 Q. All right. And was this -- and I'm using the
22 movement, and I'll try to describe it for the record,
23 where my hands are down by the pockets of my pants and
24 I'm simply taking my shoulders and keeping my elbows
25 locked like you would pick up a child underneath the

1 armpits.

2 Is that the motion we're talking about?

3 A. I -- I wouldn't keep my arms locked to pick up
4 my child, but...

5 Q. Okay. So you would -- you'd go ahead and,
6 like, keep them at 45?

7 A. No, sir, but they would not be locked straight.

8 Q. They would be out, though?

9 A. They would be outreached, correct.

10 Q. Okay. All right. So what you saw I
11 demonstrated, even though I used the term "locked," and
12 you're right, my elbows aren't, quote, "locked," but
13 they're straight out in front of me. So it would be a
14 straight up motion with your hands starting from your
15 pockets without bending your elbows, maybe not locked but
16 just picking straight up?

17 A. Not necessarily. I may pick her up from the
18 side, I may pick her up from this side, I may pick her up
19 from in front.

20 Q. I'm talking about Mr. Reeves.

21 A. Sure. And he may have done the same thing.

22 Q. Okay.

23 MR. MARTIN: Thank you for your time, Ms. Shaw.
24 Thank you, Judge. I have nothing else.

25 THE COURT: Thank you, Mr. Martin.

REDIRECT EXAMINATION

BY MR. MICHAELS:

Q. We talked about the same time period the prosecutor was speaking to you about when he talked to you about sporting clays, and that would be 2013, okay?

A. Okay.

Q. Now, you were living -- is it true that you were living with your father and mother in their house at the time?

A. Since April of 2013, yes, sir.

Q. And so during that year, did you see your father having trouble or being slow when he first got up in the morning?

A. He gets up before everybody else typically. I mean, yes, I've seen him definitely slow down as far as his movements and slower to start. Even just getting up from watching a movie on TV I've seen that, but maybe not necessarily first thing in the morning.

Q. How about, like, getting out of a chair? Does he pop right out or does he use his hands to push himself up out of the chair?

A. He uses his hands and then takes a second to steady himself.

Q. And that's in 2013?

A. Yes, sir.

1 Q. The same time that he's doing the Sporting
2 Clays he's having trouble getting out of the chair, is
3 that what you're saying?

4 MR. MARTIN: Your Honor, asked and answered and
5 leading.

6 THE COURT: Overruled.

7 BY MR. MICHAELS:

8 Q. Is that what you're telling us?

9 A. I don't know that it would be considered
10 trouble getting out of a chair, but not with these, for
11 sure.

12 Q. But you described that he had to use his hands.
13 Did I understand you correctly?

14 A. Yes, sir.

15 Q. And then you said once he gets up he had --

16 A. He takes a minute to steady himself.

17 Q. Okay. So is it fair to say that his balance is
18 off or no?

19 MR. MARTIN: Your Honor, I'm going to object to
20 that.

21 THE WITNESS: Maybe at times.

22 MR. MARTIN: It calls for speculation.

23 THE COURT: I'm going to sustain on that.

24 BY MR. MICHAELS:

25 Q. Have you observed your father have -- being

1 unsteady on his feet once he gets up out of a chair at
2 any time?

3 A. The fact that he takes a second to steady
4 himself, I would -- again, it's not something where I go,
5 oh, his balance must be off, but I've observed that that
6 could be the case.

7 Q. Okay. And the -- again, the time frame
8 regarding trouble getting down on the floor to play with
9 your daughter, that's in 2013; is that right?

10 A. Yes, sir.

11 Q. Having his fingers freeze up, that's the same
12 period of time?

13 A. Yes, sir.

14 Q. Not being able to tie his shoe, is that the
15 same period of time?

16 A. No, sir. That was a little bit later.

17 MR. MICHAELS: Thank you.

18 THE COURT: Anything further from this witness?

19 MR. MICHAELS: No, Judge.

20 THE COURT: May this witness be released?

21 MR. MICHAELS: Yes, Your Honor.

22 MR. ESCOBAR: Your Honor, we're going to
23 reserve to keep her still on subpoena just in case
24 we recall her.

25 THE COURT: Okay. And you have a way to do so,

1 so she's free to leave the courthouse, if she
2 wishes?

3 MR. ESCOBAR: She is, Your Honor.

4 THE COURT: All right. Ms. Shaw, you're free
5 to leave however you wish, but you are subject to
6 recall.

7 THE WITNESS: Yes, ma'am.

8 THE COURT: Thank you.

9 THE WITNESS: Thank you.

10 THE COURT: All right. This will be kind of an
11 overdue time to take a short 10-minute recess. We
12 will take 10 minutes and resume after that.

13 THE CLERK: All rise.

14 (Recess taken.)

15 THE COURT: Ms. Sumner, are you expecting Mr.
16 Garcia back?

17 MS. SUMNER: I thought he was right behind me.

18 THE COURT: Okay.

19 MS. SUMNER: I'll go check.

20 THE COURT: All right. We are back on the
21 record, ready to go. Everybody's still present.

22 Mr. Michaels?

23 MR. MICHAELS: Your Honor, before we get
24 started, I have an exhibit list for the Court. I
25 gave a copy to Mr. Martin already.

1 THE COURT: Okay. Please.

2 MR. MICHAELS: They're for today's witnesses
3 and exhibits.

4 THE COURT: Okay. Thank you.

5 MR. MICHAELS: The first exhibit that we're
6 going to use are those photographs that are listed
7 at the very top. Those have been stipulated to by
8 the State.

9 THE COURT: Okay. And Matthew Reeves is going
10 to be your next witness?

11 MR. MICHAELS: Yes, Your Honor. We would call
12 Matthew Reeves.

13 THE COURT: Okay. Thank you. Have those
14 exhibits been premarked?

15 MR. MICHAELS: No, Your Honor. We'll have to
16 mark them with the clerk.

17 THE COURT: Okay.

18 MR. MICHAELS: We do have our own exhibit
19 sticker marked. If the Court wishes, we can either
20 use those or use the other ones.

21 THE COURT: Typically, we've got one for
22 identification and then the State -- or the clerk
23 will mark them with a final -- once they're
24 admitted, they'll be marked with the clerk's sticker
25 for final entry, correct?

1 THE CLERK: Yes.

2 THE COURT: Okay.

3 MR. ESCOBAR: Your Honor, just so the Court
4 knows so that we can prepare for that, you'll see
5 that our exhibits are in a clear little envelope
6 that's tied to it, so the back side we've left open
7 if we want to attach anything to it, a sticker or
8 whatever is convenient for the clerk. Okay?

9 THE COURT: Okay. Thanks. So you can just use
10 your exhibit for --

11 MR. ESCOBAR: We're going to use our
12 exhibits --

13 THE COURT: -- identification?

14 MR. ESCOBAR: Exactly.

15 THE COURT: And then once it's admitted, it
16 will have a final number.

17 MR. MARTIN: And Judge, do you want me to go
18 ahead and premark mine for Mr. Reeves now, or do you
19 want to wait until -- are we going to take a break
20 for lunch and then do cross or something?

21 THE COURT: Correct.

22 MR. MARTIN: Okay. Then I'll get with the
23 clerk.

24 THE COURT: They'll need to be marked somehow
25 for identification, and then they'll come in with a

1 number once they're admitted.

2 MR. MARTIN: Yes, I've done this before.

3 THE COURT: I know. All right. Go ahead,
4 Mr. -- oh, we've got Mr. -- young Mr. Reeves?

5 THE BAILIFF: Step this way, stand right here.
6 Face the clerk, raise your right hand to be sworn.
7 (Thereupon, the witness was duly sworn on oath.)

8 THE BAILIFF: Come have a seat up here. Adjust
9 the mic. Speak in a loud and clear voice for the
10 Court.

11 THE COURT: Go ahead, Mr. Michaels.

12 DIRECT EXAMINATION

13 BY MR. MICHAELS:

14 Q. Please state your name.

15 A. Matthew J. Reeves.

16 Q. And is Curtis Reeves your father?

17 A. Yes, sir.

18 Q. How are you employed, please?

19 A. With the Tampa Police Department.

20 Q. And how long have you been with the Tampa
21 Police Department?

22 A. It will be 14 years next month.

23 MR. MARTIN: Excuse me, Judge, Mr. Michaels, I
24 apologize for interrupting you. Even at the
25 deposition I had trouble hearing Mr. Reeves. He is

1 very soft spoken and I couldn't hear very well what
2 he said. If he can just...

3 THE COURT: Maybe if you can step -- yeah,
4 there you go.

5 MR. MARTIN: Thank you, Your Honor, I
6 appreciate it. Maybe if you guys are talking, just,
7 you know, kind of do this or something if I can't
8 hear. I don't want to interrupt.

9 THE COURT: Okay. That'll be fine.

10 MR. MARTIN: I appreciate it, thank you.

11 BY MR. MICHAELS:

12 Q. Tell us about your career at the Tampa Police
13 Department.

14 A. Like I said, I have almost 14 years in the
15 department. I started back in 2003, and I worked in
16 patrol for at least four or five years before going to
17 plainclothes for approximately four years, at which time
18 I joined Tampa -- or was selected to join the Tampa
19 Police Department bomb squad.

20 And at that point, I went back into patrol as
21 my daily duties, and I've been on the bomb squad for six
22 years, certified as a hazardous device technician for
23 about five years.

24 Q. So you're a member of the bomb squad now?

25 A. Yes, sir.

1 Q. Prior to that, did you have any military
2 experience?

3 A. Yes, sir.

4 Q. Tell us about that.

5 A. I served in the US Air Force for six years. I
6 started back in 1995 and got out in 2001.

7 Q. And did you have any sort of security
8 clearances?

9 A. While I served in the Air Force, I served as a
10 radio operator of the national airborne operations
11 command post, and to perform my duties, I was required to
12 carry a top secret SCI clearance.

13 Q. Let's talk about the sort of things you would
14 do with your father growing up.

15 What sort of things would you do with him?

16 A. From a very young age, my father was always
17 very involved with everything that I did. I was in
18 soccer, Boy Scouts. We did a lot of church youth
19 activities. A lot of family get togethers with -- like,
20 through church, we did canoe trips where it was the
21 fathers and sons, and we'd go camping on the river,
22 whether it be the Suwannee River or the (inaudible.) We
23 did that at least once a year.

24 Numerous camping trips every year with canoes,
25 bicycling. We went to North Carolina in the mountains

1 and camped at least once or twice a year. Camping, like
2 I said, hiking, backpacking.

3 When I was around -- around town and so forth,
4 I was always involved with soccer and at some point for a
5 few years my dad was my coach. And then if he wasn't the
6 coach of our soccer team, he was an assistant coach. He
7 made the time to actually come out and be involved so he
8 was always involved, which I found now that I work in law
9 enforcement --

10 MR. MARTIN: Your Honor, I'm going object.
11 He's now becoming nonresponsive and providing
12 gratuitous information.

13 THE COURT: It's getting a little
14 nonresponsive. I'll sustain as to...

15 BY MR. MICHAELS:

16 Q. So was your father a father who was just too
17 busy at work to be involved in your activities as a
18 child?

19 A. Actually, the complete opposite of that. I am
20 amazed now that I work in law enforcement the amount of
21 time that he did make to spend time with me when I was
22 growing up.

23 Q. Now, you mentioned bicycling with your dad?

24 A. Yes.

25 Q. Over the years -- and we'll go ahead and set a

1 cutoff date of January 2014. Over the years, tell us
2 about any changes you've seen in your dad's ability to
3 bike with you. First tell us what sort of biking you
4 would do with him.

5 A. Growing up a lot of mountain biking and
6 eventually when he felt I was capable of keeping up, I
7 would do long distance bike rides on road rides with him
8 and other people that he worked with in the police
9 department.

10 Eventually into my early high school years,
11 which would have been in the early '90s, I started
12 getting where I could actually outpace him. And
13 occasionally on long rides, where I'd say 75-mile rides,
14 I would leave him and go off with some of the faster
15 people.

16 As time went by, different things that we did
17 together. While I was in the military, I returned home
18 and we'd go mountain biking. That would have been in the
19 late '90s. In that time frame, he stopped mountain
20 biking completely and we didn't do really any more riding
21 due to the fact that he couldn't keep up when we did
22 ride.

23 Q. Okay. And after the rides, before he stopped
24 riding, did you make any observations concerning his
25 physical condition after he rode? In other words, was he

1 stiff, was he tired, was he sore, those sort of things,
2 what did you observe?

3 A. As the years went on, yes. It definitely
4 magnified the issues that he's had over the years that
5 have come from a lot of the time that he spent on the
6 police department on the SWAT team, a lot of the injuries
7 he sustained back then. He was --

8 MR. MARTIN: Your Honor, I'm going to object.
9 We have a -- a proper foundation of any type of
10 personal knowledge is pure speculation at this
11 point. And even if he was told by his dad what
12 happened, it would be hearsay.

13 THE COURT: Less restricted to what he has
14 personal knowledge of, please, and remember to
15 include some time frames.

16 BY MR. MICHAELS:

17 Q. As your father's gotten older, was he able to
18 do the same things he did with you when he was younger?

19 A. No, sir.

20 Q. And describe that.

21 A. Everything from the mountain biking, growing up
22 he got me into hunting, involved with hunting and things.
23 His time early on when we would hunt, he would be the one
24 who would climb the tree and set tree stands, and I would
25 watch to learn. And as time went by, I took over that

1 role. He couldn't do it any longer.

2 Q. What time period are we talking about?

3 A. This is going back into the '90s into --
4 leading on into the early 2000s. We would buy equipment
5 that was specific to help him in what he needed to do,
6 something that was more comfortable, something that was
7 easier to use for climbing a tree. So we bought very
8 specific equipment for that purpose.

9 Q. Now, before we talk a little bit about the
10 hunting, did your father change from a mountain bike,
11 which is ride to the mountains, to a road, which is
12 riding, like, on pavement?

13 A. Yes, sir.

14 Q. And did he have any difficulties that you
15 observed in riding that road bike?

16 A. The road bike was less impactful, and he did
17 that in place of running because of the impact that it
18 had on him.

19 Q. Do you know if -- if -- whether or not he
20 required any extra padding on the handlebars?

21 A. Yes. He would use extra padding. On more than
22 one occasion, I went and bought additional padding which
23 we wrapped his handlebars because of his hands.

24 Q. And what about gloves, extra-padded gloves?

25 A. Yes. For Christmas or something I would by him

1 extra-padded gloves.

2 Q. All right. Let's talk about hunting. Was that
3 something that you did as a boy growing up --

4 A. Yes, sir.

5 Q. -- with your dad?

6 A. I started -- before I could even hunt, I was
7 allowed to go and observe him while he hunted and as he
8 taught me how to.

9 Q. What sort of hunting did you do?

10 A. Primarily he was involved with archery hunting,
11 so he would be hunting either deer or hogs. I would be
12 allowed to go along. I would sit close by early on in
13 the stand with him, and then later I would sit in the
14 stand nearby without a weapon and just observe.

15 As I grew up, he taught me what I needed to do.
16 When he felt that I was competent enough to make a humane
17 kill on an animal, I began hunting myself.

18 Q. Tell the Court what things you observed prior
19 to 2014 regarding your dad's ability to hunt.

20 A. Definitely a drop off in his physical mobility,
21 his ability to sit still in the stand as long as we did
22 when we were younger. We might sit half a day whereas we
23 would cut it back to maybe two, three hours maximum, and
24 a lot of times he would have gotten up and walked around
25 some and then sit back down if we did stay in longer.

1 He couldn't move or drag a deer out on his own.
2 One of the last ones that he did take himself, which
3 would have been the early 2000s up in Georgia, he
4 attempted to move it himself and hurt his back, and me
5 and a friend of mine actually had to load it.

6 Q. And before that, was he able to -- to get a
7 deer out of the woods --

8 A. Yes.

9 Q. -- by himself?

10 A. When we had started early on, he had no problem
11 at all doing that.

12 Q. And what about shooting a bow itself? Tell us
13 about what you observed in terms of his deterioration?

14 A. Growing up we always shot compounds. Compound
15 bows but we shot with both fingers, where you put your
16 fingers directly on the string.

17 Well, it's a lot -- you're holding all the
18 weight with your fingertips. We did that for many years
19 when a lot of people were already starting to change over
20 to what's called a mechanical release where you're
21 holding it back with your wrist.

22 He switched over to a mechanical release
23 because he used to have to tape his fingers because they
24 would hurt him so bad. As time went by in around 2009,
25 2010, we had planned to go hunting in Ohio and he

1 couldn't use his older bow so he bought a new bow with a
2 lower weight poundage pull, and when I set it up
3 originally, it was set up for roughly 50 pounds pull
4 weight.

5 And for our trip, the last trip that we took in
6 the beginning of 2013, right before this incident, he
7 actually had contacted me and asked me to research
8 getting him a crossbow because he said he couldn't pull
9 that bow back.

10 Q. Now, before this -- this last trip, and this is
11 right before January of 2014; is that correct?

12 A. Yes.

13 Q. That hunting trip took place where?

14 A. In north Florida, in the Panhandle area.

15 Q. Now, was there any kind of practice with a bow
16 prior to going?

17 A. There was and that is where he had contacted me
18 stating that he couldn't pull it back and was asking me
19 to research crossbows.

20 Q. Did you observe him not being able to shoot?

21 A. I did not.

22 Q. Okay. Were you with him when he practiced?

23 A. Yes.

24 Q. And how many arrows did you use to practice
25 with?

1 A. Normally speaking, we might shoot a couple
2 dozen arrows. When he was practicing, he couldn't shoot
3 more than a few, three, four arrows, and then he would
4 stop.

5 Q. Now, in this last hunting trip which was
6 before -- right before January of 2014, did your father
7 use a tree stand?

8 A. Yes, he did.

9 Q. Okay. And tell us about that, how does that
10 work?

11 A. It is a small two-piece stand, it weighs
12 approximately 19 or 18 to 19 pounds. We had bought them
13 years earlier because they were extremely lightweight,
14 and the way that they climb is extremely easy. He hadn't
15 used it prior to that trip. I think the last time it had
16 been used was roughly 2010. So he hadn't had any
17 practice in it. We did take it with us and he did use it
18 on one occasion on that trip.

19 Q. Now, in 2010, how high up in the tree did he
20 go?

21 A. Going back to our earlier years back in the
22 '90s and stuff, we might be 20 to 30 feet up in a tree
23 generally speaking.

24 Q. What about this last trip?

25 A. The last trip he was only about -- the tree was

1 only about 10 feet off the ground. The tree wouldn't
2 even allow him to go any higher and he wouldn't have.

3 Q. Now, what about the -- you said he hunted from
4 a blind?

5 A. Yes.

6 Q. And did he put that up himself?

7 A. No, I assisted with carrying it and assembling
8 it.

9 Q. Is that something he used to do on his own?

10 A. No, actually it was bought specifically for him
11 to hunt on the ground because it was easier for him. We
12 actually had also purchased a swivel type reclining chair
13 that was easier to sit in, much more comfortable than
14 what we had used in past years.

15 Q. And how did it make you feel to see all of this
16 change in your dad?

17 MR. MARTIN: Your Honor, I'm going to object.

18 It's not relevant how he feels.

19 THE COURT: I'll sustain that.

20 BY MR. MICHAELS:

21 Q. Was -- was hunting important to your father and
22 you?

23 A. It was very important to both of us.

24 Q. Why?

25 A. It's where we spent time together. Being that

1 I'd been gone in the military, even when I would come
2 home, that was one of the things we would do together.
3 After I got out, we joined a hunting club together and it
4 was time spent between us. It was mine and his time and
5 occasionally some of his friends would be involved that I
6 grew up with and grew up hunting with, and it was just
7 the guys' time. It was very important to us.

8 Q. What other kind of deterioration did you notice
9 in your father prior to January of 2014?

10 A. He's always been big with woodworking and he
11 also did a lot of leather working for making holsters to
12 knife sheaths to making just custom leather items. If
13 somebody wanted something, he always enjoyed making those
14 kind of things and doing things, building things with his
15 hands. And that dropped off tremendously while in the
16 late '90s and early 2000s when I got out.

17 I had -- at one point, I had even requested him
18 to build me a holster for a firearm and he didn't want to
19 do it because he stated that when he did make things --

20 MR. MARTIN: Your Honor, I'm going to object.
21 It calls for hearsay.

22 THE WITNESS: His --

23 THE COURT: To the extent that it doesn't, I'll
24 allow him to answer.

25 BY MR. MICHAELS:

1 Q. Did -- so did your father make you that
2 holster?

3 A. No. And his reasoning behind that he hasn't
4 done any leather work where he's -- when he made things
5 with leather with his hands, he said that his hands would
6 cramp.

7 MR. MARTIN: Your Honor, I will object. The
8 reasoning behind the speculation is hearsay.

9 THE COURT: It does call for hearsay.
10 BY MR. MICHAELS:

11 Q. Did you notice anything else in terms of
12 deterioration in your father? Did you see him wearing a
13 back brace around the house for instance?

14 A. He wore a back brace. He used vitamin oil or
15 some sort of hand salve on his hands regularly in the
16 morning.

17 Q. And that was prior to 2014, in January?

18 A. Yes.

19 Q. Anything else you observed?

20 A. He had what he called a trigger finger, and I
21 had observed before that that finger was locked up and he
22 wouldn't be able to bend it.

23 Q. You've observed that; is that right?

24 A. I have observed that, yes.

25 Q. You don't live at home; is that fair to say?

1 A. No, sir.

2 Q. Where do you live?

3 A. I live in Dade City.

4 Q. And how often do you see your father?

5 A. Anywhere from -- it could be two times a week
6 to once every two weeks.

7 Q. And prior to 2014, how often would you see him?

8 A. At least in that range.

9 Q. Let's talk about January 13th of 2014, okay?

10 A. Yes, sir.

11 Q. Tell me what plans you had on that particular
12 date.

13 A. My plans initially were involved with cleaning
14 my vehicle, due to the fact that it was covered in clay
15 and mud, so I was cleaning and doing things outside
16 because we'd been away for a week or so.

17 Q. Did you get a text at some point?

18 A. He either called me or texted me.

19 Q. And was that an invitation of some sort?

20 A. Yes, it was an invitation to attend the Lone
21 Survivor movie.

22 Q. At the Cobb Theater?

23 A. Yes, sir.

24 Q. Now, did you go with your parents to the Cobb
25 theater?

1 A. No, sir.

2 Q. What happened once you got there?

3 A. I was running late to the theater. I purchased
4 my tickets and responded straight inside. I didn't stop
5 to get anything. I went straight into the theater
6 because I thought the movie might had started. When I
7 walked inside, it was already dark inside and the
8 previews were playing.

9 Q. Let me show you what's been marked as Composite
10 Defense Exhibit 1.

11 MR. MICHAELS: I would move at this time by
12 stipulation, to enter Exhibit 1 into evidence.

13 MR. MARTIN: By stipulation.

14 THE COURT: It will be admitted.

15 MR. MICHAELS: As Exhibit 1.

16 THE COURT: Okay. As Exhibit 1.

17 MR. MARTIN: I assume that's been -- I
18 apologize for sitting down. I assume that's the
19 photograph of --

20 MR. MICHAELS: It is. I gave Mr. Martin a
21 list. It's on there.

22 MR. MARTIN: Okay.

23 THE COURT: Okay. And this is a composite.

24 MR. MICHAELS: It is. What we will do, Judge,
25 we will identify it -- there's a JPEG number, that

1 way we can keep it straight on the record.

2 THE COURT: Okay.

3 BY MR. MICHAELS:

4 Q. All right. Now, you go into the theater,
5 correct?

6 A. Yes, sir.

7 Q. And that's where you buy your ticket?

8 A. At the front opening, yes.

9 Q. Where do you go from there?

10 A. Straight into the theater where the movie was
11 playing.

12 Q. Now, when you get to the theater, do you
13 remember the number of the theater?

14 A. I don't recall.

15 Q. Does Theater 10 sound --

16 A. That sounds familiar, yes.

17 Q. Now, once you get to Theater 10, you walk in.
18 Can you -- and I'm showing you what's been marked as a
19 composite and it is JPEG 2060417, you're looking at it on
20 the screen.

21 Does that look familiar to you?

22 A. Yes, sir.

23 Q. Now, when you say you entered the theater, do
24 you see the area you entered the theater on that picture?

25 A. Yes. It's the open door in the lower-left

1 corner.

2 Q. Okay. And that's with the -- is that with the
3 green exit sign or some sort of sign over the top we're
4 talking about?

5 A. Yes, sir.

6 Q. And when you walk into the theater, what are
7 the conditions of the theater?

8 A. It's already dark.

9 Q. When you say "dark" are we talking about like
10 that, where some of the house lights are on? Are we
11 talking about pitch black or somewhere in-between?

12 A. It's nearly pitch black.

13 MR. MARTIN: Excuse me, Judge. May we
14 approach?

15 THE COURT: Do we need to?

16 MR. MARTIN: I wouldn't ask, if I didn't think
17 it was appropriate.

18 THE COURT: Okay. Could we just swing your
19 chair over, maybe?

20 THE COURT REPORTER: Yes.

21 (Sidebar conference conducted.)

22 MR. MARTIN: The reason that I think there
23 would be a lot of objections now, is because of the
24 lighting. It's been raised, the issue about the
25 lighting. These are not pictures -- they are not

1 appropriate.

2 What we have is Mr. Michaels had said where,
3 you know, it is our -- it is a form of art that
4 we've been battling about whether or not the picture
5 actually represents, you know, represents that.

6 So that's the reason I wanted to come to the
7 Court now because we know this is regarding -- now
8 we're going to take those pictures and we're going
9 to say that is what the lighting is. Is that dark?
10 That is what it is, and then we're going to have
11 some problems.

12 Now he's indicated -- and in his deposition --
13 this was pitch black. Now they are going to get to
14 those (inaudible). See, where my concern is, is
15 with Mr. Michaels' characterizing the photographs
16 and referring to them as being this dark because we
17 know it was mid level one. We know that is.

18 So that's -- I wanted to come here and I think
19 this is going to go on for the next few minutes how
20 dark it was. How he could not see it was so dark.
21 It was not until -- because I can see my dad, he
22 could testify to all of that, but not with the
23 photographs saying that is how dark it was because I
24 will have an objection to that.

25 I realize that we have a stipulation about the

1 chain of authenticity, all right, and I signed it,
2 but there is no way the photographs can be used to
3 represent exactly what the conditions are like, as
4 far as darkness.

5 MR. MICHAELS: Judge, he has testified it was
6 darker than in those photos. So he is not saying
7 that the photos look like the lighting that was
8 present.

9 THE COURT: All right.

10 MR. MICHAELS: He is saying it was pitch black.
11 He will probably --

12 MR. ESCOBAR: He didn't say it was pitch black.
13 He said near pitch black.

14 THE COURT: Uh-huh. All right.

15 MR. MARTIN: He can testify all he wants --

16 THE COURT: Right.

17 MR. MARTIN: -- but not Mr. Michaels describing
18 those pictures as being dark. And it barely was
19 what it was.

20 THE COURT: Well, I am looking at them, so I
21 know, you know, I can be a judge of what I am
22 looking at. And I want to make sure the record is
23 straight as to what we are looking at and you can do
24 that with contemporaneous objections, I suppose.

25 If there was some mention by Counsel that

1 that's pitch black, you know, something along those
2 lines --

3 MR. MARTIN: Whatever it represents because we
4 haven't resolved my objections and that's why I
5 didn't want to air this in front of the witness.

6 THE COURT: Okay. Obviously, I think those
7 objections would come more into play when that
8 witness is on or not or however we resolve that.

9 MR. MARTIN: Like I said, I don't have a
10 problem saying, I was there, and it was pitch black
11 or dark, but in that -- but not Mr. Michaels, that's
12 not what I --

13 MR. ESCOBAR: Judge, I don't understand why we
14 are here for this objection because that was not
15 even asked in that fashion --

16 MR. MARTIN: (Inaudible.)

17 MR. ESCOBAR: This is nothing more than his
18 prompting to tell the Court that he is objecting to
19 Mr. Michaels' photos. There's going to be a proper
20 predicate. I'm doing Mr. Knox (phonetic), there
21 will be a proper predicate for those photos. That's
22 the only reason we are here because it was not even
23 an objectionable issue here. Nobody asked this guy
24 the way it looked on that particular day.

25 THE COURT: Yes.

1 MR. MARTIN: My objection was to the form of
2 the question by Mr. Michaels' characterizing the
3 photographs to the extent that he wants to
4 characterize. That was a proper objection.

5 THE COURT: Okay. We will deal with it
6 accordingly.

7 (Sidebar conference concluded.)

8 BY MR. MICHAELS:

9 Q. Now, when you walked in the theater, what do
10 you remember the lighting conditions to be?

11 A. It was extremely dark. There was already a
12 movie trailer playing.

13 Q. Okay. So it was extremely dark; is that what
14 your description is?

15 A. Yes.

16 Q. Okay.

17 MR. MICHAELS: Judge, may I have the witness
18 step down?

19 THE COURT: You may.

20 BY MR. MICHAELS:

21 Q. If you would step down, please, Mr. Reeves.
22 Stand in front of that screen.

23 Now, point to where it is that you came in
24 through.

25 A. I entered here.

1 Q. And that's that opening with a little green
2 light on top that we were talking about; is that where
3 you are pointing to?

4 A. Yes.

5 Q. Okay. Now, describe to me which direction you
6 walked once you came in that door?

7 A. I would be coming straight down this aisle
8 where this partition wall is and I came up around the end
9 of -- this, right around the end of this partition wall
10 right here.

11 Q. Okay. Let me show you what has been marked as
12 Composite Exhibit 1, 2081418 is the JPEG number. All
13 right. Is that the same theater we're looking at?

14 A. Yes, sir.

15 Q. All right. And could you indicate where you're
16 talking about, now that we're looking at the overall
17 view?

18 A. I entered from this side. And you can't see
19 where I would have been standing at the base of this
20 wall. Where you see the rail coming down, I was at the
21 base of that wall.

22 Q. Okay. So as we look towards the back of the
23 theater, you are coming from what would be the left side;
24 is that what you're describing?

25 A. If I'm facing the screen, it was on the right

1 side.

2 Q. As you're facing the screen on the right side,
3 yes?

4 A. Yes.

5 Q. Now we're looking at the back, so it is on the
6 left.

7 A. Yes, sir.

8 Q. Let's go back to this first one, which is
9 2060417. All right. So now you come into the theater;
10 where do you go?

11 A. I stepped up approximately the first step that
12 would be just off of the frame here and was standing
13 right there.

14 Q. And at that point, what do you do?

15 A. Initially, I looked through the crowd trying to
16 find my parents.

17 Q. Were you able to see them or recognize them in
18 any way?

19 A. It was too dark to recognize them at that
20 point.

21 Q. Okay. So now what is going on on this screen
22 behind you; if you recall?

23 A. I specifically recall the trailer for the new
24 Robocop remake movie playing. Everybody appeared to be
25 watching it, so I turned and watched the screen.

1 Q. And could you indicate for us where you were
2 standing when you turned around to watch it on the
3 screen?

4 A. I was still standing right up at the base of
5 this wall approximately one step up.

6 Q. And were you towards the wall itself? Were you
7 more towards the seats? Where were you standing?

8 A. I would have been right against the wall.

9 Q. And why did you stand against the wall?

10 A. Everybody appeared to be watching what was
11 going on and I didn't want to interrupt.

12 Q. So now you're watching the previews. Tell me
13 what happens next?

14 A. When the preview came -- ended, the screen
15 essentially went black for a short time. Right when that
16 occurred, I heard my father's voice say something to the
17 effect of, get off of me, or, get out of my face, or
18 something to that effect.

19 Q. Can -- do you agree or disagree, then, in terms
20 of what the exact words were or you don't remember?

21 A. I do not remember.

22 Q. Now, can you point to the area that you heard
23 that voice coming from?

24 A. Up towards the top area.

25 Q. And --

1 A. Up in the top somewhere.

2 Q. Okay. So you're indicating towards the back
3 row at the top?

4 A. Yes.

5 Q. Now, once you hear that, can you describe the
6 tone of voice?

7 A. It sounded alarming.

8 Q. Had you ever heard your father use that tone of
9 voice before?

10 A. No, I had not.

11 Q. What did you do once you heard that?

12 A. It drew my attention up. I took, like, two
13 steps up and was trying to see if I could see where he
14 was at, which I couldn't due to the -- it was so dark you
15 couldn't recognize people more than a few feet away from
16 me.

17 Q. And did you see any activity going on where you
18 heard your father's voice?

19 A. Not initially, no.

20 Q. Now, you said you took a couple of steps up?

21 A. Approximately, two, maybe three.

22 Q. So show me approximately where you were at?

23 A. I would have been basically right at the
24 base -- the edge of the steps go down further. I would
25 have been at the base of the screen, approximately on the

1 steps.

2 Q. So the very bottom of the photographs around
3 those steps; is that fair to say?

4 A. Yes, sir.

5 Q. So now, which direction are you looking?

6 A. I'm just looking up in this general area along
7 the back wall.

8 Q. Now, are you standing there or are you moving
9 towards the back wall? What are you doing?

10 A. At that point, I'm standing, because I can't
11 see enough to know where I need to go.

12 Q. How did that voice that you heard, how did that
13 make you feel?

14 A. It was alarmed enough to draw my attention that
15 something was wrong.

16 Q. Did you feel fear?

17 A. Not at that point, no.

18 Q. Did you feel concerned for your father?

19 A. Yes, sir.

20 Q. So what did you do?

21 A. Initially, I stopped after taking a couple of
22 steps up because I was trying to find out where he was
23 at. It was hard to, because of how dark it was inside,
24 you couldn't see faces, really, at a distance from you.
25 You could only see people up close.

1 Q. Now, you take a couple of steps up and which
2 direction are you facing?

3 A. I'm facing upwards.

4 Q. Towards the back of the theater?

5 A. Towards the back of the theater, yes.

6 Q. What's the next thing that happens?

7 A. The gunshot.

8 Q. And where are you faced when you hear the
9 gunshot?

10 A. Towards the back of the theater.

11 Q. And could you approximate or point out what
12 your -- kind of, point of view was, your vantage point?

13 A. My vantage point would have been essentially
14 everything towards the back, because I had turned to face
15 up because I was scanning back there trying to find -- so
16 I was essentially looking up into the whole back area.

17 Q. At the time of the gunshot?

18 A. Yes, sir.

19 Q. And what, if anything, did you observe at that
20 point.

21 A. I did not see the muzzle flash directly. I saw
22 the flash and the silhouette -- it silhouetted who I
23 believe -- who I now know is Mr. Oulson.

24 Q. And when you said it "silhouetted," at that
25 point what is it that you saw back there?

1 A. I could see someone standing.

2 Q. And could you tell which way they were facing?

3 A. Yes. They were facing to the back of the
4 theater.

5 Q. And if it was dark in the theater, how could
6 you tell which way they were facing?

7 A. When that flash occurred, the ambient light
8 started to come back up into the theater at that time.

9 Q. Now, do you remember or not remember what was
10 going on, in terms of the screen, at that point?

11 A. I don't have any idea what was going on.

12 Q. So how far up are you now? Have you moved up
13 any?

14 A. At the time of the shot, I was two to three
15 steps up. As soon as it occurred, as I'm watching what
16 is occurring, I started moving up.

17 Q. Now, you said you were watching what's
18 occurring. What did you see?

19 A. I saw Mr. Oulson turn around and take a large
20 exaggerated step down from where -- from where he was
21 standing.

22 Q. All right. And so he is facing what turns out
23 to be your father, right?

24 A. Yes, sir.

25 Q. And when you say "exaggerated step down,"

1 describe that?

2 A. I initially described it as possibly stepping
3 down a row. It seemed that exaggerated to me. I didn't
4 know whether he had stepped down a row or not, but it was
5 an exaggerated step in the manner that led me to believe
6 he possibly could have stepped down a row.

7 Q. Did you see any change in his height at all?

8 A. No, because of my vantage point being lower, it
9 was hard -- I don't recall seeing any changes.

10 Q. Could you tell if he was standing straight up
11 or bent over?

12 A. He was standing straight up at the time.

13 Q. At that time?

14 A. Yes, sir.

15 Q. And what's the next thing that you observed?

16 A. When he steps down, then he started walking out
17 towards the aisle.

18 Q. And what did you do?

19 A. As I came up, I was watching him. And when I
20 observed that he started to slump over, I went up the
21 aisle and met him partially at the aisle. I grabbed
22 ahold of him. I actually ordered somebody else in the
23 row to assist me with laying him down, which somebody did
24 get behind him and helped him and we lowered him onto the
25 ground on his back.

1 Q. At that point when you saw Mr. Oulson coming
2 down the row, had you put two and two together?

3 A. Yes, sir.

4 Q. Okay. And what was your belief at that time?

5 A. I knew at that point -- because once he stepped
6 back I was able to see that my father was, in fact,
7 behind him. Once I heard my father's voice and then I
8 heard that, I was able to put two and two together in
9 that aspect. When he was coming out, I figured he was
10 shot. He started to slump over, at which time I assisted
11 him to the ground and I immediately started to check his
12 body. I lifted his shirt up to see where the gunshot
13 wound was.

14 Q. Now, when -- where were you when you came into
15 contact with Mr. Oulson?

16 A. I would have been essentially right up in this
17 area here. Somewhere in -- in this area.

18 Q. So you're indicating the second row down from
19 the top; is that right?

20 A. I can't recall if I was in the second or the
21 third row initially. Because like I had said, I didn't
22 recall if he had taken a step down a row or not, but I
23 was in either the second row down or the third.

24 Q. And as Mr. Oulson comes down the row, you
25 described you catch him?

1 A. He was slumping over and I didn't want him to
2 collapse onto the floor, into the seat, so I was -- kind
3 of caught him and then lowered him backwards onto his
4 back.

5 Q. Okay. You could have a seat, please.

6 A. (Witness complies.)

7 Q. Now, tell me what you did? Did you grab Mr.
8 Oulson by his arms or what did you do?

9 A. I believe I grabbed him by his wrist,
10 essentially, and I -- when I ordered the other gentleman
11 to grab ahold him, he assisted with his back so that he
12 didn't just fall backwards, and we laid him on his back.

13 Q. Where was Mr. Oulson when he was laying on his
14 back?

15 A. In the aisle.

16 Q. When you say "aisle" are you talking about the
17 row or is he actually over where the stairs are?

18 A. He is where the seats are where it is very
19 narrow. Where the seats fold up. A row, essentially.

20 Q. So he's in-between the seats?

21 A. Yes.

22 Q. And do you know how far down he is into that
23 row?

24 A. I don't recall.

25 Q. So now you have some aid in laying Mr. Oulson

1 down. What's the next thing that you do?

2 A. I initially lifted his shirt up to check his
3 body. So I slid his shirt -- I don't recall what he had
4 on exactly, but I slid his shirt up so I can see his body
5 to see where he was shot.

6 Q. Were you able to see what appeared to be a
7 bullet wound?

8 A. Yes, sir.

9 Q. What did you do?

10 A. I used the same clothing that I pushed upwards
11 that I had kind of bunched up in my hand to place over
12 the wound to put direct pressure on the wound.

13 Q. Now, aside from hearing your father's excited
14 fearful voice, do you hear your father say anything at
15 all after the shot?

16 A. No, sir.

17 Q. And certainly by then you're in pretty close
18 proximity; is that fair to say?

19 A. I don't remember how close, but I can see him,
20 yes.

21 Q. Okay. You could see your father?

22 A. Yes.

23 Q. And do you see your father making any motions
24 or doing anything?

25 A. No, sir, just holding his face.

1 Q. I'm sorry?

2 A. Just holding his face.

3 Q. Describe what you saw.

4 A. His glasses were sitting out of line with his
5 eyes and he was holding one side of his face.

6 Q. So now you're with Mr. Oulson. You're applying
7 pressure. Did you see your mother?

8 A. Not at that point, no, sir.

9 Q. What happens next?

10 A. I was talking with -- I was basically talking
11 to Mr. Oulson at the time telling him he was going to be
12 okay, telling him to just keep looking at me, keep
13 breathing. Talking to him there. Somebody, at some
14 point, handed me either a shirt or something from behind
15 me at which time I placed that over the wound and
16 continued to put direct pressure on it.

17 At some point, I don't know what the time frame
18 was, somebody stated there was a nurse there at which
19 time as the person replaced me, I explained to them where
20 the wound was and to keep pressure on the wound.

21 Q. And once the nurse took over, where did you go?

22 A. I initially backed out of the row. I had moved
23 up to the top row and walked down that row and was
24 essentially -- I was asking my dad where the firearm was
25 so I could secure.

1 Q. Okay. And what, if anything, happened next?

2 A. My father stated to me that a deputy -- that he
3 said -- I believe he said he's a deputy, he had it, and
4 pointed to the off-duty deputy that was standing next to
5 my father.

6 Q. So when you got there, somebody else already
7 had the gun?

8 A. Yes.

9 Q. And did you see your mother at that point?

10 A. Yes.

11 Q. Where was she seated?

12 A. I believe she was a few seats away from my
13 father.

14 Q. So she wasn't right next to your father, is
15 what you're describing?

16 A. I don't recall. I don't think she was.

17 Q. And what was your mother's emotional state at
18 this time?

19 A. She appeared to be in shock.

20 Q. And why do you say that? Describe for us what
21 you mean by that?

22 A. My mother is not good with confrontation --

23 MR. MARTIN: Judge, I'm going to object. The
24 feelings of his mom after the fact is not relevant
25 to any determination at this immunity hearing

1 regarding Mr. Reeves and his thought process prior
2 to the shooting.

3 MR. MICHAELS: Well, Judge, it is relevant in
4 terms of her emotional state. She made a statement.
5 Certainly she's -- she's an excited utterance.
6 She's under the affect of the shooting that she
7 witnessed. Certainly, if she's in shock and she
8 says, I don't remember anything, I didn't see it,
9 certainly it is relevant for those purposes. So
10 I -- it is relevant.

11 MR. MARTIN: Mrs. Reeves could take the stand.
12 Whether or not this is, in fact, an excited
13 utterance, I'll take an exception with, but right
14 now the way the question is, is how does your mother
15 feel? That's not even close to laying a predicate
16 for an excited utterance.

17 MR. MICHAELS: I asked him what her emotional
18 state was, Judge. I didn't ask how she felt.

19 THE COURT: You can -- I'm going to overrule it
20 as to the extent to what he observed.

21 BY MR. MICHAELS:

22 Q. Your mother was sitting there?

23 A. Yes.

24 Q. And did she say anything?

25 A. No, sir.

1 Q. Was she crying?

2 A. She was extremely upset at that point. I can't
3 recall if she was crying at that point or not.

4 Q. Were her hands shaking?

5 A. She was shaking, yes.

6 Q. Did she say anything to you?

7 A. No, sir.

8 Q. Now, you made sure that, number one, you've
9 already helped Mr. Oulson the best that you can. Now
10 you've gone down the row and you made sure the firearm
11 was secure. Now you're with your mother. What's the
12 very next thing that you do?

13 A. I essentially -- I had a lot of blood on myself
14 and on my hands. At that point, I did the check for the
15 firearm. I explained to them I would be right back. I
16 was going outside to the kitchen to wash that off and to
17 let them know to contact 911 and to give them a little
18 bit of information to management.

19 Q. Now, when you came back after washing yourself
20 off, did you have contact again with your mother?

21 A. Yes.

22 Q. When you came back, where was your father?

23 A. He was still seated in the same position.

24 Q. What did you do when you came back?

25 A. I immediately wanted to remove my mother from

1 the scene.

2 Q. What do you mean by that? Where did you take
3 her?

4 A. We went out to the lobby area.

5 Q. Now, when you went out to the lobby, were there
6 other people in the lobby area?

7 A. People were coming out of the theater into the
8 lobby, yes.

9 Q. Now, the lobby area, does it have tables or how
10 is that -- what area did you go to?

11 A. There are tables.

12 Q. So did you see individuals congregating at
13 those tables?

14 A. Initially, no.

15 Q. Okay. And at some point, do they come out of
16 the theater and congregate?

17 A. Yes. Me and my mother had sat at one of the
18 tables and nobody else was sitting there at the time.
19 After the officers all started arriving, it concerned me
20 that they were handing out what I know to be --

21 MR. MARTIN: Excuse me, Judge. I object, as
22 far as what concerned him about what was occurring
23 at that time. Mr. Reeves, at that point, is an
24 off-duty police officer. He's not conducting an
25 investigation.

1 MR. MICHAELS: Judge, I haven't heard a legal
2 objection yet.

3 MR. MARTIN: So it is not relevant as to what
4 he thought was going on at the time.

5 THE COURT: Response.

6 MR. MICHAELS: Judge, I can change the question
7 and get the same answer. So, I mean, we can do it
8 that way, that's fine. I will just change the
9 question.

10 THE COURT: Okay.

11 BY MR. MICHAELS:

12 Q. So once you went to the lobby area, did you
13 observe any patrons that were within the theater that had
14 come out?

15 A. Yes.

16 Q. And did you see any sort of witness forms being
17 handed out to those individuals?

18 A. Yes.

19 Q. Did you hear any of the police officers
20 instruct any of those individuals not to talk to each
21 other when they filled out those forms?

22 A. No, sir.

23 Q. In fact, did you hear individuals talking about
24 what they thought had happened in the theater?

25 A. Yes, sir.

1 Q. Did you hear any specific comments?

2 A. They kept making the statement of he was shot
3 in --

4 MR. MARTIN: Your Honor, again, I'm going to
5 object on the grounds of hearsay.

6 MR. MICHAELS: Judge, it's not offered for the
7 truth of the matter.

8 MR. MARTIN: Well, if it's not offered for the
9 truth of the matter, it has to be for some relevant
10 purpose, and right now there is no relevant purpose.

11 MR. MICHAELS: Judge, the relevant purpose is
12 that it has to do with witness contamination. We're
13 going to have witnesses from within the theater
14 come. And I think it certainly goes towards
15 coloring their testimony as being truthful,
16 untruthful, or to impeach them because it's an
17 indication that that might not be their thought.
18 That they were influenced by other statements.

19 MR. MARTIN: The problem, Judge, is the lack of
20 specificity with the witnesses. There's numerous,
21 numerous, numerous pages of -- it could have only
22 been two and five or six other patrons come in. We
23 can't carte blanche cover the entire patrons with
24 Mr. Reeves' statement about, Yes, I heard
25 statements. We don't know who it was. Without

1 specificity, it is not relevant.

2 MR. MICHAELS: Judge, that may be the old, one
3 bad apple doesn't spoil the whole barrel. The
4 problem we're dealing with is witness contamination
5 and one bad apple does spoil the whole barrel.

6 THE COURT: I'll overrule that.

7 BY MR. MICHAELS:

8 Q. So you heard somebody say what?

9 A. Two people sat at our table with forms and
10 started filling them out and were discussing it. I
11 removed my mom from that situation.

12 Q. Okay. Where did you go?

13 A. When we initially got up, we moved to the front
14 of the -- the front center of the -- what you would call
15 the food court area to the front counter area just
16 because I wanted to move her away from everybody that was
17 discussing what was going on.

18 Q. Was your mother still in the same emotional
19 state that you observed when she was in the theater still
20 shaking?

21 A. She was shaking and crying.

22 Q. At some point, did you have contact with
23 officers?

24 A. Yes.

25 Q. In the theater?

1 A. Not inside.

2 Q. Not in the theater itself. Not in Theater 10,
3 but in the theater; in other words?

4 A. Yes, sir.

5 Q. Still within the building?

6 A. Yes, sir.

7 Q. Tell me about that.

8 A. Initially, at one point, I identified myself as
9 off-duty law enforcement and I stated that the subject
10 involved was disarmed and that there was an off-duty
11 officer in there that had the firearm in his possession.

12 Q. Okay. And were you still with your mom at that
13 point?

14 A. Yes. That was when I was walking out with her
15 out of the theater.

16 Q. And was she still shaken at that point?

17 A. Absolutely.

18 Q. Now, at some point, do police ask to interview
19 your mother?

20 A. Yes.

21 Q. And is she still shaken when they go with her?

22 A. We were all very shaken, yes, sir.

23 Q. Did she go with the police?

24 A. Yes.

25 Q. Did you go with her?

1 A. Not during her interview, no, sir.

2 Q. And did you give an interview?

3 A. Yes, sir.

4 Q. Now, to the best of your knowledge, was that
5 interview recorded?

6 A. I did not know.

7 Q. Okay. Tell me about any diagram or anything
8 else that you might have done for the police at that
9 point?

10 A. I did draw a diagram when I was explaining that
11 I thought he had taken an exaggerated step down.

12 Q. And you did that for the individual who
13 interviewed you?

14 A. Yes, sir.

15 Q. Do you know who that was?

16 A. I believe a Detective Aaron Smith. The first
17 name was Aaron.

18 MR. MICHAELS: Could I have a moment, Judge?

19 THE COURT: You may.

20 MR. MICHAELS: I don't have anything else.

21 Thank you.

22 THE COURT: Cross?

23 MR. MARTIN: Sure. Judge, may I go ahead and
24 have these premarked from the clerk?

25 MR. MICHAELS: I'm going to object to any line

1 of questioning regarding that blue with white item
2 he has in his hand. It is beyond the scope of
3 direct, number one.

4 And number two, it's not relevant. But
5 definitely beyond the scope of direct at this point.

6 THE COURT: Response?

7 MR. MARTIN: He went through his background
8 that he is, in fact, a police officer, that he's on
9 patrol, that he's on the bomb squad. Lo and behold,
10 they didn't ask before going on the bomb squad that
11 he was a firearm instructor for three years.

12 So I have a right to go into his entire police
13 background because they opened the door. In fact,
14 they left out some of the most important parts of
15 his background. So since they opened the door with
16 his background, I have a right to explore that for
17 three years he was, in fact, a firearm instructor.

18 And I believe I then have a right to ask him
19 about, as an instructor, exactly what the
20 qualifications are and how you become an instructor,
21 because what you're going to hear over and over
22 again, even in the defendant's statement, is, My
23 hands are so messed up I can't even believe I pulled
24 the trigger.

25 When, in fact, you're going to hear over and

1 over again that's what he does as a hobby. So I
2 think it is relevant because the Court remembers
3 that relevancy under 402 is any tendency to prove a
4 material issue in fact. And those statements and
5 the credibility of Mr. Reeves is, in fact, at play.

6 So I have a right -- just like I did with
7 Ms. Shaw about the use of the shotgun, I have the
8 same right to go through that with Mr. Reeves,
9 because they opened the door that he is a police
10 officer and they left out what he did as a police
11 officer.

12 THE COURT: Response?

13 MR. ESCOBAR: Your Honor, if I may. Your
14 Honor, our presentation of Mr. Reeves is our
15 prerogative when we present what evidence that we
16 intend to elicit at that point in time. We may
17 bring him back another time. In fact, most probably
18 we're going to bring him back another time.

19 The aspect of the testimony that he wants right
20 now is to go into his qualifications as a firearm
21 instructor. That hasn't even been discussed in
22 direct. It has not been discussed.

23 There is a target that I think that they intend
24 to show him and to talk to him about. That hasn't
25 been discussed. They don't get to bring in new

1 evidence or new testimony on their cross that hasn't
2 been discussed in direct. I mean, that's as basic
3 as it comes.

4 If he wants to, at some point in time, he has
5 Mr. Matthews -- Mr. Reeves under subpoena. If he
6 wants to bring Mr. Reeves back on his side, he can
7 do so. But at this point in time, we have limited
8 our direct in a certain way for our presentation --
9 for our flow of the presentation. He can do
10 whatever he wants during his case-in-chief. It's
11 totally inappropriate, Your Honor.

12 THE COURT: Mr. Martin, any further argument?

13 MR. MARTIN: No, Judge. It's about the lunch
14 hour, so I'll let you decide and we'll go with
15 whatever you decide.

16 THE COURT: All right.

17 MR. MARTIN: If I need to bring him back, I can
18 bring him back, or the Court can let me take Mr.
19 Reeves out of order right now as my witness or you
20 could let me cross him, or we can go to lunch and
21 you can think about it. It's all up to you, Judge.

22 THE COURT: Well, there's no question that to
23 some extent it is outside the scope, but the
24 witness's qualifications were discussed and his
25 training and stuff, background information -- I

1 shouldn't say qualifications.

2 So to the extent that there's more background,
3 I think that's fair game and relevant to a limited
4 extent. I don't know what the exhibit is that we're
5 getting into, but that seems to be getting a little
6 far afield.

7 MR. MARTIN: If I could just address that real
8 quick because you did allow the testimony of Ms.
9 Shaw. And you recall the testimony about his
10 fingers and that he gets this trigger finger and
11 they, you know, get hooked or whatever she said.

12 You allowed the -- the -- this information
13 about the physical impairments of Mr. Reeves to come
14 out. Now, the State has a right to rebut that.

15 Now, I plan to do it through Mr. Matt Reeves,
16 his son, just like I did in the deposition. I know
17 exactly what he's going to say. I'm going to go
18 through the entire qualification. I'm going to go
19 through the entire course.

20 In fact, Mr. Reeves qualified twice in the same
21 day shooting over 80 shots back to back with these
22 fingers that are so messed up that he can't even
23 hold a cereal spoon. I should be allowed to go into
24 that.

25 MR. ESCOBAR: Judge, he can go into that. And

1 it's true that Mr. Reeves did qualify and that Mr.
2 Reeves actually has not only shot all those rounds,
3 but he's pretty good at shooting those particular
4 rounds. He's been excellent.

5 In fact, I think Mr. Reeves will tell you that
6 his father is better than he is in actually shooting
7 the gun.

8 That has nothing to do with whether or not you
9 can exceed the bounds of direct examination. This
10 is not you just throw whatever you want up against
11 the wall and you allow it. We did this for a
12 particular reason. The reason we didn't ask him
13 about that is because we didn't want to open the
14 door. We didn't ask him whether he was a firearms
15 instructor because we didn't want to open the door.

16 It's the proper procedures that we have to
17 employ in this Court in order to make sure that the
18 evidence is flowing smoothly. For him now to get up
19 and start into another line of questioning
20 concerning a firearms instructor and all of that is
21 ludicrous.

22 THE COURT: All right. And you're absolutely
23 correct as far as that. It sounds like we're going
24 to get far field from just the background stuff.
25 And since there's an objection, I'm going to honor

1 that and sustain. And Mr. Martin is free, of
2 course, to recall Mr. Reeves in his case and we will
3 go that route.

4 MR. ESCOBAR: And Judge, if Mr. Martin is
5 worried, trust me, we're going to be bringing him
6 back and Mr. Reeves is going to be testifying about
7 him shooting his weapon, how often he shoots his
8 weapon, and how well he shoots his weapon. That is
9 not an issue in this case.

10 MR. MARTIN: How well he shoots, I don't care.
11 It's his ability to do it. Having said that, Judge,
12 I understand your ruling. I have no cross at this
13 point.

14 I have Mr. Reeves under subpoena. I'm asking
15 the Court to inform Mr. Reeves that he's still under
16 my subpoena and he's subject to my call, and I will
17 call him in my case -- I don't want to call it
18 case-in-chief because it's really not, but I know
19 I'm use to saying that.

20 So I don't have any cross right now. I will
21 call back him and I will handle him in a direct
22 examination fashion.

23 THE COURT: Okay. Thank you, Mr. Martin.
24 You're done, then, since there's no cross.

25 MR. ESCOBAR: And we're going to reserve,

1 because we're probably going to be calling him back.

2 THE COURT: Okay. Mr. Matthew Reeves, just
3 what the lawyers said. You're still under subpoena.
4 You will be subject to recall.

5 Is he able to leave the courthouse today?

6 MR. ESCOBAR: He is, Your Honor, because we
7 won't be calling him back until probably Wednesday.

8 THE COURT: Okay. Just have your phone on and
9 return any phone calls, and you're still under
10 subpoena. Thank you.

11 THE WITNESS: Thank you ma'am.

12 THE COURT: Counsel, it's a good time for a
13 lunch break. How are we doing on witness times
14 and...

15 MR. ESCOBAR: Dr. Foley is here. We'll have
16 lunch and he'll be first on.

17 THE COURT: Okay. Do we need longer than an
18 hour, an hour and 20 minutes? We can go to 1:30.

19 MR. ESCOBAR: That would be great, Judge.

20 THE COURT: All right. Let's go --

21 MR. ESCOBAR: Just to give the Court the
22 lineup, we're going to have Dr. Foley. We expect
23 him to be on the stand between direct and cross
24 maybe an hour, hour-and-a-half, two hours. We then
25 are going to have Dr. Cohen, which I think is going

1 to be a little bit longer.

2 And then we have Gino Sassani, who is our last
3 witness for the day, and he's going to be short.
4 He's going to be the preview authenticator.

5 MR. GARCIA: Judge, and as -- excuse me -- as
6 Mr. Sassani goes, I'd like to have an opportunity to
7 speak to him before he testifies. I know his
8 testimony is going to be very limited, but I would
9 at least like to have an opportunity to speak to
10 him.

11 MR. ESCOBAR: We'll make him available, Your
12 Honor.

13 THE COURT: Okay.

14 MR. ESCOBAR: In fact, there's a phone --
15 there's a phone number that you have and you can
16 call him even now before if you'd like.

17 MR. GARCIA: Okay.

18 THE COURT: All right, then. We will stand in
19 recess until 1:30.

20 Any other matters that we need to address
21 before we go on recess? All right. We'll be in
22 recess until 1:30. Thank you.

23 THE CLERK: All rise.

24 (Lunch recess taken.)

25