

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 III

CURTIS J. REEVES,

Defendant.

PROCEEDINGS: Stand Your Ground Motion

DATE: February 21, 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  
PAGES 252 - 372

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1 P-R-O-C-E-E-D-I-N-G-S

2 THE COURT: Good morning, everybody.

3 MR. MARTIN: Good morning, Your Honor.

4 MR. ESCOBAR: Good morning, Judge.

5 THE COURT: Are there any matters we need to  
6 address today before we get started?

7 MR. ESCOBAR: None from Defense, Your Honor.

8 THE COURT: State?

9 MR. MARTIN: No, Your Honor. Thank you.

10 THE COURT: Very good. All right. Then are we  
11 ready to proceed with our witnesses?

12 MR. ESCOBAR: We are, Your Honor. The Defense  
13 would call Joanna Turner.

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

17 THE BAILIFF: Come have a seat up here. Adjust  
18 the mic. Speak in a loud and clear voice for the  
19 Court.

20 THE COURT: You may proceed, Counselor.

21 DIRECT EXAMINATION

22 BY MR. ESCOBAR:

23 Q. Good morning, Ms. Turner.

24 A. Good morning.

25 Q. Ms. Turner, would you please state your full

1 name for the record?

2 A. Joanna Turner.

3 Q. And where do you reside, not your physical  
4 address, but your county and state, please?

5 A. Pasco County.

6 Q. Okay. And how long have you resided here in  
7 Pasco County?

8 A. About seven, eight years.

9 Q. Okay. Are you employed, or are you retired?

10 A. I'm retired.

11 Q. Okay. And do you have an idea of when it was  
12 that you retired?

13 A. About 2005.

14 Q. 2005? And what was your occupation prior to  
15 your retirement, Ms. Turner?

16 A. I was in banking --

17 Q. Okay.

18 A. -- and some traveling industry.

19 Q. What did do you in banking?

20 A. I started out as a head teller.

21 Q. Okay.

22 A. And then I managed a bank; I was a bank  
23 manager.

24 Q. You were the bank manager at some point in  
25 time. And then you also worked you said for the

1 airlines?

2 A. Yes.

3 Q. And what airlines did you work for?

4 A. I work for United and I also worked with  
5 Connair.

6 Q. Would you please tell the Court what positions  
7 you held there at the airline.

8 A. I was a reservation rep.

9 Q. A rep?

10 A. Uh-huh.

11 Q. How long did you work for the airline?

12 A. A couple of years.

13 Q. I'm going to direct your attention, Ms. Turner,  
14 to January the 13th of 2014, and I'm going to ask you to  
15 please reflect back on that particular day, specifically  
16 that mid afternoon.

17 What were you and your husband doing on January  
18 the 13th of 2014?

19 A. We went to a movie in the Cobb Theater.

20 Q. And could you please tell the Court what movie  
21 you went to go see at the Cobb Theater.

22 A. Lone Survivor.

23 Q. Okay. Can you tell the Court about what time  
24 you arrived there at the movie theater?

25 A. I was there at 1:15.

1           Q.    Okay.  When you arrived at the theater, did you  
2 go and buy some condiments and popcorn and what have you?

3           A.    Yes.  We had popcorn and a large drink.

4           Q.    And did you then proceed to the theater itself?

5           A.    Yes.

6           Q.    Was that Theater 10?

7           A.    Yes.

8           Q.    Okay.  When you walked in to the theater, were  
9 the previews already playing?

10          A.    Yes.

11          Q.    Okay.  And so what was the lighting conditions?  
12 Please describe to the Court what the lighting conditions  
13 were as you were walking into the theater.

14          A.    Dim.

15          Q.    Okay.  The lighting source that you were  
16 getting in that theater, was that from the lights down  
17 below?

18          A.    A little bit.

19          Q.    Okay.  And so were you able to walk --

20          A.    Yes.

21          Q.    -- to your particular seat?

22          A.    Yes.

23          Q.    Would you please tell the Court what seat you  
24 selected -- you and your husband selected that day.

25          A.    We were sitting in the back row toward the



1 aisle.

2 Q. Did you select that seat for a particular  
3 reason?

4 A. Yes.

5 Q. Okay. What was the reason that you selected  
6 that seat?

7 A. My husband's disability -- disabled so  
8 sometimes he needs to go to the restroom so we always sit  
9 on the aisle seat.

10 Q. So by sitting on the aisle seats, it's more  
11 convenient for him to just step out and walk out?

12 A. Yes.

13 MR. ESCOBAR: Mr. Shah, can we have -- let's  
14 have -- just for purposes of the record, this is  
15 JPEG No. 2060786.

16 BY MR. ESCOBAR:

17 Q. Ms. Turner, I'd like to you take a look at this  
18 particular exhibit, and for purposes of the record, the  
19 thumb drive exhibit is going to be Defense Exhibit Number  
20 1 -- excuse me -- Number 9.

21 I want you to take a look at that exhibit and  
22 see if you recognize the theater setting in that exhibit.  
23 I'm going to show you a few more as well.

24 A. Yes.

25 Q. Okay. Let me also show you 2081418. Do you

1 recognize that exhibit as well?

2 A. Yes.

3 Q. Okay. And are -- were both of those exhibits  
4 the Cobb Theater, specifically Theater 10, that you  
5 attended or that you sat in on January the 13th of 2014?

6 A. Yes.

7 Q. Let's go now to JPEG 2060543. Do you recognize  
8 that particular exhibit?

9 A. Yes.

10 Q. And is that the row of the Cobb Theater that  
11 you sat in on January the 13th of 2014?

12 A. Yes.

13 Q. Okay.

14 MR. ESCOBAR: Your Honor, may I ask the witness  
15 to step down?

16 THE COURT: You may.

17 BY MR. ESCOBAR:

18 Q. Ms. Turner, if you can step down and please  
19 come over to this particular monitor here. I would like  
20 for you to point to the seat, first of all, that your  
21 husband was seated in.

22 A. (Indicating.)

23 Q. And then I'd like you to point to the seat that  
24 you were seated in.

25 A. (Indicating.)

1           Q.    So for purposes of the record, you first  
2 pointed to the seat that is immediately adjacent to the  
3 aisle of the last row; is that correct?

4           A.    Yes.

5           Q.    And then you were one seat in from your  
6 husband; is that correct?

7           A.    Correct.

8           Q.    Okay. You may take your seat.

9           A.    (Witness complies.)

10          Q.    Okay. So you went into the theater, you sat  
11 down in that fashion. Did you start watching the  
12 previews?

13          A.    Yes.

14          Q.    Okay. And what was the sound like in that  
15 theater while you were watching the previews?

16          A.    It was loud.

17          Q.    And were you focused on watching the previews?  
18 Were you paying attention to the previews?

19          A.    Yes.

20          Q.    When you walked into that theater, was anybody  
21 standing in the theater?

22          A.    No.

23          Q.    Everybody was seated?

24          A.    Yes.

25          Q.    And so as a result, you sat down as well?

1           A.    Yes.

2           Q.    Now, you're there at the movie theater and  
3 you're watching the previews. The previews, you said,  
4 are loud. Please tell the Court what happens next.

5           A.    Then I suddenly see a man standing up so I was  
6 looking at him. And he stood up, sort of turned to his  
7 left towards -- to the back row.

8           Q.    Okay. So let's -- let's stop right there.  
9 We're going to analyze that a little bit.

10                   So this man that stood up, was he a small man  
11 or was he a tall man?

12           A.    He was a tall man.

13           Q.    Okay. And you said that when he stood up, he  
14 turned and faced the back row?

15           A.    Uh-huh.

16           Q.    And that back row, would that be this row right  
17 here?

18           A.    No.

19           Q.    Facing the back row?

20           A.    The row in front of me -- the row behind -- in  
21 front of me.

22           Q.    Okay. He was standing in this row right here?

23           A.    Uh-huh.

24           Q.    And he was facing this row right here?

25           A.    Uh-huh.

1 Q. Okay.

2 MR. ESCOBAR: Your Honor, if I may have a  
3 second?

4 BY MR. ESCOBAR:

5 Q. Okay. So you're saying this gentleman now  
6 stood up, this tall gentleman, and he is faced, now,  
7 towards the back of the row; is that correct?

8 A. Yes.

9 Q. Okay. What is this back here? What is that?

10 A. That's a wall.

11 Q. It's a wall. And it is directly behind the  
12 seats --

13 MS. SUMNER: Objection, leading.

14 BY MR. ESCOBAR:

15 Q. Is it directly behind the seats in that last  
16 row, that wall?

17 A. Yes.

18 Q. Okay. So what is this gentleman doing now that  
19 he's turned around and he is facing that back row?

20 A. I see him was talking and then he was holding  
21 some kind of mug or thermos.

22 Q. And what color was that mug or thermos?

23 A. It was a dark, dark color.

24 Q. Okay. So you didn't know whether it was a cup,  
25 you didn't no whether it was a thermos, but you remember

1 it being dark?

2 A. Yes.

3 Q. Okay. And would you show the Court -- if you  
4 can, show the Court what this gentleman was doing with  
5 that dark object.

6 A. He was doing a real quick motion of throwing.

7 Q. Okay. What I'd like you --

8 MR. ESCOBAR: May I ask the witness to stand  
9 up?

10 THE COURT: She may.

11 BY MR. ESCOBAR:

12 Q. If you can please stand up.

13 A. (Witness complies.)

14 Q. And I'd like you to step right over here if you  
15 can. And I'd like you to show the Court what you have  
16 just described as that quick throwing motion.

17 A. (Indicating.)

18 Q. Okay. Go ahead. Where were you focused now  
19 after that throwing motion?

20 A. I started watching the preview again.

21 Q. Okay. So now you're back to watching the  
22 preview?

23 A. Yes.

24 Q. And now are you attentive to the preview at  
25 this point in time, paying attention to the preview?

1           A.    Yes.

2           Q.    Okay.  How much time lapses now between that  
3   throwing motion, then you sitting and watching the  
4   preview again and the next activity?

5           A.    I would say four to six seconds.

6           Q.    Okay.  And so what causes you to change your  
7   attention from the previews to something else?

8           A.    I hear a loud voice.

9           Q.    Okay.

10          A.    Saying --

11          Q.    And -- and do you know where that loud voice is  
12   coming from?

13          A.    To my left, yes.

14          Q.    Okay.  And where to your left?

15          A.    On my left.

16          Q.    Okay.  Could you tell who was speaking in a  
17   loud voice?

18          A.    I didn't until I looked at him --

19          Q.    Okay.

20          A.    -- and it's the same gentleman.

21          Q.    What same gentleman?

22          A.    The gentleman that stand up.

23          Q.    The gentleman that stand up.  And so you're  
24   talking about the gentleman that stood up in this  
25   particular row here, the second row down from the wall?

1           A.    Yes.

2           Q.    Is that correct?

3           A.    Correct.

4           Q.    And is that where that same gentleman did the  
5 throwing motion that you were talking about?

6           A.    Yes.

7           Q.    Okay.  So the sequence of events, then, is you  
8 see the throwing motion with a dark object, you're  
9 looking at the previews again for four or five seconds,  
10 and then you hear the loud voice again.  You turn around  
11 and the gentleman was still standing where he was  
12 standing when you saw him doing the throwing motion.

13          A.    Yes.

14          Q.    What did you do now?

15          A.    I was watching the gentleman and all of a  
16 sudden my eye was moved to Mr. Reeves.

17          Q.    Before we go to Mr. Reeves and you said your  
18 eye was moved over on Mr. Reeves, what did you hear this  
19 tall gentleman with a loud voice saying?

20          A.    "I'm texting my daughter."

21          Q.    Okay.  Do you hear him saying anything else?

22          A.    I think I heard, "If you don't mind."

23          Q.    Okay.  Anything else?

24          A.    No.

25          Q.    So now what do you do?



1           A.    Now, I sees Mr. Reeves.  The way he was sitting  
2 was very funny.

3           Q.    Okay.  So let's try to describe that.  Let's  
4 picture yourself being Mr. Reeves, picture yourself in  
5 that -- being in the seat that Mr. Reeves was seated in.  
6 Would you please show the Court what you remember as you  
7 looked over to Mr. Reeves?  How he was sitting at that  
8 point in time funny?

9           A.    (Indicating.)

10          Q.    Okay.

11          A.    Leaning to his left.

12          Q.    Okay.  And that would have been -- that  
13 observation by you would have been after you saw this  
14 tall gentleman with a dark object in his hand with a  
15 throwing action?

16                MS. SUMNER:  Objection, asked and answered.

17                THE COURT:  I'll overrule it for now.

18 BY MR. ESCOBAR:

19          Q.    That was after the throwing of the -- or the  
20 dark object in the hand with a throwing motion, and that  
21 was after the loud voice that you heard, "I'm texting my  
22 daughter" --

23          A.    That was --

24          Q.    -- that you looked over?

25          A.    That was before.

1 Q. What was before?

2 A. The throwing action.

3 Q. Yes. That's what I'm saying. Let's try to  
4 take the sequence of events again.

5 A. Okay.

6 Q. Dark object in the hand, throwing motion --

7 A. Uh-huh.

8 Q. -- correct? Then you start looking at the  
9 previews four to five seconds, correct?

10 A. Yes.

11 Q. Then you hear the tall gentleman with a loud  
12 voice, correct?

13 A. Yes.

14 Q. Saying, "I'm texting my daughter"?

15 A. Yes.

16 Q. And then you look over to your row where Mr.  
17 Reeves was at, and you're looking at Mr. Reeves; is that  
18 correct?

19 A. Yes.

20 Q. And you see Mr. Reeves seated now kind of  
21 sideways?

22 MS. SUMNER: Judge, I'm going to object to the  
23 characterization that Mr. Escobar is showing.

24 That's not the testimony that Mrs. Turner gave.

25 He's leaning to the right. She's saying he's

1           leaning to the left.

2           MR. ESCOBAR: It's to the left. If I'm sitting  
3           here, I'm the other way.

4 BY MR. ESCOBAR:

5           Q. Go ahead. I want you to show the Court.

6           A. (Indicating.)

7           Q. Leaning to Mr. Reeves' left?

8           A. Left.

9           Q. Left. So are you watching him?

10          A. Yes.

11          Q. Okay. Up until this point in time, had you  
12          heard Mr. Reeves say anything?

13          A. No.

14          Q. So what's happening now?

15          A. After that, I see popcorn flying over and I see  
16          popcorn landing on Mr. Reeves' stomach, and very quickly  
17          I see the ring of fire.

18          Q. How much time lapsed before you first looked at  
19          Mr. Reeves and you saw him leaning to his left and the  
20          time that you first saw the popcorn -- how much time?

21          A. Two seconds.

22          Q. Okay. And so what happens after you see the  
23          popcorn?

24          A. After I saw the popcorn laying on his stomach,  
25          that's when the fire started.

1 Q. You mean the fire from the weapon?

2 A. I didn't see the weapon but I saw the ring of  
3 fire.

4 Q. Okay. So now what do you do?

5 A. Now, I look at Mr. Reeves. He put his gun down  
6 on his lap.

7 Q. Okay.

8 A. Then he was holding his head with two hands.

9 Q. Please show the Court what you saw Mr. Reeves  
10 doing after he placed the firearm on his lap.

11 A. (Indicating.)

12 Q. Do you see Mr. Reeves do anything else at that  
13 point?

14 A. No.

15 Q. So what was your focus now?

16 A. Then I looked at Mr. Oulson. He was still  
17 standing. Then he took two steps to his left like he's  
18 going to exit, then he collapsed.

19 Q. Okay. What did you do at this point, Ms.  
20 Turner?

21 A. I was still in my seat.

22 Q. At some point in time, did you get up?

23 A. Yes, after I see his gun is being possessed.

24 Q. Meaning after you see someone retrieving the  
25 gun that Mr. Reeves possessed?

1           A.     Right.

2           Q.     Explain to the Court what you saw in that  
3 process.

4           A.     After Mr. Oulson collapsed, I see a gentleman  
5 come up to Mr. Reeves, and I saw a gesture of, like, a  
6 badge and a give-me-the-gun suggestion.

7           Q.     And did the gentleman reach to Mr. Reeves' lap  
8 and retrieve the gun?

9           A.     I didn't really see that clear.

10          Q.     Okay. Now what did you do?

11          A.     Then I stand up, start standing on the aisle.

12          Q.     Well, let's stop there for a second. Up until  
13 that point in time, are you and your husband still  
14 seated?

15          A.     Up until what time?

16          Q.     Up until the time that you see the deputy  
17 bringing -- well, let me give you even further.

18                 Up until the time that you see the ring of  
19 fire, were you and your husband still seated in the same  
20 place that you earlier testified?

21          A.     Yes, we are.

22          Q.     You're not standing up?

23          A.     No.

24          Q.     Your husband's not standing up?

25          A.     No.

1 Q. So now what do you do? You've -- you're going  
2 to get up, you're up.

3 A. Uh-huh.

4 Q. What do you do?

5 A. I start walking down the stairs.

6 Q. Okay. And what were you going to go do?

7 A. Just -- just kind of get away from the thing.

8 Q. Okay. And so how far down the stairs did you  
9 get in that theater?

10 A. I was on the bottom of the stairs.

11 Q. Okay. And let me -- let me take us to 2081418  
12 JPEG, still in Exhibit Number 9. Okay.

13 MR. ESCOBAR: So may I ask the witness to step  
14 down?

15 THE COURT: You may.

16 BY MR. ESCOBAR:

17 Q. Ms. Turner, please. Please show the Court on  
18 this particular photo where it is that you left your seat  
19 and where you went.

20 A. I went right here.

21 Q. So you were somewhere in this particular area?

22 A. Right. There's a platform.

23 Q. There's a platform. This yellow bar is a  
24 dividing area in the general section. You're saying  
25 there's a platform there?

1           A.    Uh-huh.

2           Q.    Okay.  And that's where you stood?

3           A.    Uh-huh.

4           Q.    Okay.  Please.  So now, what did you do then?

5           A.    Well, I was waiting for my husband, and then I  
6 see this woman coming down the stairs.

7           Q.    Okay.

8           A.    And then I saw her hand was bloody.

9           Q.    Okay.

10          A.    So I was asking her if she hurt and she told me  
11 she thinks she got her finger shot off.

12          Q.    What did you do for that young lady?

13          A.    Well, at that time I only had nap- -- popcorn  
14 napkin on my hands so I just offered that to her.

15          Q.    Okay.  And did she take that?

16          A.    Yes, she did.

17          Q.    Where did you go from there?

18          A.    After that, the theater attendants was asking  
19 people to go to the exit, opening the doors so the  
20 ambulance and the policemen can notify which door -- in  
21 which theater it is.  So me and another gentleman, we  
22 opened the exit door.  Then I was waiting out there.

23          Q.    Okay.  You were assisting in an effort for the  
24 ambulance to get through the back door?

25          A.    The exit door, yes.

1 Q. The exit door?

2 A. Uh-huh.

3 Q. And how long were you there in that particular  
4 area?

5 A. A good half an hour.

6 Q. Okay. And did you -- did you see Mr. Reeves  
7 while you were there in that exit door?

8 A. Yes.

9 Q. Can you please tell the Court where and how you  
10 saw Mr. Reeves while you were there at that exit door.

11 A. I saw Mr. Reeves was handcuffed, and then  
12 there's policemen around him to escort him to the police  
13 car.

14 Q. Did you see Mr. Reeves offer any resistance  
15 whatsoever?

16 A. No.

17 Q. And what did they do with Mr. Reeves once they  
18 took him out that back door?

19 MS. SUMNER: Objection. Relevance, Judge.

20 THE COURT: I'll allow it to the extent that  
21 she knows.

22 BY MR. ESCOBAR:

23 Q. What did they do with Mr. Reeves when they took  
24 him out the door?

25 A. They put him in the back of the police car.



1 Q. Did he offer any resistance there?

2 A. No.

3 Q. Now, you were there at that back door for how  
4 long?

5 A. I would guess 30 minutes.

6 Q. And would you tell me where you went from that  
7 point?

8 A. I went inside.

9 Q. And why did you go inside?

10 A. I was looking for my husband.

11 Q. Did you find him?

12 A. I saw him, yes.

13 Q. Where was he?

14 A. He was down on the other end.

15 Q. Down on the other end?

16 A. Opposite end.

17 MR. ESCOBAR: May I ask her to step down?

18 THE COURT: Sure.

19 BY MR. ESCOBAR:

20 Q. Ms. Turner. I hate to keep asking you to step  
21 down, but it's probably better than you just standing up  
22 here, right?

23 Please show the Court where your husband was  
24 and where you went to in the theater?

25 A. It was somewhere in this area.

1 Q. Somewhere in this area here?

2 A. This platform here.

3 Q. This platform here?

4 A. Yes.

5 Q. Okay. And was he alone, or was he with other  
6 people?

7 A. There was a lot of people around.

8 Q. Okay. Please take a seat.

9 Those people that were talking about that were  
10 around, were those patrons that had been there at the  
11 theater?

12 A. And also law enforcement.

13 Q. And also law enforcement?

14 A. Yes.

15 Q. Now, you're saying a group of people were there  
16 with now you and your husband; is that correct?

17 A. This is still at the theater?

18 Q. Right there in the congregation that we just  
19 talked about.

20 A. Yeah, there's a group of people.

21 Q. Okay. And you and your husband are there as  
22 well?

23 A. Yes.

24 Q. And are people talking?

25 A. Yes.

1           Q.    Did the police officer that was there in that  
2 group tell you, Mrs. Turner and everyone, you cannot talk  
3 amongst each other?

4           A.    No.

5           Q.    Did your husband talk to those people?

6           A.    He talked to somebody; I don't know who it is.

7           Q.    Now, while you were there, were you given any  
8 type of form to fill out?

9           A.    Yes.

10          Q.    And were other people in that group also given  
11 forms to fill out?

12          A.    Yes.

13          Q.    And when you were given that form, did any  
14 police officer tell you you're not to discuss this case  
15 with anybody else?

16          A.    No.

17          Q.    Did you hear an officer telling anyone in that  
18 group, "Don't discuss what you saw with anybody else"?

19          A.    No.

20          Q.    You filled out your form?

21          A.    Yes.

22          Q.    Your husband filled out his form?

23          A.    Yes.

24          Q.    And did you discuss with your husband this dark  
25 object that you remember that tall gentleman doing the

1     throwing motion?

2             A.     Yes, I did.

3             Q.     As you told the Court today -- you told him  
4     what you told the Court today?

5             A.     Yeah, after.

6             Q.     After your congregation and the signing of the  
7     statement?

8             A.     Right.

9             Q.     And did you put that throwing motion also in  
10    the statement that you wrote there when you were in that  
11    congregation?

12            A.     Yes.

13            Q.     And that was a form that was given to you by  
14    law enforcement to fill out, correct?

15            A.     Correct.

16            Q.     And you gave that form back to law enforcement,  
17    did you not?

18            A.     Yes.

19            Q.     So that they could use it for their  
20    investigation, correct?

21                   MS. SUMNER:  Objection to leading, Judge.

22                   THE COURT:  Sustained.

23    BY MR. ESCOBAR:

24            Q.     Now, after your period of time there in that  
25    area of the theater, were you also interviewed?

1           A.    Yes, I was.

2           Q.    And would you please tell the Court when you  
3 left -- did you leave that group after a while? How long  
4 were you with that group down here at this platform?

5           A.    Maybe 10 minutes.

6           Q.    Okay. After those 10 minutes, where did you  
7 go?

8           A.    They asked us to go to across -- the theater  
9 across.

10          Q.    Okay. They asked you to go outside Theater 10?

11          A.    Yes.

12          Q.    Okay. And is there a concession area, tables  
13 and what have you, outside of Theater 10?

14          A.    No, they put us in another theater.

15          Q.    They put you in another theater. So you went  
16 from this theater to another theater?

17          A.    Yes.

18          Q.    Never made it to a concession area?

19          A.    No.

20          Q.    Now, when you went to that other theater, how  
21 many people were in that theater?

22          A.    I would guess around 20 or less.

23          Q.    Are people talking?

24          A.    A little bit.

25          Q.    And when you went in to that theater or before

1     you went in that theater, did any police officer say,  
2     "Mrs. Turner, you're not to discuss your testimony or  
3     anything that you saw in the theater now in this new  
4     theater"?

5             A.     No.

6             Q.     While you were in the new theater, at any point  
7     in time did any law enforcement tell you or ask you not  
8     to discuss what you saw with anybody in that room?

9             MS. SUMNER:  Objection, asked and answered,  
10     Judge.

11            THE COURT:  New theater, a little different.

12            MS. SUMNER:  He just asked before you went in  
13     there did anybody tell you, then he asked the same  
14     question again.

15            THE COURT:  While you were in there.  I'll  
16     overrule that.

17            MR. ESCOBAR:  Thank you, Your Honor.

18     BY MR. ESCOBAR:

19            Q.     While you were in that theater, did you  
20     overhear any police officer tell you or anybody else in  
21     there, "Ladies and gentlemen, do not discuss what you saw  
22     in that Theater 10 amongst yourself here"?

23            A.     No.

24            Q.     And you were in that second theater for how  
25     long?

1           A.     Maybe 20 minutes or more.

2           Q.     Is this where your interview with the detective  
3 took place?

4           A.     We were waiting for the detective.

5           Q.     Okay. Where did your interview with the  
6 detective take place?

7           A.     In the room -- I guess I call it a mop room  
8 because they have mops there and they have a table.

9           Q.     Okay. They took you to the mop room. Okay.  
10 Just you and the detective?

11          A.     I guess cleaning room.

12          Q.     Okay. Just you and the detective?

13          A.     Just me and him, yeah.

14          Q.     And how long or how short was your interview in  
15 that room?

16          A.     I would say about 10 minutes, maybe.

17          Q.     Do you know if that detective had the form you  
18 had filled out?

19          A.     I'm sorry, say that again?

20          Q.     Do you know if that detective had the form that  
21 you had filled out?

22          A.     Yes, he had it.

23          Q.     He had it right there in front of him?

24          A.     Right.

25          Q.     And did that detective ask you about that

1 object, that dark object and the throwing motion?

2 A. He didn't ask me but I told him.

3 Q. Could that interview with that detective --  
4 could that have been as short as five minutes?

5 A. I think it was longer than five minutes.

6 Q. Where did you go next?

7 A. After the interview, we went home.

8 Q. You went home with your husband?

9 A. Yes.

10 MR. ESCOBAR: No further questions. I tender  
11 the witness.

12 THE COURT: Thank you.

13 CROSS-EXAMINATION

14 BY MS. SUMNER:

15 Q. Good morning, Ms. Turner.

16 A. Good morning.

17 Q. Now, you didn't notice Mr. Oulson until you saw  
18 him stand up; isn't that correct?

19 A. Correct.

20 Q. In fact, when you first saw Mr. Oulson stand  
21 up, you thought that he was friends with someone in the  
22 back row, didn't you?

23 A. Yes.

24 Q. You saw Mr. Reeves before you saw Mr. Oulson  
25 stand up, right?



1           A.    Yes.

2           Q.    Did you see him get up out of his seat to go to  
3 somewhere down the stairs?

4           A.    You mean Mr. Reeves?

5           Q.    Mr. Reeves, I'm sorry.  Yes.

6           A.    No.  I wasn't there then.

7           Q.    Okay.  Did you see when he returned to his  
8 seat?

9           A.    Yes.

10          Q.    How would you describe his demeanor at the time  
11 he returned to his seat?

12          A.    I thought he was kind of rude because he didn't  
13 say excuse me.

14          Q.    Okay.

15          A.    So he just kind of walked in front of me trying  
16 to get by.

17          Q.    And when you saw him trying get by, can you  
18 describe to the Court how he was doing that.

19          A.    Carefully.

20          Q.    Okay.  Didn't step on you?

21          A.    No, I pulled my feet back.

22          Q.    Okay.  He didn't have any trouble getting past  
23 you, did he?

24          A.    A little bit.

25          Q.    Because of the width of the row?

1           A.     Correct.

2           Q.     Now, let's talk a little bit about the  
3     lighting.

4                     Isn't it true that although it was dim, you  
5     could see the people next to you, right?

6           A.     Yes.

7           Q.     You could see five seats away, couldn't you?

8           A.     Yes.

9           Q.     And you could see 10 seats away, right?

10          A.     Pretty much.

11          Q.     There was sufficient lighting that you could  
12     tell what activities people were doing at the time,  
13     right?

14          A.     Yes.

15          Q.     You didn't have any problems getting up the  
16     stairs or down the stairs?

17          A.     No.

18          Q.     There was lights among the walkway, right?

19          A.     Correct.

20          Q.     And then there were lights on the side of the  
21     theater as well, wasn't there?

22          A.     I don't know the sides --

23          Q.     Okay.

24          A.     -- but I know there's --

25          Q.     Overhead lights, though, right?

1           A.    Yeah.

2           Q.    There was sufficient lighting to see what  
3 people around you were doing, correct?

4           A.    Yes.

5           Q.    Now, with regard to the previews playing, do  
6 you have any recollection as to what previews were  
7 playing when you arrived at the theater?

8           A.    No.

9           Q.    Do you have any recollection as to any of the  
10 previews you may have seen?

11          A.    No.

12          Q.    What about the sound of the previews?

13          A.    It was loud.

14          Q.    It was loud? But you could still hear people  
15 talking over the previews, couldn't you?

16          A.    Yes.

17          Q.    And, in fact, you could hear people talking  
18 five or 10 seats away, right?

19          A.    If I paid attention, I probably could.

20          Q.    And you didn't have any trouble hearing Mr.  
21 Oulson saying he was texting his daughter, if you don't  
22 mind, right?

23          A.    Right.

24          Q.    Now, when you saw Mr. Oulson stand -- you've  
25 already indicated that you thought that they were

1 friends.

2 At what point did you realize they did not know  
3 each other?

4 A. When I hear, "I'm texting my daughter."

5 Q. Okay. And you had indicated that you had  
6 heard, "I'm texting my daughter," and then you saw Mr.  
7 Oulson with something that you can't tell the Court --

8 MR. ESCOBAR: Judge, I'm going to object. That  
9 is not her testimony at all. The -- the throwing  
10 motion was before the texting of the daughter.  
11 She's trying to put a mischaracterization of her  
12 direct testimony in right now.

13 MS. SUMNER: I'll rephrase.

14 THE COURT: Thank you.

15 BY MS. SUMNER:

16 Q. When you -- when you saw Mr. Oulson with  
17 something in his hand, you can't tell us what it was,  
18 correct?

19 A. Right.

20 Q. You think it was something dark?

21 A. Correct.

22 Q. And you thought it was a thermos?

23 A. I thought it was a thermos.

24 Q. And is that -- isn't that fact because you  
25 didn't recognize it to be a cup that you had bought at

1 the concession stand, correct?

2 A. Correct.

3 Q. But isn't it also a fact that what you  
4 indicated all along was that it was a mock throwing  
5 motion, right?

6 A. A quick throw.

7 Q. Quick. You never saw anything leave Mr.  
8 Oulson's hand; isn't that correct?

9 A. Correct.

10 Q. And, in fact, when that mock throwing motion  
11 occurred, you didn't see any reaction from Mr. Reeves,  
12 did you?

13 A. No.

14 Q. You didn't see Mr. Reeves back up, correct?

15 A. Correct.

16 Q. Didn't see Mr. Reeves put his hand to his face?

17 A. No.

18 Q. In fact, you didn't see Mr. Reeves try to dodge  
19 it at any point, correct?

20 A. No.

21 Q. And you indicated this was very quick. It  
22 did -- as if just to go like that (indicating), correct?

23

24 A. Correct.

25 Q. Now, isn't it true that most of the time your

1 attention was toward Mr. Reeves in this odd left tilt  
2 motion that he was doing?

3 A. Yes.

4 Q. You indicated that you saw the popcorn, right,  
5 and then you saw the popcorn land, correct?

6 A. Correct.

7 Q. You're really not able to tell us how long  
8 between these events; isn't that true?

9 A. How long between what events?

10 Q. Between the events of seeing Mr. Reeves come  
11 back from wherever he was, be rude as he walked past you,  
12 then you saw him sit down.

13 So you can't give us a time frame of events  
14 from seeing him come in, sit down, hearing Mr. Oulson  
15 saying, "I'm texting my daughter, if you don't mind,"  
16 seeing Mr. Oulson make the mock throw, seeing the popcorn  
17 fly, and then hearing what you characterize as a ring of  
18 fire; isn't that true?

19 A. Yeah, I can't put a time on it.

20 Q. Okay. You can't say if it was one second?

21 A. Just everything happened so quickly.

22 Q. Three seconds or five seconds, right?

23 A. Yes.

24 Q. It was a point in time, a little snapshot or  
25 snippet, right, because you were looking at -- you

1 indicated that you were looking back at the previews,  
2 you're looking over here seeing him stand, you're then  
3 looking at Mr. Reeves.

4 You can't give us a clearcut time frame on any  
5 of that, correct?

6 A. Correct.

7 Q. Did you notice whether or not Mr. Reeves was  
8 wearing glasses when he returned and rudely walked past  
9 you?

10 A. No.

11 Q. And you never saw Chad Oulson throw any type of  
12 punch at Mr. Reeves, did you?

13 A. No.

14 Q. Never saw Mr. Reeves react as if he had been  
15 hit by any type of punch?

16 A. No.

17 Q. Now, when you came down the stairs and had your  
18 interaction with Mrs. Oulson, how long after was it that  
19 the law enforcement officers arrived?

20 A. I would say a good 15, 20 minutes.

21 Q. And can you describe the law enforcement  
22 officer that you first saw?

23 A. Well, I walked to the corner of the back of the  
24 theater.

25 Q. Where that door was?

1           A.    No.  We're -- we're kind of in the middle so I  
2 walked to the corner of the whole -- the theater building  
3 trying to see if I can see --

4           Q.    Oh, outside?

5           A.    -- outside --

6           Q.    Okay.

7           A.    -- because I was at the outside.

8           Q.    Okay.

9           A.    Because I heard sirens, then I see the police  
10 car just go to the front.  Nobody -- so I was back there  
11 waiting.

12          Q.    Waving?

13          A.    Yeah, well, I'm trying to get their attention.  
14 So the first time I saw them, all of a sudden there's one  
15 police car coming and I was telling her -- it's a female  
16 law enforcement --

17          Q.    Okay.

18          A.    -- I was telling her is -- that door that's  
19 open, that's where it happens.

20          Q.    So when you finally get back in the theater and  
21 you're trying find Mr. Turner and you go to that aisle as  
22 if you would exit the theater, right?  You're on -- if we  
23 looked at that piece of photograph, it would be to the  
24 left of that where the exit door would be?

25          A.    That's where I --



1 Q. Where you met up with him?

2 A. That's where I was standing, yeah.

3 Q. And when these law enforcement officers came  
4 in, it's your testimony that they didn't tell you not to  
5 discuss it among yourselves?

6 A. No.

7 Q. Okay. Were you standing right there when they  
8 were talking to this whole group of -- how many people  
9 did you say were standing there?

10 A. Well, quite a bit. I think 20 or so. A lot of  
11 law enforcement people in there as well.

12 Q. So did you talk to every law enforcement  
13 officer that was in there?

14 A. Oh, no.

15 Q. Now, you indicated that people were talking.  
16 You don't know what they were talking about, though, do  
17 you? They weren't talking about this case and what had  
18 happened, were they?

19 A. I don't know.

20 Q. Can you tell any part of any conversation that  
21 you may have overheard that day?

22 A. No.

23 Q. If you had heard anything about this case, did  
24 that affect your ability to make your written statement?

25 A. No.

1           Q.    In fact, you didn't see the same things that  
2 your husband Mr. Turner saw?

3           A.    Correct.

4           Q.    And you wrote your own statement based upon  
5 what you saw and what you heard, correct?

6           A.    Correct.

7           Q.    And when you were interviewed, you were  
8 interviewed by yourself, correct?

9           A.    Correct.

10          Q.    With a male detective?

11          A.    Yes.

12          Q.    You told him what you actually saw, not what  
13 you what you may have heard from anybody else, correct?

14          A.    Correct.

15          Q.    Did you ever go out in the concession area and  
16 sit at a table?

17          A.    No.

18          Q.    Did you ever see Curtis Reeves' wife, Vivian  
19 Reeves, after the shooting?

20          A.    No.

21          Q.    Just a couple more questions, Ms. Turner.  
22 After you indicated that you saw an off-duty officer come  
23 over and show the badge, you're not sure what happened at  
24 that point, but did you at any point look over -- you  
25 were watching Mr. Reeves, correct --

1           A.    Uh-huh.

2           Q.    -- at that time?

3           A.    After the shooting, you mean?

4           Q.    Yes.

5           A.    Yes.

6           Q.    Did you notice that he had any injuries on his  
7 face?

8           A.    No.

9           Q.    Now, you indicated that he was sitting with his  
10 face -- he had his hands in his face and had his head  
11 down?

12          A.    Uh-huh.

13          Q.    You didn't see any blood on him, did you?

14          A.    No.

15          Q.    You didn't see any indication that he had been  
16 struck with anything, did you?

17          A.    No.

18          Q.    Okay. And, in fact, can you recall at that  
19 point if you saw him wearing glasses?

20          A.    I'm not sure.

21          Q.    So you wouldn't have seen his glasses turn like  
22 this or anything like that, him messing with his glasses?

23          A.    No, I didn't see that.

24                MS. SUMNER: Okay. Nothing further of this  
25 witness, Your Honor.

1 THE COURT: Thank you.

2 MR. ESCOBAR: May I, Your Honor?

3 THE COURT: Yes.

4 REDIRECT EXAMINATION

5 BY MR. ESCOBAR:

6 Q. Good morning again, Ms. Turner.

7 A. Good morning.

8 Q. Ms. Turner, I want to take you -- I want to  
9 take you back to the sequence of events because obviously  
10 they're so important in this case. Okay?

11 Now, you indicated on direct and on  
12 cross-examination that as you were seated there initially  
13 watching the previews, the first thing that caught your  
14 attention was a man standing up.

15 MS. SUMNER: Judge, objection. Asked and  
16 answered and leading.

17 MR. ESCOBAR: Judge, the sequence of events is  
18 very important and they attacked that sequence.

19 THE COURT: All right.

20 MS. SUMNER: He can't -- he can't put the words  
21 in her mouth, Judge. We're objecting --

22 THE COURT: I was getting to that.

23 MS. SUMNER: Thank you.

24 MR. ESCOBAR: I will, Your Honor.

25 THE COURT: It has been asked and answered but

1           rephrase for the leading. I'm going to allow you to  
2           go over it a little bit more but no leading.

3           Sustained as to the leading.

4 BY MR. ESCOBAR:

5           Q.    What's the first thing -- they're seated,  
6           watching the previews -- the first thing that catches  
7           your attention other than the previews?

8           A.    A man standing up.

9           Q.    Okay. A man standing up. What' he doing?

10          A.    He's turning around.

11          Q.    Okay. Is he talking?

12          A.    I think he is.

13          Q.    What's he saying?

14          A.    I don't know.

15          Q.    Why couldn't you hear what he was saying?

16                MS. SUMNER: Objection, speculation.

17                THE COURT: To the extent she knows, I'll allow  
18           it. Overruled.

19 BY MR. ESCOBAR:

20          Q.    Why couldn't you hear what he was saying?

21          A.    I wasn't paying attention.

22          Q.    Were the previews loud?

23          A.    Yes.

24          Q.    What do you see him doing next?

25          A.    Throwing a cup motion.

1 Q. Cup motion?

2 A. Uh-huh.

3 Q. Now, at this point in time, are you just  
4 looking at him?

5 A. Yes.

6 Q. You're not looking at Mr. Reeves?

7 A. (No audible answer.)

8 Q. After that cup motion, where do your eyes go?

9 A. Back to the preview.

10 Q. You're focused on the previews only?

11 MS. SUMNER: Objection, leading.

12 MR. ESCOBAR: That's not a leading question.

13 THE COURT: I will overrule that.

14 BY MR. ESCOBAR:

15 Q. You're focused on the previews?

16 A. Uh-huh.

17 Q. You're not looking at Mr. Reeves now?

18 A. No.

19 Q. What next detracts your attention from the  
20 previews?

21 A. I heard, "I'm texting my daughter."

22 Q. Now, what are you looking at?

23 A. I'm looking to my left.

24 Q. And to your left where?

25 A. At Mr. Oulson.

1 MR. ESCOBAR: Your Honor, this is going to be  
2 2060543 of Defense Exhibit Number 9. May I ask her  
3 to step down?

4 THE COURT: You may.

5 BY MR. ESCOBAR:

6 Q. Now, when you hear that from Mr. Oulson, where  
7 is Mr. Oulson standing?

8 A. Somewhere here.

9 Q. If you could point -- if you could turn a  
10 little bit to your left so the judge can see.

11 MS. SUMNER: Judge, I'm going to object, asked  
12 and answered. And this was not anything that I had  
13 inquired on on cross-examination.

14 MR. ESCOBAR: It's -- I'm going to tie it up  
15 very quickly.

16 MS. SUMNER: He's just redoing it.

17 MR. ESCOBAR: I'm going to tie it up very  
18 quickly.

19 THE COURT: I'll allow it.

20 BY MR. ESCOBAR:

21 Q. Please point to where Mr. Oulson was standing.

22 A. Somewhere in here.

23 Q. Now, is your attention focused on him  
24 exclusively at that point?

25 A. Yes.

1 Q. You're not looking at Mr. Reeves?

2 A. No.

3 Q. What takes your attention now from Mr. Oulson  
4 somewhere else?

5 A. The way Mr. Reeves is sitting.

6 Q. Okay. So now, do you look at Mr. Reeves?

7 A. Uh-huh.

8 Q. And this is where you said he was seated  
9 with -- sideways?

10 A. Uh-huh.

11 Q. To his left?

12 A. Uh-huh.

13 Q. Are you looking at Mr. Oulson anymore?

14 A. No.

15 Q. Now you're focused strictly on Mr. Reeves?

16 A. Yes.

17 Q. How long are you watching Mr. Reeves now?

18 MS. SUMNER: Objection, Judge. This is all  
19 just rehashing what he's already done on direct.

20 MR. ESCOBAR: Judge, it is not because the  
21 segment, I can tell you. The segments of her focus  
22 were very focused on one particular area, and so she  
23 does it as a piecemeal. And so what the prosecution  
24 tried to do was to mix her viewing Mr. Oulson and  
25 Mr. Reeves together, and it didn't happen that way.



1           There were sequences of events that caused her  
2           to focus on one person, then there was another  
3           sequence of events that caused her to focus on the  
4           other person, and to the exclusion of each other.

5           MS. SUMNER: And Judge, she testified to this  
6           previously. He's just rehashing his entire direct.

7           MR. ESCOBAR: If you remember her cross, that's  
8           exactly what she was trying to portray, was that she  
9           was focused both on Mr. Oulson and Mr. Reeves  
10          simultaneously, and that is not her testimony.

11          THE COURT: I'll allow it.

12 BY MR. ESCOBAR:

13          Q. So now, you're looking at Mr. Reeves, is that  
14          correct, because he's sitting sideways, correct?

15          A. Correct.

16          Q. Are you looking at Mr. Oulson?

17          A. No.

18          Q. How long are you looking at Mr. Reeves as he's  
19          sitting sideways like that?

20          A. Three or four seconds.

21          Q. And you're not looking at Mr. Oulson anymore,  
22          right?

23          A. Right.

24          MS. SUMNER: Objection, asked and answered,  
25          Judge.

1 BY MR. ESCOBAR:

2 Q. When's the next time that you first, after --  
3 for those three or four seconds, when is the next time  
4 that you glance over to Mr. Oulson?

5 A. After the shot was fired.

6 MR. ESCOBAR: No further questions.

7 Your Honor, we would introduce Defense Exhibit  
8 Number 9, which has been stipulated to.

9 THE COURT: All right. It'll be Numbered 7  
10 when it's admitted. May this witness be released?

11 MR. ESCOBAR: Subject to recall, but, yes,  
12 today.

13 THE COURT: Subject to recall today?

14 MR. ESCOBAR: No. Subject to recall, but she  
15 can be released today, sorry.

16 THE COURT: Okay. That's all right.

17 MS. SUMNER: We'd ask her to remain under  
18 subpoena the whole time but we'll contact her.

19 THE COURT: Okay.

20 MS. SUMNER: Thank you.

21 THE COURT: Ms. Turner, you're free to go  
22 today, but you may receive a phone call indicating  
23 that you're needed back again, okay?

24 THE WITNESS: Okay.

25 THE COURT: So please, if you get that call,

1           either return the call or take it and hopefully  
2           you're good to go, at least for today.

3           THE WITNESS:   Okay.

4           THE COURT:    Thank you.

5           THE WITNESS:   Thank you.

6           MR. ESCOBAR:   Your Honor, since we're going to  
7           have some computers and what have you that we need  
8           to hook up, if we could have a 10-minute or  
9           15-minute break, I would appreciate it.

10          THE COURT:    Okay.

11          MR. ESCOBAR:   The next one will be a very, very  
12          long witness, probably well into the early part of  
13          or mid part of the afternoon.

14          THE COURT:    All right.   And who's the next  
15          witness?

16          MR. ESCOBAR:   My next -- the Defense would call  
17          Bruce Koenig.

18          THE COURT:    All right.   And you need about 10  
19          to 15 minutes to prepare?

20          MR. ESCOBAR:   Yes, Your Honor.   Just to set up  
21          our equipment.

22          THE COURT:    All right.   Let's take a 15-minute  
23          recess.

24          THE CLERK:    All rise.

25          (Recess taken.)

1 MR. ESCOBAR: Good morning again, Your Honor.  
2 Defense would call Bruce Koenig.

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

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

9 THE COURT: You may proceed, Counselor.

10 MR. ESCOBAR: Your Honor, I will tell the Court  
11 that or purposes of a lot of this playing of the  
12 video what have you, we would also ask for the Court  
13 to use your monitor as well in that that will make  
14 it easier on the Court's eyes as well. You can look  
15 at all the monitors, but I'd like the Court to also  
16 utilize the bench monitor.

17 THE COURT: Go ahead.

18 DIRECT EXAMINATION

19 BY MR. ESCOBAR:

20 Q. Good morning, Mr. Koenig.

21 A. Good morning.

22 Q. Would you please state your full name and your  
23 current address for the record?

24 A. Yes. My name is Bruce E. Koenig, that's  
25 K-O-E-N-I-G, and I my address is 12115 Sangsters, that's

1 S-A-N-G-S-T-E-R-S, Court, Clifton, Virginia.

2 Q. Could you please summarize for us your formal  
3 education.

4 A. Yes, sir. I have a Bachelor of Science degree  
5 from the University of Maryland. I had double majors in  
6 physics and mathematics. I have an electronics course  
7 through DeVry Institute of Technology, which is now  
8 called DeVry College, I believe.

9 I have my master's degree from George  
10 Washington University in forensic science. I have  
11 additional graduate level courses at Massachusetts  
12 Institute of Technology, MIT, George Mason University,  
13 the University of Utah and University of Colorado,  
14 Denver.

15 MR. ESCOBAR: May I approach the witness, Your  
16 Honor?

17 THE COURT: You may.

18 BY MR. ESCOBAR:

19 Q. Mr. Koenig, I'm going to show you what has been  
20 marked as Defense Exhibit Number 28, I believe, and ask  
21 you if you recognize that particular exhibit.

22 A. Yes, sir. This is a copy of my curriculum  
23 vitae or my educational and experience background in my  
24 field.

25 Q. Could you tell us about any formal education

1 that you have attended in addition to, obviously, your  
2 undergraduate and master's programs. Tell me what formal  
3 education you have had in specialized areas of forensic  
4 video and audio analysis.

5 A. Well, I guess my main came through an  
6 apprenticeship at the FBI. I worked as I was a special  
7 agent supervisor there for 21 years for which I worked --  
8 the early days it was more audio than video, and then  
9 more video a little bit as we go along. At the end, I  
10 ran that particular group.

11 Q. What does that mean you "ran that particular  
12 group"? Describe the group to the Court if you can.

13 A. Yes. The FBI labs audio/video group was, and I  
14 presume absolutely it still is, the largest group in the  
15 world that does it. When I was there, I had  
16 approximately 30 people working for me; four Ph.Ds, lots  
17 of people with master's and bachelor's degrees in  
18 engineering and physics, and staff people that handled  
19 the evidence and all that too.

20 So we -- like I said, it was the largest group  
21 and I presume it absolutely still is of that group. So  
22 it's the dominant lab in the world in this field.

23 Q. What was --

24 MR. MARTIN: Excuse me, Mr. Escobar.

25 Judge, I'm going to ask for some dates on some

1 of the activities, because we know he is retired but  
2 we don't have any dates, we don't know how long ago,  
3 how timely is the information he's provided. It's  
4 all I ask is that as the witness describes the  
5 experience, that we have dates so we can sequence  
6 this.

7 BY MR. ESCOBAR:

8 Q. Mr. Koenig, let's take you back a little bit  
9 before you started in that particular lab.

10 Were you working as an agent back between 1970  
11 and 1974?

12 A. Yes, sir. I was a special agent of the FBI. I  
13 worked at the training school in the Atlanta and Detroit  
14 divisions. I worked on selective service violations,  
15 fugitives, terrorism. Detroit had terrorism kind of work  
16 before I was promoted to supervisor at headquarters.

17 Q. Okay. Let's talk a little bit about that. So  
18 between 1970 and 1974 you were a special agent  
19 investigating crimes.

20 A. Yes, sir.

21 Q. After 1974, what happened?

22 A. I came back to the laboratory, which at that  
23 time was in the Department of Justice building downtown,  
24 and during my time there, I moved to the new J. Edgar  
25 Hoover building, which is now going to be demolished and

1     they're moving it some place else.

2                 Then we moved out to several suburban  
3     locations.  Ultimately near the end of my career, the  
4     last seven or eight years or so, it was in Quantico,  
5     Virginia.

6                 Q.    Now, you went from that special agent to a  
7     supervisory role; is that correct?

8                 A.    Yes, but, you know, my supervisory role was to  
9     conduct -- until the last eight years when I ran the  
10    whole group -- was to conduct cases, and I had  
11    technicians and all and people who are training, you  
12    know, after I reached a certain point that I was  
13    supervising.

14                When I took over the group, I still conducted  
15    casework about 60 percent of the time, and I was a person  
16    that of kind of avoided management and tried to actually  
17    do the work.  I had good people, they knew how to do it.  
18    I tried to get them money and resources so they could get  
19    their work done.

20                Q.    So that period of 1974 to 1995, you're saying  
21    that that last eight years you were managing the entire  
22    group?

23                A.    Approximately eight years, yes, entire group.

24                Q.    Okay.  Now, what was the role of that group?

25                A.    To conduct virtually any forensic analysis of



1 audio and video, that would include whether something's  
2 altered or not. Compare voices, enhance audio and video,  
3 conduct signal analysis, gunshot analysis, for instance.  
4 Anything pretty well involving audio or video was done.

5 Q. Tell the Court how you developed your expertise  
6 in this particular area.

7 A. Well, I think it's a combination of getting the  
8 training, the FBI lab was wonderful for that, then the  
9 experience of just working on thousands of recordings.  
10 And then the, you know, the formal education gives you,  
11 you know, the basic training and the theory of the work.  
12 And then you go to specialized courses that, you know,  
13 can range from a day to two weeks that talk about  
14 particular aspects of your work.

15 And then you have professional societies, so  
16 you have peer-reviewed papers and you publish -- do  
17 research to do that, and they have conferences. Like,  
18 for instance, there's an audio conference for the Audio  
19 Engineering Society that comes up about every three years  
20 up near Washington, DC, in June, you know. So most  
21 people in the audio -- that do audio forensics will  
22 probably most likely be at that conference.

23 Q. So that's where we had left off earlier is, in  
24 addition to your formal education, the specialized  
25 forensic courses in video and audio analysis that you had

1 taken. I'd like to discuss some of those with you if you  
2 can.

3 I know there's a long list in your CV; is that  
4 correct?

5 A. That's a partial list, yes, but it's many of  
6 them.

7 Q. There was a course titled "Forensic  
8 Authentication of Digital and Audio" presented by the  
9 National Center for Media Forensics, University of  
10 Colorado, Denver, Colorado. Explain that course, if you  
11 can, to the Court.

12 A. The two professors presented the course to --  
13 there weren't a lot of us. It's not like a large group  
14 of people, six or eight people if I remember right, and  
15 there may be more. And they discuss the newest  
16 techniques in the field. You know, what's going on, what  
17 research they're doing and -- and the direction so we  
18 could understand that and make sure we all do it.

19 Q. So these were resources that you weren't  
20 dependent solely on what the FBI had available to them,  
21 but resources outside of the FBI in order to try to be  
22 the best that you could?

23 A. Yes. The digital field, like I think anybody  
24 involved with even consumer electronics, has gone from an  
25 analog thing where, you know, it was audio cassettes and

1     then, you know, VHS or video, and then, you know, I think  
2     most people started seeing digital and they saw CDs,  
3     audio CDs which would be digital.

4             And now, you know, most of your television  
5     programs are transmitted in digital, so the world is fast  
6     losing the analog in audio, video and imaging areas. We  
7     used to have film, we now have JPEG images.

8             Q.     So did the very nature of your position and  
9     your profession there with the FBI, then require you to  
10    continue your educational process so that you could keep  
11    up with the new technology?

12            A.     In my field, it's never ending. It's always  
13    changing, which I enjoy, but it's definitely something  
14    that you have to stay up with through all those  
15    resources. People you know in the field, professional  
16    societies, you know, doing your own research papers, you  
17    know, and attending these specialized classes you stay up  
18    with the field.

19            Q.     I want to just mention a few more that I would  
20    like you to comment on. One is the imaging and video  
21    processing using the MATLAB that was presented in Vienna,  
22    Virginia. Tell me about that?

23            A.     Yes. MATLAB, and that's all capital letters,  
24    M-A-T-L-A-B, is the scientific program people use to look  
25    at audio and video and statistical data, and it's like,

1     you know, every -- every student in college in  
2     engineering and physics, that's the program you're going  
3     to use because it's tremendously varied what can you do  
4     with it.

5             So this particular program was set up to look  
6     at these particular aspects that, you know, my associates  
7     and I have an interest in being able to do. So we  
8     continually attend such -- such meetings to try to make  
9     sure we understand how best to use that software and  
10    obviously other software in the field.

11            Q.    There's another course titled "Imaging,  
12    Processing and Analysis," and that was presented by the  
13    International Society for Optical Engineering, also in  
14    Virginia. Could you tell the Court a little bit about  
15    that.

16            A.    Again, I think the description kind of tells  
17    what it is. You're looking at various optical problems  
18    and all with -- with, you know, when you take a video or  
19    something, there's a camera. So you have to worry about  
20    the optics and all of that. So again, continuing  
21    education in my field.

22            Q.    You took a couple of courses in your CV that  
23    appears to be related to the Sony Video Institute, ones  
24    called "Mastering Digital Video Technology."

25            A.    Yes.

1 Q. Tell us about that particular program.

2 A. Yes. Sony dominates in the professional video  
3 world and has for a long time. People forget when we had  
4 Beta and VHS, I'm probably aging myself here, but, you  
5 know, at one time that was a big thing. Well, Beta went  
6 away as far as consumers have gone, but actually Sony,  
7 which owns Beta rights, that's what the professionals  
8 you've been watching on TV at the football games and all  
9 they're using. It's Beta.

10 So they're the professionals -- experts in  
11 professional video. So the course is very much the  
12 theoretical side of the video format itself. They mostly  
13 were concerned about more the professional formats, but  
14 consumer formats kind of follow behind that, so that's  
15 it. So, yeah, it was an excellent course out there in  
16 California.

17 Q. Two more now, and I promise to leave these  
18 alone. One is called "Video Analyst System Training,"  
19 and that was in Huntsville, Alabama.

20 A. Yes. The program we've been using for a long  
21 time to analyze video from a filtering perspective,  
22 especially in what's called more of the early days, 10,  
23 15 years ago, you had to use these specialized programs.  
24 A lot of the more mainstream now are able to do a lot of  
25 those functions that were only available back then of

1     these programs.

2                 So we still use programs such as that, but  
3     again, there's more mainstream stuff that's out there  
4     that often can handle these things.

5                 So this was a course that really walked you  
6     through what you can do with video. How do you enhance  
7     it? How do you speed it up? How do you slow it down?  
8     It went through all of those kind of characteristics that  
9     obviously, you know, a lot of video recordings we've made  
10    in this case are, you know, have those feature.

11                Q.    Now, the last one, I promise you, is called  
12    "Video Capture Enhancement Analysis," that was presented  
13    by the Institute of Forensic Imaging. I guess that was  
14    done in conjunction with the University of Indiana and  
15    Purdue University. Tell us about that course?

16                A.    Yeah. They had some senior researchers spend,  
17    if I remember right, two or three days with us talking  
18    about a lot of the theoretical aspects of imaging, and,  
19    you know, it certainly affects video and still images,  
20    and went through a lot of those characteristics that we  
21    care about in the lab, and you have to be cognizant of it  
22    to be able to do the kind of work my associates and I are  
23    involved with.

24                Q.    And as part of your profession, did you become  
25    a member of professional societies?

1           A.    Yes, sir.

2           Q.    And if you could tell the Court about the  
3 professional societies that you became a member of.

4           A.    Yes.  I'm a member of the Acoustical Society of  
5 America.  I am a member of their subcommittee on forensic  
6 acoustics.  The Acoustical Society is more interested in  
7 the audio aspects of things, not really video, and  
8 they're probably the senior research profession for  
9 audio, the theoretical aspect of it.  Okay.

10                   I'm a member of the Audio Engineering Society.  
11 I'm a member of their technical committee on forensic  
12 science.  And I was very fortunate that in 2015 I got  
13 their highest award for conducting research and all in my  
14 career in the audio field.

15                   It's the first time -- you know, I was very  
16 flattered.  It was the first time a forensic person had  
17 ever won the award.  It's usually given to researchers or  
18 people like -- people have Bose headphones.  Dr. Bose was  
19 a great guy and he was one of the recipients, I believe,  
20 of it.  They're the kind of people that receive that.  
21 And they -- and then I published in that -- in that  
22 journal they have because of -- for the audio side.

23                   I'm a member of the International Association  
24 for Identification.  I'm a distinguished -- both a  
25 distinguished and a life active member.  Life just means

1 I've been a member of it for a long time.

2 The -- and I've been on various, you know,  
3 boards involved with voice identification and other  
4 things including video. I was involved with writing some  
5 of the standard questions that were used for their  
6 certification process.

7 Q. Tell the Court a little bit about that and  
8 those standards and how you participated in writing, I  
9 would imagine, a very important list of questions.

10 A. Right. I think they pick three or four of the  
11 senior people, you know, involved in the International  
12 Association for Identification, and asked us to write  
13 questions at certain levels and everything else.

14 So, you know, you're asking people in this  
15 field what they should know about things. You know, how  
16 do you handle -- well, talk about it here, enlarging, you  
17 know, video images if you have it. How do you get  
18 information all for corners properly so you get the best  
19 product.

20 So the questions are aimed at the people having  
21 a basic knowledge of this so they can actually do the  
22 work well and the IAI can certify that. So there is a  
23 certification process that -- these questions that you  
24 posed or assisted with, are questions that at some point  
25 in time would determine whether someone was certified or



1 not, right?

2 And my associate of Lacey, L-A-C-E-Y, is  
3 certified. I'm in a position that since I provided the  
4 questions, and I believe they're still using them, I  
5 can't really take the certification test. But it's -- it  
6 really is made for more basic levels. It's not made  
7 really for senior people particularly. It's made for the  
8 police departments and all get involved so they have  
9 basic knowledge how to do things, especially at crime  
10 scenes.

11 Q. Well, since you've mentioned Doug Lacey, let's  
12 bring Mr. Lacey up because he's going to be assisting me  
13 with the presentation.

14 MR. ESCOBAR: Mr. Lacey, could you please come  
15 forward? You can sit right here. He's not going to  
16 be talking, Your Honor.

17 THE COURT: Okay.

18 BY MR. ESCOBAR:

19 Q. Is this Mr. Lacey here?

20 A. Yes. Douglas S. Lacey.

21 Q. And how did you meet Mr. Lacey?

22 A. When I retired in 1995 from the FBI, in 1996  
23 they brought me right back as a contractor, and I stayed  
24 there until the end of 2003 as a contractor to train  
25 people in some of the more complicated areas:

1 Authenticity, gunshot analysis, and stuff like that.

2 Mr. Lacey was one of the three people that I  
3 was -- spent most of my time training, even though I  
4 trained a lot of people on staff, but he was one of the  
5 three main people.

6 So I started my company right after I retired  
7 and I went through and realized at some point I needed  
8 help. So my associate at that time, Steve Killian, who  
9 used to run the entire engineering section of the FBI, so  
10 300-and-some people, he was working with me but he really  
11 wanted to spend some more time with his grandchildren and  
12 he asked that -- see if I could find somebody else to  
13 come in.

14 So Doug and I, you know, we talked to Doug -- I  
15 talked to Doug and so did my associate, and made an offer  
16 that, you know, it was good and bad to come out in the  
17 private sector from government. We were very clear that  
18 it may not be what he wants, but here's what we can  
19 offer.

20 And I think it took him, Doug might remember,  
21 but, like, six months before or so and he finally decided  
22 he would like to come out and work with us, and so  
23 then -- and in between he worked with us part time.

24 The government allowed him to work on  
25 noncriminal cases with us as long as the government

1     wasn't involved in the civil case, any government, so  
2     there would be no conflict with the FBI.

3             And he decided to come and he's been with me  
4     since then. And in 2014, I ceded the company to him,  
5     which meant the poor guy has to do all the invoices and  
6     everything else. He does the administrative stuff now.  
7     I get paid hourly to do forensic work, and that's what I  
8     like to do and I'm full time working at it.

9             So he does -- and he'll be the future of the  
10    company. You know, he's my kid's age so it's -- that's  
11    how it worked out.

12            He has a very strong background, electrical  
13    engineering degree, emphasis in digital audio. He's  
14    starting up on his masters degree, I think, here in the  
15    fall. He's taken a lot of courses like I have and been a  
16    coauthor with lots of articles that I and other people  
17    are involved with.

18            Q.    Okay. And he will assisting us today in this  
19    presentation?

20            A.    Yes, he is ultimately, you know, qualified to  
21    do that.

22            Q.    And did he assist you also in the analysis of  
23    the video surveillance of the Cobb Theater in this case?

24            A.    Absolutely, yes.

25            Q.    Okay. Getting back to your CV, I don't want to

1 leave it just yet.

2 A. You want me to finish up the professional  
3 societies?

4 Q. Please.

5 A. Okay. I'm a member of the National Technical  
6 Investigator's Association, which is people that are  
7 mostly in law enforcement right now doing technical kind  
8 of things, audio, video and other, you know, computer  
9 stuff, not only just audio and video.

10 I became a member when I was in the FBI and  
11 they've allowed me to remain as a member even though I'm  
12 not in the FBI anymore. That's very nice of them. So  
13 I'm still a member of that.

14 I'm a member of the Society of Former Special  
15 Agents of the FBI. I think that just answers the  
16 question. It gives me good contacts with other agents.

17 I'm a member of the Society of Motion Picture  
18 and Television Engineers. This is a society that all  
19 those people you see on TV -- the video you see, these  
20 are the tech people behind the cameras and recording  
21 industry putting all that together and also for movies.  
22 So they're -- they're the premier group that does that.  
23 But it's the professional side not the quality consumer  
24 stuff we see in a case like this. They're the  
25 professional side.

1           And I was a member of what used to be called  
2     the International Society for Optical Engineering but  
3     everybody called it SPIE, all capital letters, S-P-I-E.  
4     I dropped my membership in 2010 because they had  
5     originally had a forensic group involved with it and it  
6     was a great group, but they decided not to go in that  
7     direction. They are again, more of the professional end  
8     of -- of the work, yeah.

9           Q.     Now, I know you talked little bit about your  
10    professional experience as an analyst in video and  
11    digital image, but I'd like to try to give the Court some  
12    substance to your professional work experience if we can.

13          A.     Okay.

14          Q.     Take us from the very beginning.

15          A.     Experience or what I do?

16          Q.     What you do.

17          A.     Oh. What I did at the FBI and what I do now  
18    are pretty much the same. We analyze audio, and in this  
19    case, video and still images like in cameras or something  
20    to determine, for instance, have they been altered.  
21    Complicated exams -- they're not easy exams, so we parse  
22    apart everything.

23                 The digital file is made up of really kind of  
24    two parts if you want to be simplistic. One is the  
25    actual data, the video which is actually what you see on

1 the screen. The rest of it is administrative data that's  
2 called "METADATA," M-E-T-A-D-A-T-A, and that data can be  
3 very instrumental in telling you what's going on.

4 For instance, in this case, when you see an  
5 image on the screen, in the METADATA next to the data for  
6 each section of it, each picture of the video, it tells  
7 you what the time is out in milliseconds. So exactly  
8 what the time is, we know what that is. So that's -- in  
9 this case, was probably very important, okay. We enhance  
10 things. Probably can do more --

11 MR. MARTIN: I realize that he wants to speak  
12 to you directly, but his face is now away from the  
13 microphone and the last two or three minutes I  
14 couldn't hear a thing he said. I apologize. I  
15 didn't realize he was looking at you and wanting to  
16 have a personal conversation with you.

17 MR. ESCOBAR: I'm not sure that it is a  
18 personal conversation, Your Honor. It's testimony  
19 in a criminal case here in Dade City, so I wouldn't  
20 characterize it as a personal conversation.

21 THE COURT: Thank you, Mr. Escobar.

22 THE WITNESS: And enhancement, I'll stick to  
23 the video image side of it because that's what we're  
24 talking about here, the usual limitation is that the  
25 digital image is made up of a bunch of what we call

1 "pixels," okay.

2 If you look at a pixel, it's like a block of  
3 either color or a grayscale if it's black and white.  
4 And contrary to what you see on TV, when they blow  
5 it up and they pixelize it into a bunch of squares  
6 you see in a movie or TV, they hit this magic button  
7 and all of a sudden it's wonderful, right? Okay.

8 Five hundred years from now they can do that  
9 because the pixel itself is a color or a grayscale.  
10 It has no additional detail at all, okay. So a lot  
11 of our enhancements that come in, including this  
12 case, the attorneys obviously want us to say, Hey, I  
13 want to see more, okay.

14 We'd love to be able to do something but you're  
15 limited by the number of pixels. Like, you're  
16 looking at a very small number of pixels. I mean,  
17 these pixels you're going to be seeing here might be  
18 one hundredth the amount of pixels you might have in  
19 a still image you take with a camera. So it's very  
20 poor quality.

21 So enhancement is limited with low quality  
22 video, but we can lighten dark areas to make them a  
23 little more (inaudible). We can sharpen edges to  
24 make it so the picture's just sharper and try to  
25 increase the contrast back to where the actual

1 picture was.

2 In other areas we do, we do voice comparisons.  
3 We do gunshot analysis. I've worked on lots of  
4 major gunshot cases. And, you know, we're looking  
5 at how many times a shot was fired.

6 Does it match up that it was fired from one  
7 location where you might be able to say, That  
8 shooter fired these shots, so this other shooter  
9 fired these shots.

10 You can't actually identify the weapon contrary  
11 to what you see on TV, but you can often say where  
12 they're located. So even if they're only 4 feet  
13 apart, you might be able to say, okay, this person  
14 fired four shots and this one shot six, and we know  
15 what order so you might know who had fired first,  
16 for instance, if you have an audio recording.

17 So, you know, anything really involved with  
18 audio/video. So it really gets to be a pretty wide  
19 field at times.

20 BY MR. ESCOBAR:

21 Q. And that work is both with the FBI for the  
22 years that you worked at the FBI, including your  
23 supervisory positions, as well as your private practice  
24 today?

25 A. Yeah. The only difference at the FBI, we were



1 mostly just getting analog video because the consumer  
2 world had not gone over to digital. So the only digital  
3 we had was in the lab where we would make a copy, or we  
4 got something professional which was kind of rare. So it  
5 was more of an analog world.

6 Q. In your career, can you tell the Court  
7 approximately how many cases have you worked on analyzing  
8 either audio or video?

9 A. I've worked on something over 6,000 separate  
10 criminal, civil, and administrative matters.

11 Q. And of those, how many actual audio and/or  
12 video recordings have you analyzed?

13 A. Well over 19,000, probably -- I haven't checked  
14 my stats in the last couple of years, so I might be up to  
15 20,000 but certainly well over 19.

16 Q. Now, you have worked on some interesting cases  
17 in your career; is that correct?

18 A. That's correct.

19 Q. Tell us some of those cases that you have been  
20 involved in that were particularly -- wouldn't like to  
21 say difficult but certainly challenging.

22 A. Well, I think a lot of them are that way. I  
23 was very involved with the -- both the Kennedy  
24 assassination, the recordings, and the attempted  
25 assassination of President Reagan. What people don't

1 know in the Kennedy assassination, there are no  
2 recordings of gunshots. Even though people say there  
3 are, there aren't.

4 I was involved with running testifying in all  
5 of the Linda Tripp/Monica Lewinsky recordings. We did  
6 all the authenticity work for Ken Starr. I testified for  
7 the grand jury in that matter. We were involved in  
8 examinations involving the secretary at the time, Henry  
9 Cisneros, and all of his recordings. Sorry, I'm reading  
10 through this. We have a lot of cases.

11 I worked on the Archer Daniels Midland case  
12 which was huge at the time, by far the biggest federal  
13 antitrust case in the country.

14 I worked on all of the video surveillance  
15 analysis involving Odin Lloyd who was the former New  
16 England Patriots player -- well, he was the one that  
17 was -- and his murder by -- Aaron Hernandez was charged,  
18 and Doug and I both were involved with that case.

19 Q. And that was both audio and video?

20 A. It was all video.

21 Q. All video.

22 A. And back a ways, I worked on the -- a lot of  
23 cases involving organized crime in the northeast and some  
24 in Miami and New Orleans. I've worked on two or three of  
25 the John Gotti cases up there. I was involved with the

1 videotapes involved with Branch Davidian complex in Waco,  
2 Texas, analyzed all of those.

3 I've worked several -- I've worked on three  
4 criminal trials for the United Nations Criminal Tribunal  
5 and did testify there in one of the cases.

6 Q. As an expert?

7 A. As a what?

8 Q. As an expert?

9 A. Yes, audio expert in that case.

10 Q. Okay?

11 A. I've worked on a number of cases involving --  
12 the US Congress has asked us to work on. One involving  
13 video was a bunch of recordings made by President Bill  
14 Clinton's staff involving recordings that were not made  
15 with the news media.

16 They were recordings the White House made of  
17 various meetings the president had, but the news media  
18 was not there, and the Congress got them and was  
19 interested in what was there in some of them and whether  
20 they've been altered or what they were seeing on a  
21 particular video.

22 Cases involving the Ukrainian President Kuchma,  
23 that's K-U-C-H-M-A, involving his contacts with allegedly  
24 murdering a reporter. Down in the south a number of  
25 years ago in Greensboro, where the Ku Klux Klan, the

1 American Nazi party, the Communist Worker's party and the  
2 Socialist Worker's party in the death to -- the Klan  
3 demonstrated and started shooting at each other with a  
4 lot of people being killed. And I testified, I think, in  
5 two or three different cases down there in federal Court.

6 We worked on not too long ago a recording  
7 involving the Canadian prime minister, Stephen Harper,  
8 who I believe is still the prime minister. I'm not sure  
9 about that.

10 Q. Just to close it up, you worked also on the  
11 Duke University lacrosse team case?

12 A. I sure did, yes.

13 Q. As well as many others that we haven't -- have  
14 not yet read and won't bore the Court with.

15 Okay. Let's talk about your publications  
16 because that is an important aspect that I would like to  
17 present to the Court. Please tell the Court and testify  
18 to the Court what a publications is and what purpose it  
19 serves.

20 A. In our field, publications, like most  
21 scientific fields, are what we call "peer-reviewed." And  
22 peer-reviewed means, how certainly my associates and I  
23 handle it, is we do research or we write a paper about  
24 something.

25 We then send it to people we know are

1 knowledgeable in the field for our own peer review for  
2 whoever submit it. Then it's submitted to a scientific  
3 publication or forensic, some of them call themselves  
4 forensic groups. They then do their own peer review.  
5 They make any comments and we have to respond to that.

6 If that's all approved, then the paper is  
7 published. Once it's published, then not only the people  
8 that are in that professional society or whatever, but  
9 anybody that thinks there's something wrong with the  
10 paper can comment. You know, they can write their own  
11 paper, they can do it.

12 So the paper takes on its own life beyond the  
13 author's. Basically, once it goes through all the peer  
14 review and is accepted, then, you know, the two authors  
15 could drop dead, the paper's still the same paper. So  
16 the papers that, you know, my associates and I normally  
17 write are either research papers or overviews of certain  
18 complex procedures based on a bunch of peer-reviewed  
19 papers put together in a way that tells you how the  
20 procedure should be done.

21 Q. How many publications have you had, forensic  
22 articles, that have been peer-reviewed?

23 A. I think it's over 45 now.

24 Q. Okay. And have you published any books?

25 A. Yes. We -- Doug and I coauthored an article on

1 audio and video digital authenticity analysis. It's a  
2 rather long chapter, and it was published in the book --  
3 not all books are peer-reviewed, but this one was.

4 Q. Okay. Tell us about your instructions to  
5 others in your field of study and profession.

6 A. Well, certainly I did a lot of, you know,  
7 training in the FBI. It was pretty constant. You were  
8 always -- the senior people were training the newer  
9 people coming along. And then once you became an  
10 examiner, you had to technically review their papers and  
11 their work. So that was a constant in the FBI.

12 And when I retired, of course I came back to  
13 the Bureau after I retired from '96 to 2003, and most of  
14 that was still doing cases but training people at the  
15 FBI. So pretty well once I became trained back in the  
16 late '70s or so through 2003 at the FBI, I was involved  
17 with training lots of people.

18 Q. What about once you left the employment, both  
19 in your career with the FBI as well as in your contract  
20 work, did you continue to train others out in the  
21 community?

22 A. To some extent. I mean, there's not really a  
23 lot of private people like us, like Doug and I, but it's,  
24 you know, we certainly go to conferences and give  
25 lectures on stuff and do it.

1           We interface with people in the field on a  
2 regular basis. Like the University of Denver, the two  
3 professors there are people we have pretty well regular  
4 contact with. And then -- and there's several others  
5 that we're involved with, but we don't have a regular  
6 training program.

7           In fairness, Mr. Lacey and I have thought about  
8 that and just don't really want to do that as a living.  
9 We'd rather do the work than just teach.

10          Q.   Now, have you ever held any security clearance?

11          A.   Yes. When I was in the FBI and when I  
12 continued on -- in fact, the whole time I was an FBI  
13 agent, I had a top secret that continued on after I  
14 retired as a consultant.

15               Most of the time I had a bunch of what's called  
16 compartmental clearances beyond top secret, three or four  
17 of the ones on it, because we sometimes had to do work  
18 for the CIA and NSA was -- you know, a lot of people  
19 don't realize the FBI foreign counterintelligence matters  
20 is the primary organization within the United States.

21          Q.   Okay. Now, have you also served as a witness  
22 for the government as well as the defense in your line of  
23 work?

24          A.   Yes. Even in the FBI where we couldn't do the  
25 work directly for the defense, once we did the work, we

1 would appear for either side free of charge. And during  
2 those days, we, contrary to what they do now pretty well,  
3 we openly did work for state and local agencies.

4 And we did -- when I was there, we did all of  
5 the Drug Enforcement Administration work, which is the  
6 second biggest federal law enforcement agency. They  
7 didn't really have their lab. We did the work for them.

8 So we did a large variety plus organizations  
9 like the National Transportation Safety Board, you know,  
10 I've been working on airplane crash work, you know, black  
11 boxes, since the mid '70s. And I -- DOJ, Department of  
12 Justice, still hires us to do their maritime and aviation  
13 audio and video work.

14 Q. While we are on that subject, what various  
15 governmental agencies hire you to do their work?

16 A. Anyone you can think of. I mean, we get work  
17 doled from the FBI. We had a case not too long ago for  
18 the FBI field office that we did. And we were  
19 recommended out of the lab to do the work, that's how  
20 they got our name. It's -- I have bunch of them in the  
21 CV, but I mean --

22 Q. Just let's go through some of them so the Court  
23 can get at least a flavor of those governmental agencies  
24 that have that sort of confidence in you.

25 A. Okay. I have US Department of Justice, I



1 mentioned that. The FBI, US Congress, I already  
2 mentioned that. Office of Independent Counsel, ATF,  
3 Bureau of Alcohol and Tobacco and Firearms and Explosives  
4 now, Drug Enforcement Administration, Security Exchange  
5 Commission, US Department of Defense, US Department of  
6 Energy, US Customs Service, Federal Trade Commission,  
7 United States Criminal Tribunal, National Academy of  
8 Sciences, US Agency for International Development.

9 And then district attorneys' offices, public  
10 defenders' offices, police departments, prosecuting  
11 attorneys' offices, law school legal clinics, believe it  
12 or not, sheriffs' departments --

13 Q. I think we've -- I think you've -- you've given  
14 us the flavor.

15 A. We -- we get work from everybody, yes.

16 Q. Now, have you testified in court as an expert?

17 A. Yes, sir.

18 Q. And could you tell the Court on how many  
19 occasions you have testified in court and have been  
20 qualified and accepted by a court as an expert.

21 A. Well, I've testified a total of -- today would  
22 be the 403rd time, but some of those were depositions, some  
23 were administrative matters. So most of my time it's not  
24 that. So certainly above 350 would actually be in a  
25 court with local, state or federal judge or international

1 judge, you know, believing me as an expert.

2 MR. ESCOBAR: Your Honor, we would tender at  
3 this point in time Mr. Koenig as an expert in the  
4 field of both video and audio analysis. I'm not  
5 sure if, at this point in time, Mr. Martin wants to  
6 do some voir dire, but it may be the perfect time if  
7 he has any questions.

8 MR. MARTIN: I would.

9 THE COURT: Go ahead.

10 VOIR DIRE EXAMINATION

11 BY MR. MARTIN:

12 Q. Good morning.

13 A. Good morning. Nice to see you again.

14 Q. Nice to see you too, sir.

15 Do you have your CV in front of you, sir?

16 A. I have Exhibit 28.

17 Q. Okay. I appreciate you telling me the exhibit  
18 number.

19 Is that your CV?

20 A. That's my CV.

21 Q. There you go.

22 Page 3 of 9 of your CV, the work experience  
23 that you went over?

24 A. Yes, sir.

25 Q. Okay. Now, what Mr. Escobar has done is, he's

1     tendered to the Court -- to the Court, you as an expert  
2     in audio and video.

3             Page 3 of 9, and you went through some of  
4     these, and I'm going to take them in order, so if you can  
5     just follow along with me, I'm going to ask you some  
6     questions. And I'm going to not read the whole thing.  
7     I'm just going to get you right to the -- some words that  
8     can get you right to the paragraph, but we're going to go  
9     in order.

10            The Linda Tripp telephone recordings, okay?

11            A.    Yes, sir.

12            Q.    Do you see how I'm going to do it? All right.  
13     So in that work experience, that was all audio, the  
14     telephone recordings.

15            A.    That's correct.

16            Q.    All right. With the Bill Clinton authenticity  
17     analysis telephone recordings, that's all audio?

18            A.    Bill Clinton?

19            Q.    The very next one.

20            A.    Oh, I see.

21            Q.    See how I'm going?

22            A.    Oh. It's -- no, it's -- that's the same case  
23     with the Linda Tripp.

24            Q.    Oh, I apologize. So it's still audio?

25            A.    Yeah. The Bill Clinton farther down is

1 actually video.

2 Q. Okay. Well, I haven't gotten that far.

3 A. You haven't gotten that far, okay.

4 Q. Okay. So Linda Tripp and Bill Clinton, at this  
5 point in time, we're talking about audio?

6 A. Correct.

7 Q. Watergate tapes, audio?

8 A. Absolutely.

9 Q. Gunshot analysis in the assassination of John  
10 F. Kennedy, audio?

11 A. Audio and video. It's actually film at that  
12 point.

13 Q. All right. And what year was that? I know I  
14 was in the fifth grade.

15 A. I was in the twelfth grade. 1963.

16 Q. Okay. So that was a TV film. It was film that  
17 has to be developed chemically? We're not talking  
18 digital or VHS?

19 A. Oh, no, that's what I said. It was film. It  
20 was not TV. It was an individual, Mr. --

21 Q. Okay.

22 A. -- who did that.

23 Q. Then we have undercover informants' recordings  
24 in the Archer Midland case. That's audio?

25 A. Yes, I believe there were -- I'm trying to

1 remember if there was any videos. I know it was probably  
2 audio. I believe it was all audio.

3 Q. I'm just going by my --

4 A. I know. I had to think for a minute, but I  
5 believe everything there was audio.

6 Q. Now, the murder of Mr. Lloyd, L-L-O-Y-D, that's  
7 the first time that I see in here where you say "the  
8 video surveillance analysis," so that was video?

9 A. Well, that's video but you missed the Reagan  
10 attempted assassination, and that definitely was video  
11 and audio.

12 Q. Well, see, therein lies a little bit of problem  
13 with your CV. You just say "enhancement."

14 A. Well, you can enhance video.

15 Q. I know, but when we're talking about your work  
16 experience --

17 MR. ESCOBAR: Judge, I'm going to object he's  
18 being argumentative with the client. I mean, he  
19 answered.

20 MR. MARTIN: May I proceed, Your Honor?

21 THE COURT: Go ahead.

22 BY MR. MARTIN:

23 Q. All right. In your CV, you did not indicate  
24 video or audio. So are you telling me now that when we  
25 talk about authenticity and enhancement analysis -- I'm

1       sorry.

2                       You talking about Ronald Reagan?

3           A.     Yes.   Where it says -- it starts off with, "The  
4   Gunshot Analysis of the Assassination of President John  
5   F. Kennedy and the Attempted Assassination of Ronald W.  
6   Reagan."

7           Q.     Right.   And then it goes to the authenticity  
8   and enhancement analysis of undercover informants'  
9   recordings, and you told me that was audio.

10          A.     Oh, no, but that's a different case.   You have  
11   a semicolon there, and then you're talking about the  
12   Archer Daniels Midland case.

13          Q.     All right.

14          A.     So the attempted assassination of Reagan was,  
15   yeah, everybody saw the video on TV at the time.   It  
16   definitely was broadcast video and audio.

17          Q.     All right.   Then we have the determination and  
18   identification of gunshot sounds on audio and videotapes  
19   involving the Branch Davidian Complex, and that was  
20   gunshot sounds, it was audio?

21          A.     Yes.   The Branch Davidian was probably -- we  
22   did more work on the video, but we certainly had audio  
23   there, too.   They -- the question was, where did the fire  
24   start?   Did the government somehow do something to start  
25   the fires?   And basically the FBI had infrared, far

1 infrared sensors above that clearly showed the fires were  
2 started in a number of places within the complex prior to  
3 the FBI or anybody else moving toward the complex.

4 Q. Then after that we have voice comparison  
5 analysis of audio recordings dealing with the tribunal in  
6 Yugoslavia. Audio, correct?

7 A. They were all audio, correct.

8 Q. The next one we have is intelligibility  
9 determination and transcript preparation. That's all  
10 audio?

11 A. Yeah, that's in the Sabrina Aisenberg  
12 kidnapping case, which is, I believe, a local case here  
13 in Tampa.

14 Q. It's all audio, right?

15 A. Yes, I was doing audio work with the wire taps  
16 done by Hillsborough County Sheriff's Department.

17 Q. And then you were -- then we have a video  
18 authenticity analysis involving US Congress, right?

19 A. That's correct.

20 Q. What did that involve?

21 A. That was the one that I had mentioned before  
22 where these were videos taken of the president meeting  
23 with people that the news media were not there.

24 Q. All right. And what year was that?

25 A. I don't know if I can give you an exact year.

1 It would have been the second term of Clinton as  
2 president, whenever that was.

3 Q. Analog video?

4 A. No, it was digital.

5 Q. Digital?

6 A. Uh-huh.

7 Q. Then after that we have the digital audio  
8 recordings by the Ukrainian president. That's audio,  
9 right?

10 A. Ukrainian president is audio.

11 Q. The next one is an FBI undercover analog and  
12 digital recordings. That's audio?

13 A. Well, next one here is talking about -- oh  
14 that's involving Richard Scrushy?

15 Q. Right. That's all audio?

16 A. No. Actually, the main recording involved was  
17 analog -- was digital audio and video produced by a  
18 Stringer (phonetic) newsgroup who were being sued.

19 Q. All right. And what were you asked to do  
20 that -- in that regards regarding the audio?

21 A. The federal judge in Philadelphia had ordered  
22 the newsgroup that they were not to record Scrushy's  
23 grandchildren, okay. They ended up getting a recording,  
24 a broadcasting, clearly showing his grandchildren.

25 Q. All right. So even though it involved a video,



1 your analysis had to do with the audio and whether or not  
2 the grandchildren were on it?

3 A. Well, you really don't hear the grandchildren.  
4 It's really more on video. They wanted to -- so we had  
5 to look at the video and we did a lot of work there. The  
6 audio part, what they wanted to know was could -- where  
7 they were located, could they have heard the  
8 grandchildren, and that's what the federal judge wanted  
9 to know. We were able to figure that out, in fact, they  
10 could.

11 Q. Then we have the Ku Klux Klan. We have the  
12 analysis of gunshot fires.

13 A. And that's both video and audio.

14 Q. What year was that?

15 A. I want to say the late '70s.

16 Q. That was analog?

17 A. I -- yeah, pretty involved.

18 Q. 1970?

19 A. Yeah. I don't think -- it was professional  
20 video. That's -- it was newspeople, but I think it would  
21 be analog at that point, yes.

22 Q. All right. Then we have the authenticity of  
23 the analysis of audio microcassette recordings by the  
24 Canadian Prime Minister. That's all audio?

25 A. Yeah, it was just one audio cassette.

1           Q.    Then we have 35 digital audio recordings in the  
2   conspiracy and interception, and that's in the Pellicano  
3   case.  That's all audio.

4           A.    Yeah, the Pellicano case, that's all audio.

5           Q.    All right.  Then we have the gunshot  
6   examination and the death of Timothy Russell.  That's all  
7   audio.

8           A.    All recordings were video, but we were  
9   mostly --

10          Q.    Your --

11          A.    -- we were mostly interested in the audio, but  
12   it's all digital video.  That's where it came off of.

13          Q.    I apologize.  And that's twice that I've talked  
14   over you, so accept my apology.

15          A.    All right.

16          Q.    I won't -- okay.

17          A.    Not a problem.  I've been doing the same thing.

18          Q.    And we're still doing it right now, aren't we?

19          A.    Yes.

20          Q.    All right.  Let's not do that.

21          A.    Yeah.  This was a case that made high  
22   publicity.  It was car that was shot 139 times.  I think  
23   it was like last year they -- they tried a police officer  
24   on it.

25          Q.    Right.

1           A.    And the car was shot -- I mean, people died  
2 obviously, and there was video involved with dashboard  
3 cams in the police cars.

4           Q.    All right.

5           A.    So we used the video, obviously, but the  
6 gunshot part of it was obviously audio, but the video  
7 helped tell us things. We needed to know where the car  
8 was located, so the video was crucial in telling us where  
9 the microphone was at that's recording the gunshots. So  
10 we needed that information to be able to do our analysis.  
11 So it was both audio and video.

12          Q.    So the video gave you content to establish  
13 where the gunshots came from?

14          A.    It gave us where the microphones were located.  
15 I mean, you have two things: Where's the mics, where's  
16 the gunshots occurring? Well, if we know where the mics  
17 are, that gives us information that helps us -- tells  
18 where the gunshots occurred.

19          Q.    But as far as working with the video, there was  
20 nothing that you had to do with the video content itself,  
21 what you see moving. You were more concerned with the  
22 audio on the videotape, your analysis was of the audio?

23          A.    The gunshot part, as far as the audio, we had  
24 to look at that, but we needed the video to tell us where  
25 the cars were.

1 Q. I understand that.

2 A. And without that, we would have had trouble  
3 doing the exam. So the video became -- in fact, it was a  
4 big, you know, a big thing to figure out where -- where  
5 was this car parked when these recordings occurred? So  
6 it really involved a lot of involvement with the video  
7 itself. And that video was digital.

8 Q. The traffic control recordings, that was all  
9 audio?

10 A. Yes, audio. Air traffic control recordings  
11 would be audio.

12 Q. The Sikorsky helicopter crash, that was audio?  
13 System sounds of the Sikorsky helicopter crash review --

14 A. Yes.

15 Q. -- that was all audio?

16 A. Yes.

17 Q. When you were with the FBI, beginning in the  
18 late '70s, basically your task was in the audio portion  
19 of that lab; was it not?

20 A. Yes. The -- first off, we weren't getting  
21 in -- in the early -- in the '70s virtually any video at  
22 all, so it was really -- it was into the '80s before we  
23 started really getting much video.

24 Q. So all your early training was in audio?

25 A. That's -- that's correct. Because, like I

1 said, we just didn't have much video.

2 Q. You went through the clients that since you  
3 have left the FBI that you have done work with, and those  
4 state agencies and public agencies.

5 The great majority of the work for those people  
6 are in the field of audio forensics; is it not?

7 A. No. Actually, we now have more video work  
8 coming in, I believe, than we have audio.

9 Q. If you go to page 4 of 9 of your CV, I'm going  
10 to go through the ones that Mr. Escobar mentioned.  
11 Forensic Authentication of Digital Audio.

12 Again, we're talking about you went to a course  
13 involving audio, correct? In Denver, Colorado?

14 MR. ESCOBAR: Judge, I'm going to object. The  
15 one that I said was Forensic Authentication of  
16 Digital Images in Denver, Colorado.

17 MR. MARTIN: And I'm talking about the one  
18 right before it, which is also Denver, Colorado.

19 MR. ESCOBAR: I didn't speak on that one.

20 BY MR. MARTIN:

21 Q. The one right before the one Mr. Escobar talked  
22 about, all right?

23 A. Yes.

24 Q. Forensic Authentication of Digital Audio,  
25 Denver, Colorado.

1           What year was that?

2           A.    I want to say we went maybe four years ago.  I  
3   don't have an exact "off the top of my head" date.

4           Q.    The Image and Video Processing Using MATLAB.

5           What year was that?

6           A.    That would be probably when they started really  
7   coming out with that, so it was probably a while ago.  I  
8   would say more than 10 years ago.

9           Q.    Well, this is 2017.  2007?  Before or after the  
10   Trade Center?  Give me something.  I mean...

11          A.    Just off the top of my head it was when they  
12   first came out with it.  It was early.  The program  
13   continues to evolve.  So this was when, the early days  
14   they started coming out with it, we had an interest in  
15   that, they presented it.  So I would guess, 10 years ago  
16   or so, but I can't give you an exact date.

17          Q.    All right.  So you went to that one 10 years  
18   ago?

19          A.    Approximately, yes.

20          Q.    All right.  And like you said, things evolved,  
21   right?

22          A.    Well, it gives you the basics, and obviously  
23   the program becomes more sophisticated.

24          Q.    The Imaging Processing and Analysis in  
25   Bellingham, Washington, I guess.

1                   What year was what?

2           A.    That's probably at least 10 years ago.

3           Q.    Video Analyst System Training in Huntsville,  
4   Alabama.

5                   When was that?

6           A.    I would say about 10 years ago.

7           Q.    Video Capture, Enhancement and Analysis in  
8   Indianapolis, Indiana.

9                   How long -- when was that?

10          A.    Seven or eight years ago, I'm just guessing.

11          Q.    Back 10 or more years ago at the MATLAB, what  
12   was the nonlinear software that was being used 10 years  
13   ago?

14          A.    Oh, there was lots of them.  It's not just one.  
15   But certainly Adobe Premier and things like that were  
16   being used.

17          Q.    Okay.  Any others, other than Adobe Premier  
18   that you can think of?

19          A.    I think that there was just so many and a lot  
20   of them obviously didn't make it, so they didn't work,  
21   but I -- if we don't -- most of us use one set of  
22   programs.  I mean, there's lots of good ones out there,  
23   but you don't use five of them.  You just find the one  
24   you like and you stay with it.

25          Q.    All right.  So you were trained on Adobe

1 Premier?

2 A. Yeah, we -- we use Premier -- Adobe Premier  
3 more than anything.

4 Q. More than anything?

5 A. Yes.

6 Q. And Adobe Photoshop.

7 A. Oh, we definitely use Photoshop, yes.

8 Q. All right. Those are kind of the standard in  
9 the industry. Most forensic examiners use those?

10 A. Photoshop, yes, I think everybody uses that.  
11 The nonlinear audio video editors, there's three or four  
12 or more good ones out there, and it's just whatever the  
13 person likes or has a preference or you've got trained  
14 on. They're all good. They all can do the work.

15 Q. They all can do the work, it's just your  
16 preference?

17 A. Yes.

18 Q. Okay. The Professional Association is the  
19 Acoustical Society of America -- and I'm going to use the  
20 term as a vanity society, and that would be, in my terms,  
21 the one that you'd pay your dues and you get the  
22 magazine, you get to read stuff. As opposed to one that  
23 you're invited to, maybe even have to take a test, or  
24 have to have some type of review by the members and  
25 you're invited to belong to.



1           Do you see the difference?

2           A.   Acoustical Society is probably the most  
3 prestigious audio society there is.

4           Q.   It -- it may be.

5           A.   It's all Ph.D. types --

6           Q.   How did you get to be a member?

7           A.   -- a lot of Ph.D.s.

8           Q.   How did you get to be a member? Did you just  
9 pay your dues or did --

10          A.   Oh, you have to apply. Two members have to do  
11 it. Almost all the professional societies are that way.

12          Q.   All right. That's what I'm getting at.

13          A.   Yep.

14          Q.   The Audio Engineering Society?

15          A.   You need references to get in.

16          Q.   International Association of Identification?

17          A.   Yes. You need, again, to have references.

18          Q.   All right. Well, to be a member of Rotary, you  
19 have to have references, but you're a member and you pay  
20 your dues.

21                So just having references, so do you have to  
22 have a test? Do you have to have specific years? What  
23 is it that gets you in other than just paying your dues?

24          A.   I don't know any professional society that you  
25 give a test to get in.

1 Q. I'm just asking.

2 A. Well, they -- no, they look at your education  
3 and experience. Like -- like the Audio Engineering  
4 Society, if I remember right, if you had not had at least  
5 five years professional experience, you couldn't be a  
6 full member. You'd be a lower-level position.

7 Q. And do you have to do anything in those  
8 memberships in order to maintain the membership after  
9 you're in, other than pay the dues?

10 A. Yeah. I mean, it's -- it's meant for the  
11 professionals in the field to get together and look at  
12 published papers and have conferences.

13 Q. Networking?

14 A. Well, we don't look at that. We don't get work  
15 out of these professional societies.

16 Q. Well, networking in that you get to know other  
17 people so if you've got a problem, I can call Bill and  
18 maybe he knows it. That kind of networking so you  
19 have --

20 A. Absolutely. Yeah. I mean, it's there.  
21 They -- they have standards for getting in. Some, like  
22 the Institute of Electrical and Electronic Engineers,  
23 it's the next one down, they're probably the toughest.

24 You know, even with my education, they said,  
25 Well, you really aren't an electrical engineer. So they

1 had to make a decision if I met standards to get in, and  
2 I did. But in other words, they will restrict  
3 membership.

4           You know, if you're a lawyer and you want to  
5 join the IEEE, you may be able to join it, but you  
6 wouldn't be a member. You'd be a lower-level thing.  
7 Some of the societies have lawyers in it because they  
8 work in a field, a patent field or something, and it's  
9 worthwhile to be involved, but the main -- you know, the  
10 main direction of that society is people that are  
11 electrical engineers.

12           Q. For the networking process?

13           A. Well, I think it's more than networking. I  
14 mean, they all publish great papers and things like that,  
15 so sometimes it's just learning. You might not even be  
16 talking to people, but you read the papers.

17           IEEE probably issues, geez, conservatively, a  
18 hundred papers a month. The Acoustical Society is one  
19 that does something in that range every month, too. So  
20 these are big research driven professional societies.

21           Q. And the papers that are published, if you're a  
22 member, you can publish in that society, right?

23           A. Oh, you -- I publish in societies I'm not even  
24 a member of.

25           Q. Sure.

1           A.    So you don't have to be a member to publish a  
2 paper.

3           Q.    All right.  So in these particular societies,  
4 it's helpful to be a member, but you don't have to be a  
5 member.  Here's my paper, let's put it in.

6           A.    Oh, you've got to go through the whole  
7 peer-review process.  It's -- lots of papers are  
8 rejected.

9           Q.    You began in the FBI in -- in the late '70s and  
10 you left after spending eight years at the laboratory.

11          A.    Actually, I started as an FBI agent in 1970.  I  
12 came into the lab in 1974.

13          Q.    Did I say the late '70s?  I'm sorry.

14          A.    Yeah.  '74.  And then I retired at the end of  
15 1995.

16          Q.    Okay.  So from '74 to '95 while you were at the  
17 FBI lab, the great bulk of your work was all audio?

18          A.    I wouldn't put the word "all" in there.  
19 Obviously, more of my work by far was audio, I agree with  
20 that statement, but it wasn't all that I did.

21          Q.    In fact, that's kind of your specialty, isn't  
22 it, audio?

23          A.    Well, again, when I started, video really  
24 didn't exist in the forensic world, so it wasn't like  
25 there was a choice.

1 Q. All right.

2 MR. MARTIN: I have no further questions.

3 THE COURT: Thank you, Mr. Martin.

4 MR. MARTIN: Your Honor, I do not accept him as  
5 an expert as far as video. I don't think a  
6 sufficient predicate has been laid under any  
7 standard. His whole expertise is audio since 1974.  
8 And that's my objection, and then it's your  
9 discretion, Judge.

10 THE COURT: All right. As I indicated about  
11 these particular witnesses, I'll reserve although --  
12 well --

13 MR. ESCOBAR: Judge, I know you're going to be  
14 reserving on the issue of admissibility, but I would  
15 ask the Court to make a ruling, at this point in  
16 time, concerning your finding of him being an expert  
17 in audio and video analysis, especially since he's  
18 been qualified over 360 times by Courts throughout  
19 the nation.

20 MR. MARTIN: Well, you know, there was never  
21 any indication what he was qualified in. And so to  
22 say he's been an expert 360 times just doesn't get  
23 it.

24 And if I -- the Court's well aware we have a --  
25 if we were in front of a jury, we wouldn't be doing

1           this. The Court would -- we would just be moving on  
2           and -- and that's what I'm suggesting to the Court.

3           I don't think there has to be a finding by the  
4           Court, you are an expert, and that's not what we  
5           would do in front of a jury.

6           THE COURT: And that's absolutely correct. I  
7           know you both have been around a long time, but we  
8           no longer do that in front of a jury. I'll either  
9           accept him to testify about what he's testifying  
10          about or not, if we were in front of a jury.

11          Quite frankly, you know, I -- I indicated I  
12          reserve as to admissibility on any of the -- was  
13          this one that was challenged?

14          MR. ESCOBAR: Your Honor, this one was not one  
15          that was challenged.

16          THE COURT: I would hope not. This one --  
17          well, he can testify.

18          MR. ESCOBAR: Thank you, Your Honor.

19          THE WITNESS: Thank you, Your Honor.

20          BY MR. ESCOBAR:

21           Q. Mr. Koenig, when were you retained to do work  
22          on this case?

23           A. In late June of 2014.

24           Q. And who were you retained by?

25           A. Your office.

1           Q.    Now, what were you asked to do in this  
2 particular case, Mr. Koenig?

3           A.    I think to look at the videos to see if we  
4 could enhance it. It was involved to run tests at the  
5 theater to see if we could identify certain light events  
6 that were there, to be able to slow down or speed up the  
7 video, pull off individual images or frames as part of  
8 the video.

9           Q.    What's that called?

10          A.    What is what called?

11          Q.    The individual frames?

12          A.    It's called a frame.

13          Q.    Is there a word called a "bitmap"?

14          A.    Oh, bitmap is a file. So we pull the image  
15 off. You just have to save it in some file. Bitmap is  
16 one of those formats. It's B-I-T-M-A-P. Or you could  
17 save it as JPEG. Now that compresses it, so we don't use  
18 it, but you could make it -- there's other ones, TIFF,  
19 T-I-F-F, that are uncompressed. So it is just a way of  
20 making a copy of it into a file.

21          Q.    Now, this was surveillance footage that we had  
22 asked you to look at, correct?

23          A.    Correct.

24          Q.    And this was surveillance footage from the Cobb  
25 Theater here in -- in this county?

1           A.     That's correct.

2           Q.     Now, tell the Court how a surveillance system  
3 works.

4           A.     Okay. Most surveillance systems are relatively  
5 pretty basic. You have a camera which has a sensor. The  
6 sensor is, we call it a mosaic. It has little -- little  
7 areas that determine how much what -- how much light, how  
8 light it is, and what the color is in this thing.

9                     So most standard definition, not high  
10 definition, cameras have 640 across by 480 pixels, okay?  
11 That doesn't mean they're going to use all those pixels,  
12 but that's how much usually the camera captures. Okay.

13                    So the camera captures it. It goes back,  
14 cables back to a -- we call them digital video recorders,  
15 DVR, like you might have at home that records television  
16 programs, okay, the same thing. It's got a hard drive in  
17 it to do it.

18                    So the cameras feed into this and they record  
19 it and they add whatever system's recording it. They  
20 record it and make a file, and that file is on a hard  
21 drive. It is almost always in what we call a proprietary  
22 format. In other words, we just took the raw image or  
23 the raw file, put it in a standard computer, media, info,  
24 nothing will play it. So usually you have to have a  
25 player or you have to use a program to convert it to



1 something that will play.

2 The other thing that's common, that's certainly  
3 in this one, they -- it's affected by motion sensors. In  
4 other words, if I -- the prosecution is sitting there and  
5 they don't move very much at all. A video camera with a  
6 motion sensor on there, it may not record anything, it  
7 just stops recording. They do that to save space. Okay.

8  
9 The other thing they do -- the next thing they  
10 do is, even though we've got this 640 by 480, which is  
11 like what an old television used to be, okay, they  
12 decide, oh, that takes up a lot of space. So why don't  
13 we use just one-fourth of it.

14 So in this case, for instance, it's 320 by 240,  
15 which further lowers the quality. And to make it even  
16 worse, they compress it. "Compression" means they throw  
17 away information that they have that affects details. So  
18 things that don't have -- that white wall wouldn't be  
19 affected much, but your name here on the front would be.  
20 So they throw it away.

21 So you end up with this thing that -- anytime  
22 there's not much motion it stops recording. It threw  
23 away three quarters of the data that came through the  
24 camera. And then it further compressed it to make it  
25 smaller so they could put more information on the hard

1 drive, which further reduced the quality.

2 So most surveillance systems, this one's pretty  
3 common, that's kind of the procedure.

4 Q. Tell the Court why it is that these systems  
5 want to put more in the system.

6 A. Well, I think it's just a matter that until  
7 recent times where, you know, you could buy a 4 terabyte  
8 hard drive for \$100 now or something. Hard drive space  
9 was expensive, and a lot of the companies -- first off,  
10 they put the system in and it's been in there for six  
11 years or seven years or whatever, so it's an old  
12 technology hard drive, so it used to be expensive.

13 But we found that even in the newer systems  
14 they tend to still do that, because they said, Oh, we can  
15 store five months of data. Where, you know, if they need  
16 to do that, that's fine, but they lower the quality to  
17 have that happen. So that's the big problem with  
18 surveillance videos.

19 Q. Now, there are -- it records during motion  
20 activation.

21 A. Correct.

22 Q. Is there some sort of sensor that determines  
23 how much motion is needed in order for the recording to  
24 take place?

25 A. It depends on the system itself. In other

1 words, you have the view here. If -- the sensor can be  
2 set to just look at certain areas, or it can be made to  
3 look at the whole screen, so you often have that option.  
4 And sometimes they do have controls that allow you to  
5 know how sensitive it is.

6 Most of them don't want to set it too sensitive  
7 because then, you know, dust in the room or something  
8 will start it, or the air conditioner starts running, you  
9 know, even though there's nobody there, it starts  
10 running. So they usually set it at some middle level,  
11 but it depends on the system.

12 You'd have to be there. If you have the system  
13 that is recorded at the time and you have that, you could  
14 take that, then, and look at how they set the settings,  
15 and it would tell you all of those things.

16 Q. Now, how do we tell when we're looking back at  
17 this video that this system has made, how do we tell  
18 what's being recorded in real time and what's not being  
19 recorded in real time?

20 A. I guess I don't understand your question.

21 Q. Well, when you're looking at the video, is  
22 there -- is there something within the system that will  
23 tell you when that video was actually recording?

24 A. Oh, yes. In other words, the -- this system,  
25 like a lot of them, embeds the time. So we can -- each

1 video is set up separate images, approximately about 30  
2 usually, at a full speed, 30 pictures per second. It  
3 looks at it and puts a time and date on each one of those  
4 images.

5 And you can make it so even though it reduces  
6 the quality of the video to do it, you can actually put  
7 it on within the image itself. The program will do that.  
8 At a loss of quality doing that, you know, that's the  
9 problem there, but it will actually put it on there.

10 So, yeah, you can tell -- so if you go along  
11 and it says that it's 8:31 and zero seconds, the next one  
12 is 8:35 and zero seconds, it meant it didn't record for  
13 four minutes.

14 Q. Do any of these systems duplicate images in the  
15 process?

16 A. Oh, the original system does not, usually. In  
17 other words, it would be a waste of time if you're trying  
18 save space to record something that you're going to throw  
19 away. So basically the system, if you pull it out,  
20 depending on the system, it will say, oh, there's nothing  
21 there for four minutes. It just takes the last image and  
22 just continues that until you get a new image. Even  
23 though nothing is happening and nothing's recorded, it  
24 just stabilizes it.

25 Q. So that only happens when you are -- and

1 correct me if I'm wrong or I may not use the right  
2 technical term -- whenever you're extracting that video  
3 from the DVR, from the hard drive to another process; is  
4 that correct? That's duplication?

5 A. Oh, yes. For them to add that, it's got to  
6 make a new file, which hopefully is a file you can play  
7 on a regular computer, that's often what it is. And many  
8 of these systems will, in fact, most of them will add  
9 that thing that it's not recording, it just stays stable.

10 Q. So if you're looking at the film once it's been  
11 extracted --

12 A. It's not a film.

13 Q. Excuse me, a digital image.

14 A. Yes.

15 Q. Once you've extracted that and you're looking  
16 at it on your computer, if you were not careful, you  
17 would think that those images that are being duplicated  
18 were actual recorded images.

19 A. Yes. Especially, if you have a fairly static  
20 scene and not much was happening, yeah.

21 Q. So what do you have to do in order to be very  
22 careful when you're viewing video that's been extracted  
23 from the hard drive of the DVR to make sure that that  
24 doesn't happen.

25 A. Well, you have to -- you have to make sure

1     you're pulling off unique frames, not duplicate frames.  
2     You know, this is there. And then you have a period,  
3     there's nothing there for X amount of time, you can't say  
4     anything about it. Nothing was ever recorded. It's not  
5     in the system, it's not there.

6           Q.     So at the very least, what you're telling me is  
7     that there is a process where you can tell, as an expert,  
8     what was being recorded and what are duplicate images?

9           A.     Usually. I mean, in this case, yes, but, you  
10    know, some systems are a little more complicated than  
11    that.

12          Q.     Now, before I get too far afield, which I  
13    normally try not to -- to do, I am going to show you --

14               MR. ESCOBAR: Your Honor, just so that -- we --  
15    we have some stipulations and I'm going to be  
16    calling out the stipulations as we -- I just wanted  
17    to make sure I didn't interrupt. No apologies  
18    necessary. I just want to make sure that you finish  
19    what you were doing.

20               Exhibit No. 38 that we're going to be  
21    presenting now to Mr. Koenig, is an imaged hard  
22    drive that Detective Aaron Smith from the Pasco  
23    County Sheriff's Office imaged from the original  
24    Cobb Theater hard drive. He gave this particular  
25    exhibit to our office, and we, in turn, turned it

1 over to Mr. Koenig.

2 We have stipulated to that in a written  
3 document that this Court has signed. I just wanted  
4 to preface that so that the Court knew what we were  
5 doing.

6 THE COURT: That's fine.

7 BY MR. ESCOBAR:

8 Q. Now Mr. Koenig --

9 MR. ESCOBAR: May I approach?

10 THE COURT: You may.

11 BY MR. ESCOBAR:

12 Q. Mr. Koenig, I'm going to show you what's been  
13 marked as Defense Exhibit No. 38; is that correct?

14 A. Yes, sir.

15 Q. And ask you if you recognize that particular  
16 exhibit?

17 A. Yes. This is a Seagate 2 terabyte expansion  
18 desktop drive -- hard drive.

19 Q. And from whom did you receive that?

20 A. Your office.

21 Q. Okay. And was that told to you as being the  
22 hard drive that Detective Aaron Smith had imaged or  
23 cloned, whatever word is best suited for that, from the  
24 original Cobb Theater hard drive that he had obtained?

25 A. That's our understanding, yes.

1 Q. Okay.

2 MR. ESCOBAR: May I approach, Your Honor?

3 THE COURT: You may.

4 BY MR. ESCOBAR:

5 Q. Mr. Koenig, I'm going to show you what's been  
6 marked as Defense Exhibit No. 15.

7 MR. ESCOBAR: Your Honor, just so that the  
8 Court knows, this is going to be the process for the  
9 next few exhibits.

10 THE COURT: Okay.

11 BY MR. ESCOBAR:

12 Q. Do you recognize Exhibit No. 15?

13 A. This is a copy made in our lab of Exhibit 38.

14 Q. So is that a correct true copy of Exhibit No.  
15 38 that you all made? You imaged, cloned Exhibit 38 to  
16 be Exhibit 15?

17 A. Correct.

18 Q. Okay.

19 MR. ESCOBAR: Your Honor, we would, at this  
20 point in time, move Exhibit No. 15 into evidence.  
21 It's been stipulated to by the Government, and I can  
22 approach the clerk, and I'm handing the clerk  
23 Exhibit No. 15 -- Defense Exhibit No. 15.

24 THE COURT: Okay. It's now going to be  
25 numbered No. 8, as I indicated they come in.



1           They're numbered sequentially as they come in. So  
2           that will be entered Exhibit No. 8.

3           MR. ESCOBAR: Your Honor, so I could get this  
4           out of the way, I might as well do it now.

5           THE COURT: Counsel, we have another request  
6           for copies of exhibits being entered into evidence.  
7           My response is going to be that it can be made --  
8           request for copies can be made to the attorney who  
9           has that ability, and that's not going to interrupt  
10          our proceedings here today. Fair enough?

11          MR. ESCOBAR: Your Honor, Exhibit No. 39,  
12          again, has been stipulated to between the Government  
13          and the Defense. Exhibit No. 39 it is a clone image  
14          of the Cobb Theater hard drives that my expert, Adam  
15          Sharp from E-Hounds, did in 2015.

16          I'm going to now tender that, too. If I can  
17          approach the witness?

18          THE COURT: You may.

19 BY MR. ESCOBAR:

20          Q. Mr. Koenig, will you look at Exhibit No. 39 and  
21          tell me if you recognize that particular exhibit?

22          A. I do.

23          Q. And what is that an exhibit of?

24          A. This is a Seagate 4 terabyte backup plus hard  
25          drive that we received from a company called E -- capital

1 E dash H, and then hounds, O-U-N-D-S, Data Recovery out  
2 of Clearwater, Florida, on August 25th of 2015.

3 Q. And were you told that that was the hard drive  
4 that Mr. Sharp had actually copied from the original Cobb  
5 Theater hard drives?

6 A. That was our understanding, yes.

7 Q. Okay.

8 MR. ESCOBAR: May I approach, Your Honor?

9 THE COURT: You may.

10 BY MR. ESCOBAR:

11 Q. I'm going to show you now what's been marked as  
12 Defense Exhibit No. 23, and ask you to take a look at  
13 Exhibit No. 23 and see if you recognize that exhibit?

14 A. Yes. That's a copy we made of your Exhibit No.  
15 39 in our lab.

16 Q. And is that a true and correct copy, cloned  
17 image of Exhibit No. 39?

18 A. Yeah. It's a forensic clone or image, yes.

19 MR. ESCOBAR: Your Honor, we, at this point in  
20 time, would move, and it's been stipulated to  
21 between the Government and the Defense, we would  
22 move into evidence Exhibit No. 23 -- Defense Exhibit  
23 No. 23.

24 THE COURT: Which will now be 9 to be admitted.  
25

1 BY MR. ESCOBAR:

2 Q. I want to take you through the process of what  
3 you did with reference to Exhibit No. 23. Let me have  
4 that -- and I guess it's Exhibit 9 that's been admitted  
5 into evidence. If I can just hand that and I will make  
6 sure that it is 9. I'm going to give that back to you as  
7 admitted Exhibit No. 9.

8 Did you work off the original cloned hard drive  
9 that Mr. Sharp had done for us in 2015 or did you work  
10 off Exhibit No. 9 that has now been introduced into  
11 evidence?

12 A. We started working on the Exhibit 8 that we  
13 received, and we told your office we really want an exact  
14 copy of the original hard drive from the theater, the  
15 hard drives plural.

16 So we -- we started working on that -- on No.  
17 8, but then once we got No. 9, we stopped doing anything  
18 with 8 and only used 9.

19 Q. Let's talk a little about 8, if I can.

20 MR. ESCOBAR: If I may approach the clerk  
21 again?

22 BY MR. ESCOBAR:

23 Q. In looking at Exhibit No. 8, which is the copy  
24 of the hard drive that Detective Aaron Smith had copied  
25 for the Defense, why was it that we wanted to get our own

1 hard drive clone done in this matter?

2 A. Because it's actually a re-encoded copy. It's  
3 not the original.

4 Q. And so explain to the Court what that means by  
5 a re-encoded copy, not the original.

6 A. As I've mentioned before, they use these  
7 specialized programs in there. So to be able to play it  
8 back --

9 Q. Are those the proprietary --

10 A. The proprietary.

11 Q. -- that are in the DVR itself?

12 A. Correct. They -- you can't just play them on a  
13 regular computer. So I don't think the detective was  
14 wrong at all in making a copy that was playable; however,  
15 from a forensic prospective of getting the best quality,  
16 getting all the data correct, we need to go back to look  
17 at the original.

18 The detective in the police department would  
19 just not have that capability. If they had it, they  
20 wouldn't even be able to do anything about it. So we  
21 needed that to do our analysis of that original. And  
22 there are differences between 8 and 9, you know.

23 Do you want me to --

24 Q. I want you to tell the Court what those  
25 differences were that caused us to go out there and now

1 retain Mr. Sharp and have a cloned image of the Cobb  
2 Theater hard drives.

3 A. Let me explain what re-encoding means. It  
4 means that basically it keeps the general same format,  
5 but it can change things and make it so that it works in  
6 a regular system. That's what happened here.

7 And so they kind of kept it in the same format,  
8 but by doing that, it meant you re-encoded it, which  
9 meant you compressed it again. Every time you compress  
10 it, you lower the quality.

11 If you took a JPEG image out of a camera and  
12 made another JPEG, you're going to lower the quality.  
13 It's just how it works. So 9 is of slightly better  
14 quality, even though they aren't very good quality, than  
15 8. So right off the bat, that's a difference right  
16 there.

17 Q. Okay.

18 A. It's -- it's a little better quality.

19 Q. What other differences?

20 A. Okay. The times -- the times, like I told you,  
21 are embedded within the -- what we call the metadata of  
22 the file. It says, okay, here's the video information  
23 and here's the time and date that matches that particular  
24 frame or image in the video. Okay?

25 We discovered that when you make this

1 conversion, the program changes the time slightly. Not a  
2 lot, it's like probably around twenty-thousandths of a  
3 second, but to us we see it. I mean, I don't think it's  
4 critical to this case particularly, but it changes it and  
5 does it.

6 Third, it puts a time code right in the image  
7 itself. We don't really like that because what if  
8 there's something in that part of image you want to see.  
9 Yeah, so we really don't like it to be in there if we  
10 have a choice.

11 The other problem that Counsel mentioned is  
12 that it adds duplicate frames. So in other words, if  
13 there's an area where it's not recording, it just takes  
14 the last picture, it just keeps that picture there until  
15 it records another picture.

16 So they're the four main things. There's some  
17 other minor changes but they're the four things that  
18 change by going that process.

19 Q. Okay. And so we got you a virgin hard drive  
20 for you to work on, and you made a copy of that  
21 particular hard drive, Q6. Just so that the Court knows  
22 that a lot of these are going to be in Q form.

23 So that particular exhibit now that we are  
24 working off of is Q6?

25 A. Correct.

1           Q.    And so, did you work off that particular  
2 exhibit when you were doing your work, that means the  
3 exact cloned copy, or did you work still on the original  
4 hard drive that was provided to you by Adam Sharp and  
5 E-Hounds?

6           A.    I don't think we worked on the original at all.  
7 I mean, once you make an exact copy and prove it's an  
8 exact copy, what difference does it make?

9           Q.    Okay.

10          A.    But we probably -- we usually just don't touch  
11 the original then. We make our copy and work off of it  
12 and that's where we go.

13          Q.    And so that would be the exhibit that is in  
14 front of you, Q6?

15          A.    Correct.

16          Q.    Okay.

17               MR. ESCOBAR: Now, Your Honor, can we approach?

18               THE COURT: Yes.

19               MR. ESCOBAR: It's just that this is probably a  
20 very good time to break, if we're going to break for  
21 lunch, because we're going to be getting into the,  
22 you know, some of the video production that I would  
23 rather not break up.

24               THE COURT: Any objection to that?

25               MR. MARTIN: No.

1           THE COURT: It seems like an appropriate time  
2 if we are going to get into the video. Without  
3 further ado --

4           MR. ESCOBAR: There's going to be some  
5 testimony, but we're getting very close.

6           THE COURT: All right. Well, we don't have to  
7 go through all the identification all over again,  
8 right?

9           MR. ESCOBAR: Right.

10          THE COURT: Then, how long does Counsel wish  
11 for lunch?

12          MR. ESCOBAR: Judge, if we could have an hour,  
13 an hour 15 minutes.

14          THE COURT: All right. That will put us, say,  
15 1:15 you want to come back?

16          MR. ESCOBAR: Judge, and another request. Mr.  
17 Reeves obviously is here. He has to have some  
18 lunch. Is it appropriate, with the Court's  
19 approval, for him to be able it go to lunch with his  
20 family, if necessary?

21          THE COURT: Certainly.

22          MR. ESCOBAR: Okay. I know that his wife is  
23 here. He will not have conversations about what's  
24 happening in here with his wife.

25          THE COURT: Correct.



1           MR. ESCOBAR: Is there any prohibitions with  
2 him having lunch with his wife?

3           THE COURT: No. Just, you know, obviously  
4 don't discuss what is going on in the courtroom just  
5 as you wouldn't want any other witness. She is a  
6 witness, supposed to testify today, correct?

7           All right. That's the only prohibition.  
8 Obviously, I'm sure you've got her depo, so I'm a  
9 little safeguarded here, but I have no qualms  
10 otherwise.

11          MR. ESCOBAR: Thank you, Your Honor.

12          THE COURT: Thank you. We will be in recess  
13 until 1:15.

14          (Recess taken.)  
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