

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 VI

CURTIS J. REEVES,

Defendant.

PROCEEDINGS: Stand Your Ground Motion

DATE: February 22, 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 607 - 780

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1 A-P-P-E-A-R-A-N-C-E-S

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

2 THE COURT: Mr. Michaels, are we ready to
3 begin?

4 MR. MICHAELS: Go to Mr. Escobar, at this
5 moment.

6 MR. ESCOBAR: We played a fast one on you.

7 THE COURT: I'm telling you, you switched them
8 up on me.

9 MR. ESCOBAR: Your Honor, the Defense would
10 call John Silis.

11 This will be short, Your Honor. We've got two
12 that we're going to call that's real short.

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

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

19 THE COURT: You may proceed, Counselor.

20 DIRECT EXAMINATION

21 BY MR. ESCOBAR:

22 Q. Good afternoon, Mr. Silis.

23 A. Good afternoon.

24 Q. Mr. Silis, could you please state your full
25 name for the record and if you could spell your last

1 name, that would be good for the court reporter.

2 A. John P. Silis, S-I-L-I-S.

3 Q. Mr. Silis, what is your occupation?

4 A. Owner of Innovative Surveillance, LLC.

5 Q. What is Innovative Surveillance? What type of
6 company is that?

7 A. We maintain -- install, maintain, repair video
8 surveillance systems.

9 Q. Is the Cobb Theater one of your clients?

10 A. Yes.

11 Q. I'm going to direct your attention to the
12 afternoon of January 13th of 2014 and ask you if you
13 received a phone call from the Cobb administrative
14 offices at your office there. I believe you live or your
15 office is down in the southern part of Florida?

16 A. In Melbourne.

17 Q. In Melbourne, did you receive a phone call from
18 the Cobb Theater administration?

19 A. I did.

20 Q. Do you know about what time that was?

21 A. It was sometime in the afternoon. I really
22 can't specify the time. Late afternoon, I'm thinking.

23 Q. Were you requested to perform some duty for
24 them?

25 A. Yes.

1 Q. And what was that duty that you were requested
2 to perform?

3 A. To remove all the hard drives from all the
4 recorders.

5 Q. From where?

6 A. At the movie theater in the Grove.

7 Q. And when did they want you to do that?

8 A. As soon as possible.

9 Q. What did that mean?

10 A. Now, basically. As soon as I could get there.

11 Q. So they wanted you to immediately go to the
12 Cobb Theater and remove the hard drive from their
13 surveillance system?

14 A. Correct.

15 Q. Did they tell you that they wanted you to do
16 anything else?

17 A. They wanted me to personally package them and
18 deliver them to their corporate office in Birmingham.

19 Q. That day?

20 A. That day.

21 Q. Please tell the Court what you did that day
22 pursuant to those instructions.

23 MR. MARTIN: Your Honor, at this time, the
24 State has an objection to the entire line of
25 questioning to Mr. Silis. I waited for the

1 objection until the Court could get a feel for
2 exactly where we're going with this.

3 My objection is relevancy under 402.
4 Specifically, Mr. Silis was involved in the handling
5 of the hard drives over a couple-day period.

6 The reason I bring it up as relevancy is
7 because of the same argument we've made over and
8 over. After the shooting and exactly what either
9 Cobb Theater or the police officers did or did not
10 do with the hard drives is not relevant to this
11 hearing.

12 This hearing, as we've said over and over, and
13 I know I'm repeating myself, but for the record, is
14 that we are here on an immunity hearing, and in this
15 particular case as the fact finder, it is your
16 responsibility and obligation to determine prior to
17 law enforcement getting involved whether or not the
18 conduct of Mr. Reeves was reasonable.

19 So anything that the Defense may or may not
20 like about how the police conducted the
21 investigation has no bearing on your determination
22 as to whether or not it was reasonable because this
23 Court is well aware that the Court only looks at
24 what Mr. Reeves knew, what was in his head, what
25 were the circumstances prior to law enforcement

1 getting there.

2 The other thing, Judge, as far as not relevant,
3 we have already stipulated to the chain of custody
4 and the authenticity of all of the surveillance
5 tapes, so with the stipulation and the chain of
6 custody and the fact that it's not relevant for the
7 immunity hearing, what Mr. John Silis did at the
8 direction of Cobb, what the officers did in securing
9 the hard drive is not relevant. It may be relevant
10 at a trial, but that's not where we are at now.

11 And I know the Court -- I know you're the fact
12 finder and you can hear it and you have to hear it
13 to make a ruling, but the bottom line is this
14 hearing is being extended far beyond what was
15 anticipated.

16 Now, it's encroaching on my time, and so if
17 we're going to go down all this police
18 investigation, we may as well set aside another week
19 because we're not going to get done, so I have a
20 relevancy on two issues.

21 Thank you, Judge.

22 THE COURT: Thank you, Mr. Martin.

23 Response?

24 MR. ESCOBAR: Your Honor, I certainly respect
25 Mr. Martin's argument; however, I would tell the

1 Court respectfully that he is 100 percent wrong in
2 this particular case, and let me tell you why:

3 What he wants you to do is just to consider in
4 a vacuum what the witnesses that were in the
5 theater, at that time in a darkened theater, let's
6 not forget in a darkened theater, in a theater that
7 had previews that were blaring, that's all he wants
8 you to consider.

9 The problem is that, in addition to considering
10 that, he's going to be introducing evidence from his
11 law enforcement officers that went into that theater
12 after the incident, secured evidence, supposedly
13 correctly, retrieved evidence and are going to be
14 introducing evidence for you to consider in this
15 particular case.

16 This is not a pre-January 13, 2014, 2:00
17 investigation. This investigation stemmed
18 throughout the entire period of time, and there's
19 going to be a Detective Aaron Smith that's going to
20 be testifying before the Court.

21 His responsibility was the crime scene
22 detective, and any time you have an investigation,
23 this Court has to evaluate the competency of every
24 witness, the ability of every witness to properly
25 evaluate what they're seeing and then respond in

1 this Court as to whether it's contaminated, whether
2 it's not contaminated, because you're going to be
3 making a judgment throughout all of the witnesses on
4 credibility.

5 So this is not, "Hey, by the way. The shooting
6 happened on January 13, 2014, at 1:27, and, listen,
7 let's forget about everything else of the
8 investigation."

9 I know why they don't want you to focus on the
10 investigation, because I intend, by the end of this
11 hearing, to show this Court that this investigation
12 was nothing short of a disaster, and that's our
13 position.

14 This witness will be testifying that the Cobb
15 Theater had him go out immediately to get those hard
16 drives. There was a police officer standing guard
17 at that theater. He tells the police officer, "I'm
18 coming in to take the hard drives."

19 He goes in, grabs the hard drives, takes the
20 hard drives. That's the kind of security that took
21 place at the Cobb Theater. He doesn't want that to
22 come in, but it's highly relevant.

23 MR. MARTIN: Judge, may I respond?

24 THE COURT: You may.

25 MR. MARTIN: Mr. Escobar just made my argument

1 even more clear. The investigation was a disaster.
2 Aaron Smith had responsibilities with the hard
3 drives.

4 If Mr. Escobar wanted to make that type of
5 argument, he shouldn't have entered into the
6 stipulation.

7 We have already stipulated that the hard
8 drives, regardless of how they were obtained, are
9 authentic, and the experts can do their work off of
10 those hard drives. It doesn't make any difference
11 about what they knew about the arrest.

12 This isn't a Motion to Suppress. This is an
13 immunity hearing to determine whether or not Mr.
14 Reeves' conduct was reasonable when he shot Mr.
15 Oulson, and it has nothing to do with the police
16 investigation.

17 Now, the State is aware that the Court has
18 allowed the testimony regarding whether or not there
19 was witness contamination, and that kind of makes
20 sense, Judge, because you're going to have witnesses
21 coming in and you get to judge their credibility,
22 because some of those facts, you're going to be
23 making a determination of whether or not Mr. Reeves'
24 conduct was reasonable, so that makes sense that he
25 would want to show and shed some light on whether or

1 not there was contamination, but the whole rest of
2 it, when we're talking about Mr. Silis coming in and
3 what he was going to do with the hard drives, where
4 they were going to go, it has nothing to do with
5 your determination whatsoever.

6 This is not a Motion to Suppress. It's not a
7 motion to suppress evidence. It's an immunity
8 hearing that they have the burden, and they have the
9 burden to prove with evidence that's available.
10 They can't prove by a negative. They can't say,
11 "This didn't exist; therefore, you've got to show
12 that his actions were reasonable."

13 That's not the way it works. He stands in the
14 shoes of a prosecutor now. Now he know how it feels
15 to stand there as a prosecutor and not have
16 something that he doesn't want. It's his burden.

17 So I would explain to the Court that we have an
18 immunity hearing that's separate and distinct. The
19 rules apply, and it's not relevant at all as to what
20 happened as far as the investigation, attacking the
21 investigation.

22 Did the cops keep sloppy crime logs? Did they
23 secure the evidence correctly? We have stipulated
24 to everything that was collected. It's coming into
25 evidence. If he didn't want that stipulation, he

1 didn't have to do it. He stipulated to all of the
2 evidence that he says was a disastrous
3 investigation.

4 That's the only way that it becomes relevant,
5 if he's trying to keep some of the evidence out that
6 was collected at the scene. We've stipulated to it.
7 You signed it, so that's why I'm saying now it is
8 not relevant, and Mr. Silis' testimony is not
9 relevant.

10 MR. ESCOBAR: Judge, first of all, let me -- if
11 I can give the Court a copy of the stipulation that
12 Mr. Martin and I entered into so that -- may I
13 approach, Your Honor?

14 THE COURT: Sure.

15 MR. ESCOBAR: Your Honor, you will see that
16 right after the parentheses two little i's, that we
17 reserved not only issues of relevancy, but we
18 reserved all other issues that were going to be
19 important in this case.

20 And I tend to disagree again with Mr. Martin.
21 This is not just about the hard drives. This is
22 about the entire control of the scene by Detective
23 Smith, Detective Proctor and others, and so it
24 doesn't work out where, if we're bringing in
25 Mr. Silis concerning the lack of control with the

1 hard drives that the Court shouldn't consider the
2 lack of control with the hard drives, with a lack of
3 control of everything else.

4 It's circumstantial evidence to show that the
5 second in command in this particular case, being
6 Detective Aaron Smith, and the first in command as a
7 homicide detective, failed to do certain things to
8 give this Court some comfort in what is being
9 introduced into evidence and what is being -- the
10 testimony that's being provided in this particular
11 case.

12 We can't take this case in isolation. I know
13 that's what they want to do, but we can't take it
14 because we've got someone's life in our hands, and
15 he has absolutely every right.

16 I think the Court knows the body of law
17 concerning the Defense actually providing
18 cross-examination and evidence in a case like this.
19 There is wide, wide latitude because of our
20 Constitutional rights in these matters, and so I
21 would tell the Court it is extremely relevant.

22 This witness is going to be very short because
23 he's going to testify about the fact that he came,
24 pulled those hard drives and was not about to go to
25 Alabama himself, turned it over to somebody else and

1 he left.

2 Of course, later on he's also going to testify
3 about the fact that he changed the entire system,
4 all brand-new DVRs and everything for the Cobb
5 Theater. Those are relevant issues, and he wants to
6 pick it apart and say: No, no, no, no. Let's just
7 talk about whoever was there, whoever was there even
8 though they've been contaminated, even though law
9 enforcement improperly secured the scene. Even
10 though law enforcement didn't interview them
11 correctly, most of these witnesses had three, four,
12 five-minute interviews.

13 You've heard from a plethora of witnesses
14 already concerning the contamination. Tom Peck just
15 testified there was 40 people out there talking to
16 each other. But did you hear any police officers
17 telling them, "Do not say anything"? Absolutely
18 not. There's going to be a series of witnesses, one
19 after another that are going to tell you that.

20 So is this relevant? It's highly relevant.
21 It's to show that this investigation had no control.
22 There was an officer right there at the door, and
23 they let this gentleman that they didn't know from
24 Adam to come in, go to the particular hard drives
25 and start pulling, not 10, but 15 hard drives from

1 that system, and he doesn't want anybody to know.

2 THE COURT: All right. Once again, we probably
3 have spent far more time arguing about this issue
4 than this witness would probably testify. I
5 certainly understand the State's argument, but in
6 the grand scheme of things I'm the trier of fact. I
7 know the law. I know what's relevant and what's
8 not, and if -- I'd rather be safe than sorry, so I'm
9 going to allow it rather than exclude it.

10 MR. ESCOBAR: Thank you, Your Honor.

11 THE COURT: So let's get on with it.

12 BY MR. ESCOBAR:

13 Q. Now, Mr. Silis, you went to the Cobb Theater;
14 is that correct?

15 A. That's correct.

16 Q. Who was outside, present at the Cobb theater
17 controlling that scene?

18 A. The theater was roped off. There was an
19 officer by the end of the parking lot asking -- you know,
20 he was going to just have me turn around, but I told him,
21 "Here," you know, because I was told by Cobb to remove
22 evidence, and he let me in and I talked to the Cobb rep
23 on site.

24 Q. Did you show that officer your ID?

25 A. He didn't request one, but --

1 Q. Okay.

2 A. He would know who I was anyway.

3 Q. So you entered -- you entered that crime scene,
4 and tell the Court where you went.

5 A. Right up to the upstairs where they have all
6 the DVRs in a little server room.

7 Q. Who went upstairs with you?

8 A. One of the theater managers.

9 Q. Any law enforcement officers went with you?

10 A. I do not think so.

11 Q. So what did you do up there in that room?

12 A. Basically just opened up all the computer
13 cabinets, took out the hard drives, packaged them up and
14 prepared them for shipment, and they told me that someone
15 from Cobb was going to be here in a short time to get
16 them.

17 Q. So now Cobb didn't have any surveillance
18 equipment for the next day?

19 A. Correct, but they were closed, I'm assuming.

20 Q. What about the next day?

21 A. I don't know how long they were closed.

22 Q. Well, at some point in time you provided them
23 with a loaner; is that correct?

24 A. Yeah, a loaner.

25 Q. Do you know how many days after you provided

1 them with a loaner or loaners?

2 A. Only a couple. It was within the same week,
3 like two or three days.

4 Q. And did you also then finally remove all of the
5 DVRs and replace the entire system?

6 A. Eventually, but that was a couple weeks later.

7 Q. Okay. What happened to the DVRs?

8 A. The empty ones?

9 Q. Yeah.

10 A. That I'm not really sure. I think -- sometimes
11 I service all the theaters throughout Florida, sometimes
12 we use the same cabinet, sometimes not.

13 I can't recall if I -- I believe I replaced
14 everything with all new cabinets and the entire setup,
15 basically.

16 MR. ESCOBAR: No further questions.

17 THE COURT: Cross.

18 CROSS-EXAMINATION

19 BY MR. MARTIN:

20 Q. Mr. Silis, Cobb Theater calls you because
21 you've built those systems, right?

22 A. Not those particular ones. I maintain them,
23 but I built all the new ones.

24 Q. And the ones that you eventually replaced you
25 built?

1 A. Correct.

2 Q. And that was the reason that they called you is
3 your familiarity with the particular equipment, right?

4 A. Right. They have other vendors, too, but
5 hopefully I'm their favorite.

6 Q. Now, the particular equipment that's in the
7 room that you've described on direct examination, Mr.
8 Escobar kept referring to it as a DVR?

9 A. Right.

10 Q. Is that the correct terminology?

11 A. Yes.

12 Q. How many hard drives are in each DVR?

13 A. Each DVR at Cobb has three.

14 Q. And the software system, are you familiar with
15 the software system?

16 A. Yes.

17 Q. And that is GeoVision?

18 A. GeoVision with Microsoft Windows.

19 Q. Is GeoVision kind of a standard in the industry
20 as far as your industry --

21 MR. ESCOBAR: Beyond the scope of direct, Your
22 Honor.

23 MR. MARTIN: He opened the door about this.

24 MR. ESCOBAR: No, it's beyond the scope of
25 direct, because the only thing that I dealt with was

1 the removal of the hard drives from a time after the
2 incident, and I didn't get into any of the mechanics
3 of the system.

4 If he wants to call Mr. Silis back up on his
5 direct and do so, then he can, but it's beyond the
6 scope.

7 THE COURT: Response?

8 MR. MARTIN: He opened the door by indicating
9 that he had to replace things, and so replacing
10 things means he has to reset it up and had to have a
11 working knowledge to get it back working. That's
12 what Mr. Escobar asked: How long -- what did it
13 take for you to get it back working?

14 I have a right to explore how he got it back
15 working, not only by installation of a hard drive,
16 by the -- I can't even say the word -- by resetting
17 the software that's in it and knowing how to reset
18 it and what he had to do. I have a right to go into
19 that now.

20 MR. ESCOBAR: Judge, he didn't do anything with
21 the system that he took the hard drives out of. He
22 replaced the entire system. The only thing that he
23 did was take out the 15 hard drives, left the system
24 that was there, came back, gave a loaner, which is a
25 completely different item, and then came back, took

1 the original system and replaced it with a brand-new
2 system.

3 If he wants to, I guess, talk about the
4 brand-new system that he put in two weeks later,
5 that would certainly be relevant, but that's about
6 the only thing that he can do because the direct is
7 the direct, and he can't go beyond my direct.

8 THE COURT: I don't know what your question
9 was.

10 MR. MARTIN: Could I offer this suggestion to
11 the Court?

12 Mr. Silis is from Melbourne. You have the
13 power as far as presenting the presentation of
14 evidence. Allow me right now to take him as my
15 witness so that he has -- doesn't have to drive
16 back.

17 I'm standing here ready to go. Mr. Silis is
18 right there. This would be save for the time for
19 the Court, and you have the authority to allow me to
20 do that if you are so inclined, and that way I'll
21 just ask direct questions and I'll be done in 10
22 minutes.

23 MR. ESCOBAR: Judge, if he's going to take him
24 as his witness now, I don't have a problem with
25 that. I don't want to inconvenience Mr. Silis or

1 the Court, but it's going to be his witness now.
2 That's the only thing that I would say.

3 I would still stay with my objection, if he's
4 going to do cross, but if he's going to do now a new
5 direct with Mr. Silis and he wants to take Mr. Silis
6 now on that limited area, then I'm okay with it.

7 Now, if he's going to get far afield, then he
8 needs to go into his own case and do it sometime
9 later on, because we've got a flow of information
10 here as well.

11 THE COURT: All right. For a witness that was
12 supposed to be very irrelevant, we're certainly
13 having a lot of questions. I mean, your testimony,
14 Mr. Silis, not you.

15 I didn't even hear your last question or much
16 of it that was supposed to be outside the scope.
17 Was it outside the scope?

18 MR. MARTIN: Can we just move on?

19 THE COURT: Let's do that. And you may call
20 him as your witness, but the rules will apply --

21 MR. MARTIN: Absolutely.

22 THE COURT: -- as to whoever called him, so --

23 MR. MARTIN: Absolutely.

24 THE COURT: -- we'll consider him yours now, so
25 that means no leading.

1 MR. MARTIN: Absolutely.

2 THE COURT: All right. Go ahead.

3 BY MR. MARTIN:

4 Q. Mr. Silis, are you familiar with the GeoVision
5 software?

6 A. Yes, sir.

7 Q. And how did you become familiar with that
8 software?

9 A. Basically trial and error over the past twelve
10 years. They have tech support, so if I had any question
11 I could always contact them directly and they respond
12 very quickly.

13 Q. Is the GeoVision software the software of
14 preference for you when you build a surveillance system
15 for a client?

16 A. No, it's not.

17 Q. Okay. What is the preference now?

18 A. Right now, I'm kind of migrating away from
19 Windows, just using standard DVRs that don't have --
20 they're all embedded, what we call embedded Linux, which
21 means -- it's just the box that records without worrying
22 about Windows and viruses and updates and all of that
23 stuff.

24 Q. So your preference has changed, not because
25 GeoVision is no longer the standard in the industry; you

1 just don't like to mess with Windows?

2 A. It's still considered the Rolls Royce of
3 surveillance, but with Windows you have a lot more
4 options, but along with that comes a lot more problems,
5 too.

6 Q. All right.

7 A. I like to keep things simple.

8 Q. All right. With GeoVision, when you set
9 parameters up for a particular client, are you familiar
10 with the GeoVision software so that you can assist your
11 client in setting the system the way they want it?

12 A. Oh, yeah.

13 Q. Now, in the event that a client only wants to
14 record things when activity is occurring -- I'm going to
15 use the layman's term as motion sensor, okay?

16 A. Uh-huh.

17 Q. Now, when I think of that -- I'm just giving
18 you this example so we can have this discussion. You
19 know, when you buy something from Home Depot and you walk
20 under at your front door and your light comes on, that
21 kind of motion sensor, right?

22 A. Yes.

23 Q. Okay. Now, with GeoVision and the camera that
24 you used to capture the event taking place with that
25 software, is that the way GeoVision works, like a sensor

1 from Home Depot that you walk under, or does it work in
2 another way?

3 MR. ESCOBAR: I will object in reference to
4 that opinion, unless he lays a proper predicate of
5 the make, model, and serial number of the camera
6 that he's talking about, because you can't give an
7 opinion in general without knowing what the
8 components of both the DVR are, as well as the
9 camera.

10 MR. MARTIN: Judge, the whole -- I can -- this
11 has nothing to do --

12 THE COURT: This whole subject is --

13 MR. MARTIN: This has nothing to do with the
14 camera. It has all to do with the software, and
15 that's the point of my direct examination. He
16 doesn't have to know anything about the camera.

17 THE COURT: Overruled, then.

18 MR. MARTIN: All right.

19 BY MR. MARTIN:

20 Q. When you set up GeoVision to work in a manner
21 so it only records when activity is captured by the
22 camera, are you able to set those parameters through the
23 software?

24 A. Yes. Basically it records when a certain
25 number of changes, pixel changes in the picture.

1 Q. Okay. It has nothing to do with the camera?

2 A. No.

3 Q. Nothing whatsoever?

4 A. No.

5 Q. Okay. The software that is set up, can the
6 intensity, if you will, of the number of pixels that has
7 to change before it starts recording, can that be set?

8 A. Yes.

9 Q. It's a variable setting?

10 A. Correct.

11 Q. Okay. The GeoVision software at Cobb Theater,
12 is that the same software that you and I have just been
13 talking about? You may not know the version, but that
14 feature, the software itself, determines when to record
15 by the changes in pixels?

16 A. Correct.

17 Q. Okay.

18 MR. MARTIN: Nothing else. Thank you.

19 MR. ESCOBAR: No redirect, Your Honor.

20 THE COURT: Okay.

21 MR. ESCOBAR: Or no cross either.

22 THE COURT: May this witness be released?

23 MR. ESCOBAR: This witness can be released,
24 Your Honor.

25 THE COURT: Thank you, Mr. Silis. You're free

1 to go.

2 THE WITNESS: Thank you.

3 (Witness excused.)

4 THE COURT: Who is next?

5 MR. ESCOBAR: We have one more short one.

6 THE COURT: Okay.

7 MR. ESCOBAR: Jennie Manera.

8 THE BAILIFF: Step this way, stand right here.

9 Face the clerk, raise your right hand to be sworn.

10 (Thereupon, the witness was duly sworn on oath.)

11 THE BAILIFF: Come have a seat up here. Adjust
12 the mic. Speak in a loud and clear voice for the
13 Court.

14 THE COURT: You may proceed, Counselor.

15 DIRECT EXAMINATION

16 BY MR. ESCOBAR:

17 Q. Good afternoon, Mrs. Manera.

18 A. Just Miss.

19 Q. Miss?

20 A. Yes, sir. Good afternoon.

21 Q. Don't be nervous.

22 Can you please state your full name for the
23 record?

24 A. My name is Jennie Manera (phonetic).

25 Q. Ms. Manera, could you tell us a little bit

1 about your educational background?

2 A. I took bachelor, bachelor of science in nursing
3 in the Philippines.

4 Q. Okay. And that was your degree there that you
5 earned there in the Philippines?

6 A. Yes, sir.

7 Q. When you earned that degree, did you become
8 employed there in the nursing field in the Philippines?

9 A. Yes, sir.

10 Q. Tell the Court a little bit about that.

11 A. Where I'm circulator right there, I work in the
12 operating room.

13 Q. So you were an RN?

14 A. I am an RN in the Philippines and I'm RN here.

15 Q. So when you got your degree and you got your
16 first job there in the Philippines, you became an RN
17 nurse in the operating room?

18 A. Yes, sir.

19 MS. SUMNER: Objection. Leading.

20 MR. MARTIN: Judge, this is just preliminary
21 questions. I mean, normally for preliminary
22 questions I don't object to, but I'll make sure.

23 THE COURT: Thank you.

24 BY MR. ESCOBAR:

25 Q. How long were you an RN there in the

1 Philippines?

2 A. Before here?

3 Q. Yeah, before coming to America.

4 A. Maybe two years in the Philippines.

5 Q. Okay. Then you came to America?

6 A. Yes, sir.

7 Q. Was your family already here?

8 A. Yeah, my family are all here.

9 Q. Okay. And so you wanted to come to America?

10 A. Yes, sir, definitely. My family is here.

11 Q. And you are an American?

12 A. I am an American.

13 Q. Okay. Now, when you came to the States, did
14 you become employed?

15 A. Yes, sir.

16 Q. Would you tell the Court a little bit about
17 your employment here in the States when you arrived?

18 A. Okay. My first job was in Lakeland Regional
19 Medical Center.

20 Q. Okay.

21 A. That was a trauma hospital, and then I went to
22 Florida Hospital of Tampa and Florida Hospital
23 Zephyrhills, and now I'm working in Palm Beach County
24 Medical Center.

25 Q. Okay. So your first job you said was --

1 A. Lakeland Regional Medical Center.

2 Q. Okay. And did you meet your boyfriend there?

3 A. Yes, my ex-boyfriend.

4 Q. Your ex-boyfriend?

5 A. Yes.

6 Q. And what is his name?

7 A. Derek Friedhoff.

8 Q. Now I'm going to direct your attention to
9 January 13th of 2014. Okay?

10 A. Yes, sir.

11 Q. Would you tell the Court, was Mr. Friedhoff
12 your boyfriend back then?

13 A. Yes, sir.

14 Q. Okay. And had you all purchased a home
15 together?

16 A. Yes, but it was in his name before that, before
17 -- we were not married.

18 Q. But at least you had a relationship at that
19 time, correct?

20 A. Yes, sir. Correct.

21 Q. On that particular day did you go to the Cobb
22 Theater?

23 A. We did.

24 Q. And why did you go to the Cobb Theater that
25 day?

1 A. We just went there to watch a movie, Lone
2 Survivor, and we were both off on that day, too.

3 Q. So Monday was your day off at work?

4 A. Yes, sir.

5 Q. And Monday was his day off at work as well?

6 A. Yes, sir.

7 Q. Okay. When you got to the Cobb Theater, were
8 the previews playing or not playing?

9 A. The previews were playing.

10 Q. The previews were playing.

11 When you stepped foot into the Cobb Theater,
12 what were the lighting condition?

13 A. Dark.

14 Q. It was dark?

15 A. Uh-huh.

16 Q. Did you and your boyfriend go to sit down in a
17 seat?

18 A. Yes, sir.

19 Q. Could you tell the Court approximately where
20 you sat from the very top row? Let's talk about from the
21 very top row so you can describe to the Court where you
22 sat.

23 A. From the very top row or the top row, we were
24 in maybe the --

25 Q. How many rows down? Obviously you can't go up

1 anymore.

2 A. Maybe three to four rows down.

3 Q. Three to four rows down. Okay.

4 And did you sit in the middle or did you sit in
5 the end of that row?

6 A. In the end of the row.

7 Q. If I was looking at the theater screen, would
8 you be seated to your right or would you be seated to the
9 left --

10 A. To the left.

11 Q. -- of the theater screen?

12 A. To the left.

13 Q. To the left?

14 A. Yes.

15 Q. Were you right near the aisle, the steps that
16 you walk up?

17 A. Oh, for that left side, yes, sir.

18 Q. So you were right next to the aisle?

19 A. Uh-huh.

20 Q. The seating arrangement that you had, where was
21 your boyfriend seated? To your right or to your left?

22 A. When? In the front of the trailer?

23 Q. Well, when you sat down to watch the movie,
24 where was he seated, to your right -- you're watching the
25 movie. Was he seated to your right or to your left?

1 A. He was on my right side.

2 Q. He was on your right side. Okay.

3 Now, was anybody standing up, that you saw, in
4 the theater when you first walked in?

5 A. No.

6 Q. What were people doing?

7 A. We were just watching the movie. We all
8 there -- our goal was to watch movie.

9 Q. So you were watching the previews that were
10 playing?

11 A. Yes, sir.

12 Q. And when you sat down, what did you do?

13 A. Just watch the preview.

14 Q. Watch the previews. Now, were the previews
15 loud or were they low?

16 A. Loud.

17 Q. They were loud. Okay. So you said the theater
18 was dark?

19 A. Uh-huh.

20 Q. The previews were loud?

21 A. Yes, sir.

22 Q. Your boyfriend is seated to your right?

23 A. Uh-huh.

24 Q. As you're seated there. Would you please tell
25 the Court what happens?

1 A. It's like, as I seated right there, I just
2 heard someone shouting. It's loud noise, but I really
3 didn't hear anything.

4 Q. You didn't know what was said?

5 A. Yes.

6 Q. You just heard loud shouting?

7 A. Yes, sir.

8 Q. Did it affect you?

9 A. Yeah, I was startled. I was so nervous, I just
10 hold my boyfriend.

11 Q. So when you heard that loud shouting, it
12 startled you and you grabbed on --

13 MS. SUMNER: Objection, Judge. Leading.

14 MR. ESCOBAR: She's testified to that. It's a
15 follow-up.

16 MS. SUMNER: He's trying to summarize and
17 testify for the witness.

18 MR. ESCOBAR: It's just a follow-up.

19 MS. SUMNER: It's just a follow-up to testify
20 again for her.

21 THE COURT: Let's move on.

22 BY MR. ESCOBAR:

23 Q. Ms. Manera --

24 THE COURT: It's either asked or answered or
25 it's leading. Just move on.

1 BY MR. ESCOBAR:

2 Q. Why did you grab your boyfriend's hand?

3 A. I was just startled. I was just scared.

4 Q. Okay. And so did you and your boyfriend
5 communicate at that moment?

6 A. No.

7 Q. So what happens next?

8 A. What happened next was someone shout for lights
9 so there's a light on.

10 Q. No. No. Before the lights.

11 A. Oh.

12 Q. What happened next? Did you hear any other
13 noise?

14 A. I didn't hear any other noise.

15 Q. That was it?

16 A. That was it.

17 Q. So now what happens?

18 A. What happened was there's a shot that we heard.

19 Q. A shot?

20 A. Uh-huh.

21 Q. Was that before or after you heard the
22 conversation about the lights?

23 A. Before the lights.

24 Q. Okay. So you grabbed onto your boyfriend's
25 hand?

1 A. Yes, sir.

2 Q. You're saying that the shot happened after you
3 grabbed onto your boyfriend's hand.

4 MS. SUMNER: Judge, I'm going to object to him
5 constantly going back and trying to editorialize and
6 testify for her. She's already said that. He needs
7 to just move on and ask another open-ended question.

8 MR. ESCOBAR: I'll rephrase it.

9 THE COURT: Thank you.

10 BY MR. ESCOBAR:

11 Q. In the sequence of events, could you tell the
12 Court what the sequence of events was, because you just
13 talked about hearing a shot. Was the shot before or
14 after the lights -- somebody asked for the lights to be
15 turned on?

16 MS. SUMNER: Objection. Asked and answered.
17 Just before my objection she said that the shot
18 happened. Then there was a conversation about the
19 lights.

20 THE COURT: All right. Let's let her clarify,
21 and then we will move on.

22 BY MR. ESCOBAR:

23 Q. What's the sequence of events?

24 A. The sequence was the shot before the lights --

25 Q. Okay.

1 A. -- was turned on.

2 Q. Okay. So are you and your boyfriend still
3 there when the request for the lights to be turned on
4 happened?

5 A. Yes, sir.

6 Q. How long after you heard the shots were your
7 boyfriend --

8 MS. SUMNER: I'm going to object to the
9 characterization of "the shots." She said one shot.
10 Shot. Shot. One shot.

11 THE COURT: All right.

12 BY MR. ESCOBAR:

13 Q. How long after the shot did you hear -- did you
14 and your boyfriend stay there seated?

15 A. Maybe a second.

16 Q. Maybe a second. So what happened next?

17 A. What happened next was someone -- somebody was
18 asking for lights, because it's so dark. So the lights
19 came on. My boyfriend just jump right at the end, and
20 that's scenario.

21 Q. Let's stop there for a second.

22 How long did it take? Did the lights come on?

23 A. Right away, no.

24 Q. How long did it take for the lights to come on?

25 A. I really don't know sure, but it's maybe about

1 two minutes.

2 Q. For those two minutes were you and your
3 boyfriend still seated side by side?

4 A. Yes, sir.

5 Q. Okay. What happened when the lights come on?

6 A. The lights came on. My boyfriend went to the
7 scenario. He removed his shirt.

8 Q. Okay. I want to know how your boyfriend got
9 there. Explain to the Court how your boyfriend got from
10 his seat --

11 A. Yes.

12 Q. -- to wherever he was going.

13 A. Yes, sir. He jump off from my seat going to
14 that side, because we were in the -- pretty much in the
15 different side of the scenario.

16 Q. Okay. So you're saying -- when you're saying
17 jump, is he jumping over the seats?

18 A. Yes, sir, over the seat.

19 Q. Over each seat?

20 A. Pretty much over each seat.

21 Q. And over each row?

22 A. Uh-huh.

23 Q. Okay. So where does he go?

24 A. He went to where the patient fell and just
25 grabbed his shirt just to see that the bleeding will

1 stop. He used his shirt.

2 Q. Your boyfriend did?

3 A. My ex-boyfriend did.

4 Q. Your ex-boyfriend. Sorry.

5 You're still seated?

6 A. Yes, sir, because I'm very scared and

7 traumatized. I'm just -- I'm there.

8 Q. Okay. Do you ever get up out of your seat?

9 A. Yes, when he called me.

10 Q. Who called you?

11 A. My ex-boyfriend. He said, "Come here and help
12 me," because we're going to do CPR on the patient.

13 Q. So what I want you to do is I want you to tell
14 the Court, explain to the Court how you got from your
15 seat to wherever you went.

16 A. I just walked the normal way.

17 Q. Did you walk up the stairs?

18 A. Yes, to walk up the stairs, going to the other
19 side because we were in the left side.

20 Q. When you walked up the stairs, what row did you
21 select to go across?

22 A. Just straight and go up, and then it's about
23 three -- from the up, it's about three downs, three seats
24 down.

25 Q. Okay. If my mathematics is correct, you then

1 went to the second row --

2 A. Yes.

3 Q. -- from the top?

4 A. Yes, sir.

5 Q. Did you turn left?

6 A. Yes, because we were in the other side.

7 Q. So now where -- you're going to where Mr.
8 Oulson was?

9 A. Yes, sir.

10 Q. Okay. Now, when you were walking down that
11 second row, what are you able to see in front of you?

12 A. A lot of the people.

13 Q. Okay.

14 A. They are all stand still or seated. Pretty
15 much they were in shock, too, and scared at the same time
16 just like me.

17 Q. Did you see Mr. Reeves?

18 A. Yes, sir.

19 Q. Okay. Where was Mr. Reeves seated?

20 A. I think it was in the upper corner with his
21 wife.

22 Q. With his wife. Okay. And what did you see --
23 describe what you saw of Mr. Reeves.

24 A. He was calm. He was just sitting right there.

25 Q. What is he doing?

1 A. He's doing his head like that (indicating).

2 Q. Okay. Well, you've got to show the Court,
3 because it's important for the Court to see, what you saw
4 him doing?

5 A. He was just sitting, and he's like doing like
6 this. Pretty much he was traumatized or he was calm --
7 he was calm sitting right there, though.

8 Q. Okay.

9 MR. MARTIN: Judge, I apologize. Her head was
10 down and away from the mic. I have absolutely no
11 idea what she said.

12 THE WITNESS: I'm sorry, sir.

13 MR. MARTIN: All I heard was something, maybe
14 "trauma." I don't know.

15 BY MR. ESCOBAR:

16 Q. What did he say?

17 A. He was calm, sitting in his chair.

18 Q. Okay. And so what do you go do, then?

19 A. What?

20 Q. What do you do? Do you see him? Is he a young
21 man or an old man?

22 A. An old man.

23 Q. Okay. And so what do you go do? Your
24 ex-boyfriend -- I remembered that this time -- had called
25 you. What did you go do?

1 A. I went to help him and check the pulse
2 because --

3 Q. How far were you from Mr. Reeves when you went
4 to help your boyfriend?

5 A. Pretty much, maybe 10 feet.

6 Q. Okay. You tell me. You tell me how close
7 Mr. Reeves was. I'm just going to walk to you. You tell
8 me when to stop.

9 A. Maybe right there.

10 Q. Okay. Well, I'm going to come to you. You
11 just tell me when to stop. Okay?

12 A. Right there.

13 Q. Right here. Okay.

14 And so you were that close to Mr. Reeves. Did
15 you hear him say anything?

16 A. No, sir.

17 Q. How long were you there in that position
18 helping your boyfriend?

19 A. Maybe 10 minutes or 15 minutes.

20 Q. During those 10 to 15 minutes did you hear Mr.
21 Reeves say anything?

22 A. I didn't hear anything, him saying anything.

23 Q. You didn't hear Mr. Reeves say anything?

24 A. No, sir.

25 Q. Okay. Now, did you leave that area at some

1 point in time?

2 A. No, sir.

3 Q. Did you --

4 A. Every one of us stayed there.

5 Q. When I say the area, I'm talking about that
6 second row.

7 A. No.

8 Q. What happened after you were assisting
9 Mr. Oulson?

10 A. I tried to do a CPR for him, but he had -- we
11 tried the pulse, and then we were waiting for -- the
12 paramedics took him.

13 Q. Did the paramedics come?

14 A. They did, but my ex-boyfriend was the one that
15 called 911.

16 Q. And did the paramedics come?

17 A. Yes, sir, they came.

18 Q. Did they take over?

19 A. And take over, yeah.

20 Q. So what did you do after the paramedics came?

21 A. I'm just standing right there.

22 Q. Okay. Did you leave that area at some point in
23 time?

24 A. No.

25 Q. Did you ever have any discussions with some law

1 enforcement officers?

2 A. No. They just told us to stay and let us go to
3 the same area for all of us --

4 Q. Okay.

5 A. -- who stayed there.

6 Q. What was that area?

7 A. The lower portion of the cinema.

8 Q. Okay. So do you know who the officer was that
9 told you to go to that lower portion of the cinema?

10 A. No.

11 Q. How many of you all were there at the lower
12 portion of the cinema?

13 A. Approximately?

14 Q. Yes.

15 A. Not a lot of people. Maybe 10 to 15.

16 Q. Okay. What were those people doing there as
17 they congregated in that area?

18 A. We were all just sitting.

19 Q. Okay. Was anybody talking?

20 A. Some are talking.

21 Q. Okay.

22 A. Some are just silent and just sitting right
23 there.

24 Q. At some point in time was your boyfriend there
25 as well?

1 A. Yes, sir.

2 Q. What was your boyfriend doing?

3 A. He was talking to somebody, but I don't know
4 who he was talking to.

5 Q. Do you know what he was talking to somebody
6 about?

7 A. I don't know who he was talking to, but he was
8 talking about scenarios that he saw or heard, but I never
9 heard it.

10 Q. Okay. So when you're saying scenario, your
11 boyfriend was talking about scenarios that he had seen
12 and heard to someone else?

13 MS. SUMNER: Objection. Asked and answered,
14 Judge.

15 MR. ESCOBAR: Judge --

16 THE COURT: Overruled.

17 THE WITNESS: Yes, sir.

18 BY MR. ESCOBAR:

19 Q. And that boyfriend that we are talking about is
20 Derek Friedhoff?

21 A. Yes.

22 Q. Now, at any point in time did a police officer
23 tell you that you could not discuss what you saw at the
24 scene with anybody else?

25 A. No, nobody told us to do that.

1 Q. Did anyone, not even a police officer, anyone
2 ever tell you not to discuss what you all had seen there
3 in the theater with anybody else?

4 A. No, sir.

5 Q. Did you fill out a statement form --

6 A. Yes, sir.

7 Q. -- there in that same group that we've just
8 talked about?

9 A. Yes, sir.

10 Q. Were other people in that group also filling
11 out the statement form?

12 A. Yes, sir. Every one of us.

13 MR. MARTIN: I will pass the witness.

14 MS. SUMNER: May it please the Court,
15 Mr. Escobar.

16 CROSS-EXAMINATION

17 BY MS. SUMNER:

18 Q. Good afternoon, Ms. Manera.

19 It's Jenny, right?

20 A. Yes, ma'am.

21 Q. Okay.

22 A. Good afternoon.

23 Q. How are you doing this afternoon?

24 A. I'm good. How are you, ma'am?

25 Q. Good.

1 Now, you had indicated that you entered the
2 theater during the preview. Do you recall what time it
3 was?

4 A. I can't guarantee what time it is, but --

5 Q. Do you even remember what time the movie was
6 supposed to start?

7 A. It was supposed to be the afternoon. That's
8 what I remember.

9 Q. What time?

10 A. I don't know.

11 Q. Do you remember what day of the week it was?

12 A. It's Monday.

13 Q. And when you got in there, you were able to see
14 people as you were walking in, right?

15 A. I do.

16 Q. And you could make your way up the steps? They
17 were lit, correct?

18 A. Yeah.

19 Q. Okay. And you could see Derek, your now
20 ex-boyfriend, who was sitting next to you, right?

21 A. Yeah, I can see her -- or see him.

22 Q. And you could see in front of you, right?

23 A. Yes, ma'am.

24 Q. And you could see down your aisle, couldn't
25 you?

1 A. I have -- my vision is not that good before, so
2 this is why I don't know.

3 Q. Did you just recently get eyeglasses?

4 A. No, I have eyeglasses. I'm not wearing my
5 eyeglasses at that time.

6 Q. So even though you were going to a movie, you
7 didn't bring your eyeglasses?

8 A. No.

9 Q. Okay. You could see a couple seats away from
10 you, though, right, see what people were doing, eating
11 popcorn, drinking drinks?

12 A. Perhaps, but I'm not particularly looking at
13 them because I'm just watching the movie.

14 Q. In fact, you told law enforcement that you
15 weren't really paying attention to what other people were
16 doing. You were watching the previews; isn't that
17 correct?

18 A. Correct.

19 Q. Now, you indicated that you were sitting at the
20 end of the row. Do you specifically remember that?

21 A. I do.

22 Q. So you don't believe you walked past anybody to
23 get to your seat?

24 A. No, because it's only us who was sitting in
25 there. There's like someone is sitting in that row, but

1 it's not in our row.

2 Q. Okay. And you indicated that you heard
3 something but you don't know what it is?

4 A. Yes, ma'am.

5 Q. And you don't know where it was coming from, do
6 you?

7 A. No.

8 Q. You said you heard something about turning the
9 lights on, correct?

10 A. Correct.

11 Q. And you testified it took about two minutes to
12 turn the lights on?

13 A. Uh-huh.

14 Q. Were you counting? Were you looking at your
15 watch?

16 A. No.

17 Q. In fact, you weren't really paying that close
18 of attention. At that point you were talking to Derek,
19 right?

20 A. Agree.

21 Q. So when you say two minutes, you didn't count
22 it so it could have been less time than that, right?

23 A. Perhaps, but someone is just saying, "Let the
24 lights on."

25 Q. Okay. How many times did you hear somebody

1 say, "Lights on"?

2 A. Pretty much twice.

3 Q. So shortly thereafter the lights came on,
4 correct?

5 A. Maybe a minute or something.

6 Q. Okay. So it really wasn't two minutes; it was
7 more like a minute, right?

8 A. I can't really guarantee much longer, because
9 I'm not paying attention.

10 Q. Exactly. So when you say two minutes, that's
11 not really accurate, is it?

12 A. I don't know it's more or less, but it's pretty
13 much.

14 Q. You can't give us the parameters?

15 A. Yes.

16 Q. Fifteen seconds or 100 seconds, right?

17 A. Agree.

18 Q. Okay. Now, you indicated that you walked up
19 the stairs, correct?

20 A. Yes, ma'am.

21 Q. Okay. And this was after Derek had jumped
22 over --

23 A. Yes, he went --

24 Q. -- the row of seats, right?

25 A. He went there first.

1 Q. And you indicate now that you're at the very
2 end, so you're on -- if we were standing up, looking at
3 the theater and you're trying to pick your seat, you're
4 at the right side of the theater, correct?

5 A. Correct.

6 Q. And where Derek ended up going to work on
7 Mr. Oulson was on the left side of theater; isn't that
8 correct?

9 A. Correct.

10 Q. Where did Derek jump over the seats? Right
11 there at your seat?

12 A. Yes.

13 Q. Okay. And then he ran down that aisle?

14 A. Yes.

15 Q. Now, you were paying attention to Mr. Oulson,
16 correct, when you were watching Derek take his shirt off
17 and try to stop the bleeding because you both are trained
18 in this type of medicine, right? You're in the operating
19 room, though, right?

20 A. Correct.

21 Q. For the majority of the time?

22 A. Yes, ma'am.

23 Q. In any event, you've been trained in this so
24 your activity is on the patient, correct?

25 A. Correct.

1 Q. And you indicate that you happened to see
2 Mr. Reeves?

3 A. I did.

4 Q. How long did you look at Mr. Reeves if you're
5 trying to save Mr. Oulson's life?

6 A. Well, because it's like -- it's really -- in
7 the cinema at that time was really off. It's only maybe
8 15 persons right there, so you can probably see everyone,
9 but I really don't know who the shooter is, but when I'm
10 walking, I just see some old guy there sitting calmly.

11 Q. Did you see another gentleman standing next to
12 the old guy?

13 A. No.

14 Q. So you didn't see somebody walk down and take
15 control of the firearm?

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

17 Q. You're not saying it didn't happen; you just
18 didn't observe it, correct?

19 A. Correct.

20 Q. So when you say that you were there for 10 to
21 15 minutes, again, you can't really give us a time frame.

22 How long do you think you've been testifying
23 now?

24 A. I don't know. Perhaps maybe --

25 Q. Without looking at the clock, how long do you

1 think you've been testifying?

2 A. Fifteen -- fifteen minutes.

3 Q. Okay. So you're not really sure that it was 10
4 to 15 minutes that you all were sitting there working on
5 Mr. Oulson, correct?

6 A. Correct.

7 Q. You weren't timing it; you were trying to save
8 his life, correct?

9 A. Right. Correct.

10 Q. And you indicated that you were paying
11 attention -- prior to hearing the shot you were paying
12 attention to the previews, right?

13 A. Yeah.

14 Q. And once you got out of your seat, you were
15 paying attention to Chad Oulson, correct?

16 A. Yes. Correct, ma'am.

17 Q. Now, you don't recall talking to a law
18 enforcement officer on scene that day?

19 A. After?

20 Q. Yes.

21 A. I think someone talk to us, but they just asked
22 us to fill a form.

23 Q. So the only thing that you think happened was
24 you filled out the form?

25 A. Yes.

1 Q. And you filled out the form based upon what you
2 saw --

3 A. Yes.

4 Q. -- and what you heard, correct?

5 A. Correct.

6 Q. Not what Derek might have said, correct?

7 A. Correct.

8 Q. You wouldn't do that, right?

9 A. I won't.

10 Q. And, in fact, when you -- what did you do with
11 the written statement after you filled it out?

12 A. We just give it to the officer.

13 Q. Okay. Do you recall if the officer was a male
14 or female?

15 A. I can't remember. Female, perhaps, male --

16 Q. One or the other. You're just guessing, right?
17 You don't remember, correct?

18 A. I can't remember.

19 MS. SUMNER: Nothing further.

20 MR. ESCOBAR: No redirect.

21 THE COURT: May this witness be released?

22 MR. ESCOBAR: Your Honor, we're going to keep
23 her under subpoena, but she can go back home.

24 THE WITNESS: Thank you.

25 THE COURT: You might get recalled, but you're

1 free to go at this time and you are subject to
2 recall.

3 THE WITNESS: Thank you. Have a good day.

4 THE COURT: You, too.

5 (Witness excused.)

6 THE COURT: Who's next?

7 MR. MICHAELS: Defense calls Vivian Reeves.

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

11 THE BAILIFF: Come have a seat up here. Adjust
12 the mic. Speak in a loud and clear voice for the
13 Court.

14 THE COURT: You may proceed, Counselor.

15 DIRECT EXAMINATION

16 BY MR. MICHAELS:

17 Q. Good afternoon, Mrs. Reeves.

18 A. Hello.

19 Q. Please state your full name for the court
20 reporter.

21 A. Vivian Reeves.

22 Q. Could you spell Vivian, please?

23 A. V-I-V-I-A-N.

24 Q. And you're Mrs. Curtis Reeves?

25 A. Yes, sir.

1 Q. Is that your husband?
2 A. Yes.
3 Q. How long have you been married?
4 A. 49 years last October.
5 Q. What is your wedding date?
6 A. October 28th.
7 Q. So this year will be fifty years?
8 A. Fifty, yes.
9 Q. Do you have children?
10 A. Yes, two.
11 Q. And who is oldest?
12 A. Jennifer.
13 Q. How old is she?
14 A. Forty-three.
15 Q. And your youngest?
16 A. Matt is 40.
17 Q. Do you have any grandchildren?
18 A. One.
19 Q. And what is her name?
20 A. Madison.
21 Q. How old is she?
22 A. She just turned five.
23 Q. Are you retired or are you working?
24 A. I'm retired.
25 Q. Let's talk a little bit about your employment

1 history. What's the last job that you had?

2 A. I worked at USAA for the assistant vice
3 president of claims and the executive director of claims.

4 Q. How long did you work at USAA?

5 A. Thirteen years.

6 Q. Before that what did you do?

7 A. I taught school for a few years.

8 Q. Where did you teach school at?

9 A. Lutz Elementary.

10 Q. Let's get a little background about your early
11 life with your husband.

12 When you married him, was he a police officer?

13 A. Yes, he was.

14 Q. And do you know where he was a police officer,
15 what department?

16 A. Tampa.

17 Q. And where did you live?

18 A. When we first got married, we lived in an
19 apartment on Branch Avenue, in an old home.

20 Q. Where did you move after that?

21 A. We built -- well, no. We bought property in
22 Lutz, and we lived in a house down on the lake that the
23 people were traveling, and they wanted us to take care of
24 the property, so we lived in the house.

25 Q. And how long were you married before your first

1 child came along, Jennifer?

2 A. Six years.

3 Q. Where were you living when Jennifer was born?

4 A. In our home in Lutz.

5 Q. Now, when -- let's talk about your family life
6 and Jennifer as a newborn.

7 Your husband was a police officer then?

8 A. Yes.

9 Q. Were you working?

10 A. Yes, I was.

11 Q. When Jennifer comes along, tell me, do you
12 continue to work?

13 A. I did.

14 Q. Who helped take care of Jennifer?

15 A. In the daytime, when we were at work, my sister
16 kept her, and then the second year Curtis's mother kept
17 her.

18 Q. Now, when Jennifer was a baby, what sort of
19 father was Curtis, was your husband?

20 A. He was a wonderful father.

21 MR. MARTIN: Excuse me, Your Honor. I'm going
22 to object as far as relevancy.

23 MR. MICHAELS: Judge, we've started this
24 hearing talking about how important it was to
25 understand who Mr. Reeves is, to understand what his

1 perception was at the time.

2 The State objected to anything that happened
3 after that particular day, which I still don't agree
4 with; however, now we're talking about before that
5 particular day. However, I think we're getting some
6 background information.

7 I think it's important for the Court to hear
8 what kind of a father he was, what kind of person he
9 was, and I think if we get the bigger picture, I
10 mean, the State -- I know and I appreciate
11 Mr. Martin's argument that it is a snapshot in time,
12 but truly, Judge, this isn't a snapshot. This is a
13 movie, if you will. This is a long movie regarding
14 his entire life to know who he is, and that's what
15 the law requires, and we have the burden of proving
16 that he was justified and Mr. Reeves was justified,
17 so, therefore, we should be granted some leeway to
18 have the Court understand exactly who Mr. Reeves is.

19 THE COURT: The rules allow for an accused to
20 put forth testimony regarding his character as long
21 as it pertains to a trait that has something to do
22 with the crime charged.

23 Where are you getting at with that line of
24 questioning?

25 MR. MICHAELS: I think Mr. Martin's comment in

1 terms of his opening statement/argument was
2 something to the effect of -- and I'm sure he'll
3 correct me if I'm wrong. I apologize if I'm wrong,
4 but the characterization was essentially that Mr.
5 Reeves was a former police officer who didn't get
6 his way, because he's a person that is used to being
7 in authority, and therefore, he overreacted and
8 didn't act properly, therefore, wasn't justified.

9 So this is relevant to certainly show that that
10 wasn't the type of character. Essentially the
11 testimony would be that he is a guy who left work at
12 work.

13 So if we're saying that he's a man who left the
14 police force, with the police force upon retirement,
15 then, I think this is relevant to show that that's
16 the bigger picture and that that is relevant to show
17 his character, in terms of he's not as he's being
18 characterized by the State in this case.

19 THE COURT: Any further argument?

20 MR. MARTIN: Yes, Judge.

21 The character evidence that is relevant in an
22 immunity hearing deals with the elements in which --
23 that are at issue. It's no different than any other
24 type of self-defense case.

25 Judge, there is no leeway for the Defense. The

1 only time there's leeway is in a death penalty case,
2 and we've heard it over and over. Death is
3 different from the Courts and we get leeway. This
4 is not where we're at.

5 I've provided the Court with the case law that
6 indicates that all the rules of evidence apply in
7 this particular case. And so, in this particular
8 case, we're having an immunity hearing, what is
9 relevant are those issues related to a
10 self-defense-type argument, and character related to
11 that might be relevant, if they can link it up.

12 But right now what Mr. Michaels is asking for,
13 is to put on character evidence to show that in the
14 way, way future he acted in conformity therewith.

15 That's where we have the problem with linking
16 the evidence, so I still object to this line of
17 questioning.

18 MR. MICHAELS: The problem that we have, the
19 thing that makes this kind of hearing a little
20 different, is because we're putting the trier of
21 fact in the shoes of Mr. Reeves.

22 If we're not allowed to have testimony
23 regarding exactly who it is filling those shoes,
24 then it's problematic and he's not, frankly, getting
25 a fair opportunity to present his defense.

1 THE COURT: All right. As far as leeway goes,
2 the only way I'm going to allow it is testimony that
3 would indicate something to do with whether or not
4 Mr. Reeves was a peaceful man, a patient man,
5 something along those lines, and I gather that's
6 where you were going with that.

7 MR. MARTIN: Just so that your ruling is clear
8 to the State, we're talking about the proper way to
9 present that reputation within the community and not
10 specific incidents.

11 THE COURT: No, that's incorrect. The rules
12 allow for an accused to bring that type of
13 testimony.

14 MR. MARTIN: At a trial.

15 THE COURT: I'm going to allow it.

16 MR. MARTIN: Thank you, Judge.

17 THE COURT: Uh-hum.

18 BY MR. MICHAELS:

19 Q. Let's talk about, Mrs. Reeves, about your
20 husband in the early years.

21 You knew he was a police officer. You've
22 already testified to that. Was he a guy who would bring
23 work home with him? In other words, would he come home
24 and say, "Oh, today I was out there catching bank
25 robbers," or any of that sort of thing?

1 A. No, he didn't bring it home.

2 Q. When he was at home, did he -- in terms of his
3 relationship with his daughter, was he a caring person?

4 A. Oh, yes. There's nothing that he wouldn't do,
5 beneath him to do for his children. He changed diapers.
6 He did everything.

7 Q. Was he a peaceful person at home?

8 A. Yes.

9 Q. Did he lose his temper, when Jennifer was a
10 child, at Jennifer?

11 A. Not that I remember.

12 Q. Did he lose his temper against you?

13 A. No.

14 Q. Was he ever violent towards you?

15 A. Never.

16 Q. Are you aware of him, in the early years when
17 Jennifer was a child, ever showing any characteristics of
18 violence?

19 A. No.

20 Q. Or aggression?

21 A. No.

22 Q. Or impatience?

23 A. I don't -- yeah, I think he got impatient with
24 her at times, but seldom.

25 Q. Okay. When he was impatient, would he show

1 aggression or violence towards her?

2 A. No.

3 Q. Was he a person who was trying to teach his
4 children the right way?

5 A. Absolutely.

6 Q. Was he involved in their life when he would
7 come home from work?

8 A. Yes.

9 Q. Now, how old is Jennifer when Matthew comes
10 along, when Matt comes along?

11 A. Three.

12 Q. And the same question as to Matt: When
13 Mr. Reeves, your husband, would come home, would he play
14 with Matt?

15 A. Yes.

16 Q. Would he give attention to Matt?

17 A. Yes.

18 Q. And to Jennifer?

19 A. Yes.

20 Q. Was he a peaceful man at home?

21 A. Yes.

22 Q. Did he show aggression?

23 A. No.

24 Q. In those early years was he still a man --
25 after Matthew was born, was he still a man that would

1 come home from work and kind of leave work at work?

2 A. Yes.

3 Q. During the years when Matthew was a baby, did
4 you ever notice any aggression that Mr. Reeves ever
5 showed towards anyone else?

6 A. No.

7 Q. Now, as the children are growing up, does your
8 husband continue in the same way? In other words, as
9 he's rising through the ranks -- and you were aware that
10 he was getting promotions, right?

11 A. Yes.

12 Q. And you know about him going to school as well?

13 A. Yes.

14 Q. Anything change at home?

15 A. No.

16 Q. Is he still a loving, caring person?

17 A. Yes.

18 Q. Still a peaceful person?

19 A. Yes.

20 Q. Still not showing any aggression --

21 A. No.

22 Q. -- in his home?

23 A. No.

24 Q. And once he graduates from college, does
25 anything change in terms of him not being peaceful or not

1 being aggressive?

2 A. No.

3 Q. In fact, does anything change from the time
4 that you got married half a century ago to this very
5 date --

6 A. No.

7 Q. -- in terms of his characteristic for being
8 peaceful?

9 A. No.

10 Q. For being caring?

11 A. No.

12 Q. For being responsible?

13 A. No.

14 Q. For always doing the right thing?

15 A. No.

16 MR. MARTIN: Your Honor, I'm going to object.
17 That's far beyond what you allowed as far as the
18 characterization of Mr. Reeves.

19 MR. MICHAELS: I will move on, Judge.

20 THE COURT: Thank you. Sustained.

21 BY MR. MICHAELS:

22 Q. Now, in terms of physical characteristics, do
23 you have an old wedding picture?

24 A. Yes.

25 Q. Do you look the same?

1 A. Absolutely not.

2 Q. What about your husband? Does he look the
3 same?

4 A. Oh, no.

5 Q. Okay. So let's talk about some of those
6 physical changes. Let's talk about any physical changes
7 you may have.

8 Are you the same or are you the same -- were
9 you the same on January 14th as you were back when you
10 got married in 1967?

11 A. No.

12 MR. MARTIN: Your Honor, I'm going to object to
13 this line of questioning. Her travel through time
14 and how her own body has changed is not relevant
15 here at all.

16 MR. MICHAELS: Judge, it is relevant because
17 certainly Mr. Reeves has the right to be justified
18 in defending himself or another, and certainly his
19 wife sitting next to him in a movie theater is
20 somebody that he is justified to protect as well as
21 himself.

22 Again, it goes to Mr. Reeves' mind set, his
23 perception. If a person who's seventy years old is
24 sitting in a theater and next to them is his elderly
25 wife also sitting in the theater, and that person

1 has some maladies or weaknesses or some fragility,
2 certainly that's going to color the individual's
3 perception into whether or not he needs to act in a
4 certain way to defend himself and to defend his
5 wife.

6 THE COURT: All right. I had a question of
7 that early on with the first witness, his character
8 traits being described as one of knowledge of
9 impending frailty or one for peacefulness.

10 Mr. Michaels?

11 MR. MICHAELS: I'm sorry, Your Honor.

12 THE COURT: What character trait are you
13 attempting to elicit from this line of questioning?

14 MR. MICHAELS: Frailty of both Mr. Reeves and
15 Mrs. Reeves.

16 THE COURT: Is that character trait, knowledge
17 of impending frailty, that you're --

18 MR. MICHAELS: Actually, realization, because
19 it is no longer impending. It's here, the
20 realization that on that day, on January 13th of
21 2014, that she had the realization that she was
22 frail and that her husband had the same realization
23 as he sat next to her in that Cobb Theater.

24 MR. MARTIN: Judge, as I repeated over and
25 over, the criteria in an immunity hearing is the

1 knowledge of Mr. Reeves. If Mr. Reeves wants to
2 take the stand and say, "My knowledge of my wife is
3 this, and maybe I did it because of this," that's
4 what we're talking about.

5 We can't have his wife explain all the ailments
6 he may or may not know she has when it's not
7 relevant to what he knew. The only thing that's
8 relevant is what's in his mind. We can't impute or
9 assume by a witnesses' testifying that I have A, B
10 and C, that he knows it. He has to take the stand
11 and say what was in his own mind, so it's not
12 relevant for Mrs. Reeves to sit there and explain
13 all her ailments in this particular setting.

14 MR. MICHAELS: I think that we could be
15 secure -- and Mr. Escobar will correct me if I'm
16 wrong -- I'm sure we could be secure in the fact
17 that Mr. Reeves will indeed be testifying at this
18 hearing. There's no question about that.

19 MR. MARTIN: And that might be true, but his
20 knowledge might be more or less than what we'll hear
21 from the stand.

22 So what we're doing here, we can't have our
23 cake and eat it, too. If Mr. Reeves is going to
24 testify, great. I'll handle it when Mr. Reeves
25 testifies, but Mrs. Reeves can't say, "I have these

1 infirmities," and we impute that to Mr. Reeves
2 because they may change his mind and he may not
3 testify.

4 MR. ESCOBAR: I can assure the Court there's no
5 way that I could keep Mr. Reeves off the stand. He
6 will be testifying in this immunity hearing.

7 THE COURT: All right. That's neither --
8 that's not for my consideration about this witness
9 anyway.

10 To the extent that her testimony is -- leads to
11 that sort of character trait, which is -- I'm -- I
12 determined is part of the defense's theory, and in
13 light of the witnesses who have testified already,
14 I'm going to allow it. Overruled.

15 BY MR. MICHAELS:

16 Q. So tell us a little bit, Mrs. Reeves, about how
17 your body and your abilities have diminished over the
18 years from when you were married up until January of
19 2014.

20 A. I have arthritis in my hands, and it was in my
21 knee and I had a knee replacement three years ago, and I
22 have a nodule in my lung, and my pulmonologist sent me to
23 Moffitt, and --

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

25 We can't have a lay witness come in and give medical

1 terms that, "I have this," or, "Some doctor told
2 me."

3 She can say, "My hand hurts," but she can't
4 give the diagnosis. That's a lay opinion that's not
5 appropriate. She can explain all her ailments and
6 how she feels, but she's not a doctor.

7 MR. MICHAELS: I would be happy to go through
8 them all one by one, Your Honor, so I'm beginning
9 the question again.

10 BY MR. MICHAELS:

11 Q. Mrs. Reeves, you said that you have arthritis
12 and you're not allowed to say that.

13 Do your hands hurt?

14 A. Yes, they do.

15 Q. Okay. And show the Court your hands, if you
16 would, please?

17 A. (Indicating.)

18 Q. Okay. And they hurt when you do what?

19 A. I can't -- I can hardly open jars or bottles.
20 I wear a brace on my hand, but it's doing better now, but
21 I wore a brace for a while.

22 Q. And --

23 A. They're weak.

24 Q. And what about -- do they get stiff?

25 A. Yes.

1 Q. Do they hurt when it's cold out?

2 A. Yes.

3 Q. Okay. How about your hips? We'll work our way
4 down. How are your hips?

5 A. They're good.

6 Q. What about your knees? You have pain in your
7 knees?

8 A. I have pain in my knees.

9 Q. Now, you have one knee -- without saying what
10 happened to it -- that you had to go see a doctor about,
11 right?

12 A. Right.

13 Q. And did you have to go to the hospital for that
14 particular knee?

15 A. Yes.

16 Q. And when you went to the hospital, did they
17 knock you out at some point?

18 A. Yes.

19 Q. And when you woke up, were you having pain?

20 A. Not immediately.

21 Q. All right. That was probably the medicine, but
22 after a while did you have pain?

23 A. Yes.

24 Q. Where was that pain?

25 A. In my left knee.

1 Q. And were you in the hospital?

2 A. Yes.

3 Q. How long were you in the hospital?

4 A. At least two days.

5 Q. And when you woke up and looked at your knee,
6 was it open to the air or was it bandaged in some way?

7 A. It was bandaged.

8 Q. And at some point they take the bandage off?

9 A. Yes.

10 Q. Tell me whether or not you saw any change in
11 your knee. Was there a scar, for instance?

12 A. I had -- yeah, there was a big scar. Now it's
13 smaller.

14 Q. And did it hurt when you walked?

15 A. Oh, yes.

16 Q. Does it still hurt?

17 A. Yes.

18 Q. What other parts of your body hurt or are
19 affected by age?

20 Let's talk about your skin. Let's talk about
21 that. When you were young and you bumped up against
22 something, would you bleed or bruise?

23 A. No.

24 Q. What about now?

25 A. Yes, I do now.

1 Q. Do which?

2 A. I bruise. There are dark purple bruises on my
3 arms and my hands, and I bleed easily.

4 Q. Okay. Can we see your arms? Can you show the
5 Court your arms?

6 A. (Witness complies.)

7 Q. Okay.

8 A. This one is way up here.

9 Q. That's a bruise before -- let me ask you this:
10 Before 2014, in January, had you ever fallen around the
11 house?

12 A. Yes.

13 Q. And tell us about that. Was it a trip and fall
14 or just lose your balance and fall?

15 A. Probably losing my balance and fall.

16 Q. And, again, did your husband try to pick you
17 up?

18 A. Yes.

19 Q. Did he ever have problems picking you up?

20 A. Yes.

21 Q. Did he ever almost fall picking you up?

22 A. Yes, I almost pulled him down.

23 Q. Now, what else hurts?

24 A. I cough and it's hard to breathe.

25 Q. Okay. So you have a problem breathing?

1 A. Yes.

2 Q. And have you had to go to a doctor regarding
3 that particular complaint or problem?

4 A. Yes.

5 Q. And did you go to Moffitt Cancer Center for
6 them to examine you in some way?

7 A. Yes.

8 Q. And did you start involving yourself in kind of
9 an exercise program of some sort?

10 A. Yes.

11 Q. And is that because you were preparing for some
12 sort of surgery potentially?

13 A. If I had to have surgery, I was instructed to
14 do that, and even if I didn't have surgery that it would
15 help me out.

16 Q. Those were the doctors of Moffitt?

17 A. Yes.

18 Q. Now, let's talk about your husband. Is he the
19 same -- in the same physical condition now or in 2014 of
20 January as he was back in 1967?

21 A. No.

22 Q. Tell me some of the differences that you're
23 aware of.

24 A. He's gained a lot of weight, and he also
25 bruises very easily and bleeds easily, and he's got

1 problems with his shoulders and his back and his feet.

2 Q. Okay. Now, how do you know that he bruises
3 easily?

4 A. Because I see it.

5 Q. What about the bleeding?

6 A. I see that.

7 Q. By bleeding easily, give an example to the
8 Court of how he started bleeding.

9 A. About -- the last time was about probably a
10 month ago.

11 Q. Well, before -- let's talk about before 2014.

12 A. Oh, okay. Just if he sticks himself, like
13 picking up limbs or doing anything, he bleeds, and I put
14 something called Wound Seal on him.

15 Q. Is that what you use for yourself as well?

16 A. Yes.

17 Q. Now, when he was younger did he used to run?

18 A. Yes, he did.

19 Q. When did that stop?

20 A. Before he went to work at Busch Gardens.

21 Q. Okay. Once he started -- what year was that,
22 approximately?

23 A. At Busch Gardens?

24 Q. Yep.

25 A. It would be about -- oh, my.

1 Q. That was after he retired from the Police
2 Department?

3 A. After he retired, and I can't think of the date
4 right now.

5 Q. So if I say '93 or '94, does that sound about
6 right?

7 A. Yes, yes.

8 Q. So he stopped running, and did he start wearing
9 any kind of apparatus, that you noticed, for his back, or
10 anything like that, around the house?

11 A. When he worked in the yard, he would wear a
12 brace around his middle, and he bought -- when he was at
13 Busch Gardens, he had to walk a lot and he got orthotics,
14 and he bought Ecco shoes, which were much better quality
15 than what he was wearing.

16 Q. Was he taking anything over the counter that is
17 usually for pain, that you're aware of?

18 A. Yes, he was.

19 Q. What was he taking?

20 A. Ibuprofen.

21 Q. When he was working at Busch Gardens, did he
22 have any treatment on his feet that you're aware of? In
23 other words, did you see any kind of machine that he
24 used?

25 A. Yes, he got several shots, even back then, in

1 the bottom of his foot, and he used a TENS machine.

2 Q. Was he big into any sort of hobbies that you're
3 aware of, like woodworking, metalworking, that sort of
4 thing?

5 A. Yes, he did.

6 Q. Tell the Court some of the things that he would
7 do.

8 A. He worked with metal and he built two carports,
9 and when we had our property in North Carolina, he put
10 sides onto the little pump house that were metal, and he
11 put together a big metal building, like a barn, and he
12 did woodworking. He's built a lot of things out of wood;
13 swings, banks.

14 Q. How long ago was that?

15 A. (No response.)

16 Q. It wasn't last year, was it?

17 A. No.

18 Q. Was it 10 years ago or more?

19 A. Ten or more.

20 Q. What about around the house? Now, after you
21 moved from Lutz, you moved to Brooksville; is that right?

22 A. Yes.

23 Q. Why did you build such a big house there?

24 A. I was hoping for a lot of grandchildren.

25 Q. Okay. And if it's a big house, there must be a

1 lot of upkeep. Who does the upkeep around the house?

2 A. My son has to do -- has to help out a lot.

3 Q. Now, when you first moved there -- how long
4 have you been there? Let me ask you that first.

5 A. I think twelve years.

6 Q. When you first moved there, was your husband
7 able to do a lot of things around the house?

8 A. Some. We've got a lot of oak trees, and to
9 clean the gutters requires you to get on the roof because
10 there's -- we don't have a pool but there's a screen cage
11 over the patio, and I think he did that the first year
12 and then he just can't handle getting on the roof, so
13 Matt's our maintenance man now.

14 Q. Now, you have a granddaughter who's now five.
15 When your granddaughter was two years old or one year
16 old, would your husband get on the floor and play with
17 her?

18 A. Some, yes.

19 Q. Did he ever get stuck where you had to go and
20 try and help him out?

21 A. Yes.

22 Q. What about your husband working out? Did he at
23 one time work out in a gym?

24 A. Yes. His former Medicare insurance policy
25 included Silver Sneakers, so he could go to the gym for

1 free, and he joined Gold's Gym and he lifted weights and
2 did yoga, but he had to stop.

3 Q. Is it true or not that he hurt himself doing
4 yoga?

5 A. Yes, he did.

6 Q. So he's never been back to yoga or the gym?

7 A. No.

8 Q. How long ago was that?

9 A. Let's see. Maybe eight to 10 years ago.

10 Q. True or false: One of the reasons your husband
11 retired from Busch Gardens was because it was difficult
12 for him to be on his feet so much?

13 A. True.

14 Q. Now, when your husband retired from Tampa
15 Police Department, did he ever show any signs whatsoever
16 that he missed the action of being a police officer, or
17 was he happy to be retired and home with you waiting for
18 grandchildren?

19 MR. MARTIN: I'm going to object. That calls
20 for speculation on her part.

21 THE COURT: Yeah, you can rephrase it.

22 BY MR. MICHAELS:

23 Q. Well, did your husband ever show at any time
24 that he wasn't happy to be retired and not a police
25 officer anymore?

1 A. No, it was a relief.

2 Q. Did he display any kind of aggression
3 whatsoever once he retired from the Police Department?

4 A. No.

5 Q. Was he a peaceful person?

6 A. Yes.

7 Q. A conscientious person?

8 A. Yes.

9 Q. A responsible person?

10 A. Yes.

11 MR. MARTIN: Your Honor -- excuse me,
12 Mr. Michaels. I have an objection. We've -- I know
13 what this Court's ruling is and it was very, very
14 specific. Now we're throwing out terms in terms of
15 character. That's not what the Court allowed
16 Mr. Michaels to do, and if I could respectfully
17 request the Court to reminded Mr. Michaels exactly
18 what the limitations are so I don't have to keep
19 jumping up and down. I would appreciate it.

20 THE COURT: I will sustain it to the
21 responsible part.

22 MR. MICHAELS: To the responsible part?

23 THE COURT: Yes.

24 BY MR. MICHAELS:

25 Q. So your husband was a caring person?

1 A. Yes.

2 Q. His characteristic was one of a peaceful
3 person?

4 A. Yes.

5 Q. A person who wasn't an aggressive person?

6 A. No.

7 Q. Now, you retired. Mr. Reeves, your husband, is
8 retired. Now a grandchild comes along. Do you decide to
9 care for that grandchild?

10 A. Yes, I wanted to keep her and I knew that
11 Curtis wanted to travel some and he can't.

12 He came to me one day and he said, "I think we
13 should keep her for a while," so we canceled the trip we
14 planned out west.

15 Q. And your granddaughter has been with you and at
16 your house ever since?

17 A. No, she came to live with us when she was one.

18 Q. Okay. So she lives with you now on at least a
19 part-time basis?

20 A. Part time.

21 Q. Now, let's talk about January 13th of 2014.
22 Okay?

23 A. Yes.

24 Q. Do you recognize the date?

25 A. Yes.

1 Q. Now, I need you to think back to that day for
2 me.

3 A. Okay. Yes.

4 Q. You went to a matinee?

5 A. Yes.

6 Q. Could you tell me about that? Why did you go
7 to a matinee?

8 A. When we went to the movies, we usually went to
9 the matinee. I think it's cheaper, and my son and Curtis
10 had read the book Lone Survivor, and they had come home
11 from an archery hunting trip, and it's just kind of spur
12 of the minute, I think. They wanted to see the movie,
13 and I wanted to go because it was based on a true story.

14 Q. And so tell me what happens. Who drives to the
15 movie theater?

16 A. Curtis drives.

17 Q. And are you with your son, Matt?

18 A. No.

19 Q. What are the plans for Matt?

20 A. He was going to meet us there.

21 Q. Do you know what time you get to the movies?

22 A. Not exactly. We had plenty of time. We
23 weren't running late, but I don't know what time.

24 Q. So when you get to the movies, I imagine, you
25 get a ticket and go inside?

1 A. Yes.

2 Q. What happened once you go inside? Where do you
3 go?

4 A. The concession stand.

5 Q. And who goes to the concession stand?

6 A. Well, we both -- we both walked over to it.

7 Q. And your husband?

8 A. Yes.

9 Q. Where do you go? At the concession stand, what
10 do you buy?

11 A. Oh, popcorn and a drink.

12 Q. Now, once you buy the popcorn and the drink,
13 where do you go?

14 A. I go to the restroom.

15 Q. Once you come back from the restroom, where do
16 you go?

17 A. Into the theater.

18 Q. Okay. So you get your drink, you get your
19 popcorn, you go to the restroom and you go into
20 Theater 10?

21 A. Yes.

22 Q. Tell me what did you do once you get into the
23 theater?

24 A. We came around the little wall and people were
25 kind of -- it wasn't full, but people were spread out.

1 And we were looking for, really, five seats so we could
2 have three and maybe an empty seat beside us.

3 Q. Three seats for you, your husband and your son?

4 A. Yes.

5 Q. And so you go around the little wall, and where
6 do you look for seats?

7 A. In the upper section.

8 Q. Okay. Do you all spot five seats or something
9 that looks like five seats?

10 A. Yes.

11 Q. Where was that located?

12 A. At the very top row.

13 Q. And that's the row that's right next to
14 CineBistro; is that right?

15 A. Yes, with a wall behind it.

16 Q. So it's the very last row or the very first if
17 you're coming back from there? It's the very last row if
18 you're looking up?

19 A. If you're looking up, it's the very last row.

20 Q. The very first row if you're looking down?

21 A. Yes.

22 Q. Who walks down the aisle first?

23 A. Curtis.

24 Q. Is that the way you would usually walk to your
25 seats?

1 A. Probably not.

2 Q. Why did you walk behind Mr. Reeves?

3 A. Because usually I go in first, but we were
4 going to put me between Curtis and my son.

5 Q. Now, as you walk in, are the previews on yet?

6 A. No.

7 Q. As you walk in, do you notice anybody using
8 their phone?

9 A. Yes.

10 Q. And who do you see using their phone?

11 A. Mr. Oulson had his phone out, and I just saw
12 that the screen was lit.

13 Q. Okay. Now, we're going to talk about what you
14 remember, but let me ask you in terms of how this day,
15 how what happened made you feel, tell the Court
16 emotionally what toll it had on you.

17 A. I've never been so scared in all my life.

18 MR. MARTIN: Your Honor, I'm going to object.
19 Relevancy.

20 MR. MICHAELS: Judge, it goes to her testimony.
21 We have to look at her testimony in context.

22 Certainly she's telling the Court that she was
23 scared and so, you know, she's going to tell the
24 Court what she remembers. She's telling the Court
25 how she felt when that day happened. It's -- we're

1 going to get there one way or another, so we're just
2 kind of framing what her experience was there, and
3 so I think it's relevant that she was fearful.

4 MR. MARTIN: Your Honor, her demeanor and her
5 feelings at that point are not relevant to any
6 material issue in this immunity hearing at all.
7 There's nothing for you to consider regarding how
8 she felt --

9 MR. MICHAELS: Well, here --

10 MR. MARTIN: -- so I object as far as relevancy
11 for this particular hearing.

12 MR. MICHAELS: Here's why it's relevant: If we
13 have two people sitting in the theater, one
14 individual is accused of discharging a firearm
15 illegally and he's telling the Court that it was a
16 justified use of his firearm because he was in fear
17 of imminent great bodily harm or death, somebody
18 sitting next to him can certainly -- it's certainly
19 relevant to try to understand what that person was
20 feeling.

21 If that person is in the same place, the same
22 dark theater with the same man coming over the same
23 seat, sitting next to the person that's accused, I
24 think that -- you know, I don't think there's a
25 relevancy issue at all here. She can certainly say

1 she was scared to death.

2 MR. MARTIN: Judge, what we're talking about is
3 Mr. Reeves and what ever perceptions he had. We
4 can't impute what Ms. Reeves might feel like as an
5 elementary school teacher, a banker and going and
6 working as a secretary to a seasoned veteran police
7 officer. It just doesn't -- you can't make that
8 logical leap that one will feel like the other.

9 It's not relevant as to how she felt about the
10 situation. We haven't even had the same predicate
11 that she saw even the same things that Reeves did.
12 There are too many variables here to impute:
13 Because she was scared, he had the right to be
14 scared, so I object to relevancy.

15 THE COURT: All right. I'm going to overrule
16 it. I'm very certain that if her testimony was that
17 she wasn't scared at all, the State would find that
18 very relevant, so I think it's relevant and I will
19 overrule.

20 BY MR. MICHAELS:

21 Q. So how did you feel that day as a result of
22 that day? How did it affect you emotionally?

23 A. That day --

24 MR. MARTIN: Excuse me, Judge. Now that I've
25 heard Mr. Michael's second question, he's asking her

1 after everything was over, how did she feel? That
2 is not relevant.

3 THE COURT: Let's get a little more of a
4 predicate as far as what we're talking about.

5 BY MR. MICHAELS:

6 Q. You walk down the aisle following your husband,
7 right?

8 A. Yes.

9 Q. And you've already testified that you see
10 Mr. Oulson holding his phone in some way?

11 A. Yes.

12 Q. And is it -- do you see the light from the
13 phone?

14 A. Yes.

15 Q. Do you hear him talking on the phone at all?

16 A. No.

17 Q. Now, at that point do you sit down with your
18 husband?

19 A. Yes.

20 Q. And are the previews on yet?

21 A. No.

22 Q. Where is Mr. Oulson related to -- in relation
23 to where you're sitting?

24 A. He's in front of me.

25 Q. Mr. Oulson is directly in front of you?

1 A. Yes.

2 Q. And your husband is on the movie screen, and
3 you're seated in your seat. Where is your husband?

4 A. He's to my left in front of Mrs. Oulson.

5 Q. Okay. Now, when you sit down, what happens?
6 What do you do? Do you take popcorn?

7 A. I took a Ziplock bag and I took part of the
8 popcorn so I could hold mine and he could hold his.

9 Q. Now, you have your popcorn. What's on the
10 screen as you're sitting there?

11 A. It was not the previews. I don't remember
12 exactly, but it wasn't the previews.

13 Q. Now, at some point the previews come on?

14 A. Yes.

15 Q. And describe to the Court how you know the
16 previews are on.

17 A. They played the thing -- they played the
18 message to discontinue using your cell phones, and then
19 the previews came on.

20 Q. Did the lights change?

21 A. Yes, much darker.

22 Q. What about the sound coming from the screen?

23 A. Very, very loud.

24 Q. Now you're seated there. The previews are on.
25 Do you see your husband lean forward at all?

1 A. Yes.

2 Q. Do you hear anything that he says?

3 A. He spoke so softly, I don't think I did.

4 Q. Did you see who he appeared to be talking to or
5 leaning towards?

6 A. Mr. Oulson.

7 Q. Did you hear Mr. Oulson say anything?

8 A. Yes, I did.

9 Q. Okay. Now, I know you don't want to use the
10 words but it's important that you use the exact words
11 that you recall. What did you recall Mr. Oulson saying?

12 A. He used the word "fuck" or "fucking." He was
13 very loud, and I think he -- the word "texting" and his
14 daughter.

15 Q. And when you heard that, the previews were on?

16 A. Yes.

17 Q. And his voice was louder than the previews?

18 A. Yes.

19 Q. Now, how did that make you feel?

20 A. It scared me. I was horrified that somebody
21 would act like that, especially in a movie theater.

22 Q. Did you do anything at that point?

23 A. No.

24 Q. What did your husband do?

25 A. He started to stand and he said, "I'm going to

1 go get the manager."

2 And I said, "Let's just move," and he just
3 continued on.

4 Q. Do you know whether your husband heard you or
5 not?

6 A. I don't.

7 Q. Did he answer you in any way?

8 A. No.

9 Q. Now, your husband's off. He told you he's
10 going to see the manager. You're still in your seat.
11 What feelings are going through you at that point?

12 A. I don't want to be there, and I don't look
13 at -- I don't look at Mr. Oulson. It's like if I don't
14 look at him, he's not there.

15 Q. Kind of like a child?

16 A. Yes.

17 Q. Why were you feeling that way? Were you still
18 afraid?

19 A. Yes, I -- well, I don't know if I was afraid at
20 that point, but I just thought it was an awful way to
21 act. We don't talk like that in my house.

22 Q. Now, are you looking at the screen or what are
23 you doing?

24 A. Probably.

25 Q. Now, at some point does your husband come back?

1 A. Yes.

2 Q. Now tell me, when your husband walked past you
3 to go to the manager, did you hear him grumbling at all?

4 A. No, I didn't hear anything.

5 Q. Was he acting in any way that you could tell
6 that he was angry in any way?

7 A. No.

8 Q. Was he doing anything other than walking slowly
9 down the aisle?

10 A. That's what he was doing.

11 Q. Now, he comes back in a couple of minutes?

12 A. Yes.

13 Q. Do you remember that?

14 A. Yes.

15 Q. What happened when your husband comes back?

16 A. I hand him his popcorn and he sits down.

17 Q. He sits back next to you?

18 A. Yes.

19 Q. And he takes his popcorn?

20 A. Yes.

21 Q. What do you see next?

22 Now, before we get there, when your husband
23 sits down next to you, are you paying any attention to
24 Mr. Oulson when your husband first sits down or are you
25 still --

1 A. No, I'm not focused on him.

2 Q. You're still hoping everything will go away?

3 A. Yes.

4 Q. Tell me what the next thing is that happens.

5 A. They both spoke, and I don't know who spoke
6 first, but Curtis leaned forward again.

7 Q. Could you hear any words that Curtis said?

8 A. I couldn't hear anything Curtis said.

9 Q. Could you hear anything that Mr. Oulson said?

10 A. Yes.

11 Q. What did Mr. Oulson say?

12 A. "You told on me. Who the fuck do you think you
13 are?"

14 Q. Were the previews on?

15 A. Yes.

16 Q. Was that statement that you just said Mr.
17 Oulson said, "Who the fuck do you think you are," was
18 that louder than the previews?

19 A. Well, it was -- I can't say that it was louder
20 than the previews, but it was loud enough to be heard.

21 Q. It was loud enough for you to hear over the
22 previews?

23 A. Yes.

24 Q. Are you looking now towards that direction or
25 are you still kind of looking straight ahead?

1 A. Well, I looked when Curtis leaned forward.

2 Q. What happened next?

3 A. Mr. Oulson quickly stood up and turned and he
4 leaned forward, and I thought he was coming over.

5 Q. Okay. So right after you heard, "Who the fuck
6 do you think you are," Mr. Oulson got up and faced you
7 and your husband?

8 MR. MARTIN: Your Honor, I'm going to object to
9 constant summarizing of testimony the way that
10 Mr. Michaels would like it perceived. This is a
11 who, what, where, how type of direct examination.

12 MR. MICHAELS: Judge, I appreciate the
13 prosecutor's criticisms; however, this is an old
14 prosecutor's method and I think they call it looping
15 in law school. We're just getting to the next
16 question the same way the prosecutors do in every
17 single trial. There's -- we're just reframing the
18 question.

19 This is a lay witness. She's obviously upset.
20 I want to keep her focused and we want her to
21 continue on telling what happened, so we're just
22 trying to frame it. I'm not testifying at all.

23 MR. MARTIN: Judge, we don't need to loop the
24 last five minutes of conversation. If he wants to
25 say, "Okay, he sat down and he had popcorn. What

1 happened next? After he got the popcorn, what
2 happened next?" But we don't loop the last five
3 minutes to get to what happened next.

4 MR. MICHAELS: Respectfully, I will let
5 Mr. Martin question people the way he wishes to. I
6 would beg the Court to allow me to question the
7 witnesses the way that I wish to.

8 THE COURT: All right, as long as you don't
9 loop five minutes' worth.

10 MR. MICHAELS: All right. I promise it won't
11 be five minutes.

12 THE COURT: Thank you.

13 BY MR. MICHAELS:

14 Q. Okay. Now, you have Mr. Oulson saying, "Who
15 the fuck do you think you are," and he stands up. At
16 that point is the theater dark?

17 A. Yes.

18 Q. And are the previews on?

19 A. Yes.

20 Q. You're looking at Mr. Oulson at that point and
21 you see him lunging forward; is that correct?

22 A. Yes, I saw that.

23 Q. When you say he was leaning forward, describe
24 for the Court what it is that you were seeing at that
25 time.

1 A. It happened very quickly, and his whole upper
2 body just came forward and I thought that he was coming
3 over.

4 Q. I would like for you to look at a videotape, if
5 you would. It's Exhibit 17. It's already been admitted
6 into evidence.

7 MR. MICHAELS: Your Honor, this is quarter
8 speed 1, so with permission we will fast forward
9 through some of the gaps -- the Court already
10 understands that there's certain delays within it --
11 to allow Mrs. Reeves to look at the videotape.

12 THE COURT: Any objection to fast forwarding
13 through the blank one?

14 MR. MARTIN: No, but I may have an objection to
15 the video once we get there. So if we can get
16 there --

17 MR. MICHAELS: This is the video that's already
18 been admitted into evidence.

19 MR. MARTIN: I don't care. The question is
20 whether or not this witness will be allowed to view
21 it and comment on the content. That's what's at
22 issue.

23 MR. MICHAELS: Judge, the plans are to allow
24 her to view it --

25 THE COURT: Uh-hum.

1 MR. MICHAELS: -- and then I'll question her
2 afterwards.

3 THE COURT: Okay. We can have a
4 contemporaneous objection at that point, I suppose.

5 (Video played.)

6 MR. MICHAELS: If we can pause it right there,
7 please.

8 BY MR. MICHAELS:

9 Q. Do you recognize that person?

10 A. Yes. That's my husband.

11 Q. Okay. Continue, please. Is that you?

12 A. Yes.

13 Q. Is that where you described earlier that you
14 both entered the theater and sat down initially?

15 A. Yes.

16 MR. MARTIN: Your Honor, I'm going to object to
17 the constant running commentary on the video
18 suggesting an answer to this witness about what the
19 content shows.

20 MR. MICHAELS: That's the same argument, and
21 I'm not sure -- could you please pause that, Mr.
22 Shah?

23 It's the same argument. I'm not sure why we're
24 having it. The question calls for a yes-or-no
25 answer. This is a lay witness. This is somebody

1 that's obviously been affected. I think -- I can
2 ask permission to even lead this witness, frankly,
3 but I'm just asking questions that ask for a
4 yes-or-no answer. I'm not suggesting at all what
5 the answer may be.

6 THE COURT: I will allow her to answer.

7 MR. MICHAELS: Fast forward, please.

8 BY MR. MICHAELS:

9 Q. Go ahead. Was that last series where you
10 describe your husband sitting forward or not?

11 A. Yes.

12 Q. Okay. Leaning forward?

13 A. Yes.

14 Q. Speaking to Mr. Oulson?

15 A. Yes.

16 Q. Okay. Now, it's almost like your husband is
17 leaning forward a second time. Do you recall that?

18 A. Has he gone out?

19 Q. Go back a little bit, please, Mr. Shah.

20 See, it almost looks like Mr. Reeves is leaning
21 forward a second time. Do you remember that?

22 A. I don't.

23 Q. Okay. Go ahead.

24 That's your husband getting up; is that right?

25 A. Yes.

1 Q. Does your husband use the arm of a chair to
2 push off of to get up?

3 A. Certainly most of the time that's what I see.

4 Q. Is that your husband holding on to the wall as
5 he walks slowly past?

6 A. Yes.

7 Q. This is your husband coming back?

8 A. Yes.

9 Q. This is after the way you described after the
10 manager, he went to see the manager?

11 A. Yes.

12 Q. What is -- what do you see your husband doing
13 here?

14 A. I'm not sure.

15 MR. MICHAELS: Okay. Continue forward.

16 THE WITNESS: It's taking his popcorn from me.

17 BY MR. MICHAELS:

18 Q. Okay. Now he's sitting down; is that right?

19 A. Yes.

20 Q. Now, was it sometime after that that Mr. Oulson
21 stood up and leaned over the seat?

22 A. Yes.

23 Q. Now, would you describe Chad Oulson coming over
24 the seat in front of you? He's in the seat in front of
25 you; is that right?

1 A. Yes.

2 Q. When he's coming over, is he coming directly
3 over towards you?

4 A. No.

5 Q. How is he coming over?

6 A. He's going, like, for Curtis.

7 Q. So he's at an angle going towards --

8 A. I think so.

9 Q. -- Curtis?

10 Did you see what Mr. Oulson did after you
11 initially saw him stand up quickly and lunge over the
12 seat?

13 A. Before?

14 Q. Afterwards.

15 A. After?

16 Q. Not on the movie. Do you remember what he did?

17 A. After he stood up, no. I just blocked it out.

18 Q. Okay. Do you know if you closed your eyes?

19 A. I don't know.

20 Q. Because it looked in the video, would you agree
21 with me --

22 MR. MARTIN: Your Honor, I object to the
23 leading nature of the question and commenting on the
24 content of the victim -- I mean of the video to the
25 witness, "It looked like it to me."

1 THE COURT: I'll sustain.

2 MR. MICHAELS: I'll move on.

3 BY MR. MICHAELS:

4 Q. Did you see anything after Mr. Oulson was
5 lunging over the seat coming after Curtis?

6 A. No. I wish I had.

7 Q. What's the next thing that you remember? You
8 hear a shot?

9 A. I hear a shot.

10 Q. After you hear the shot, does your husband say
11 anything to you?

12 A. Yes. He said, "He hit me in the face."

13 Q. And at that point do you look over at your
14 husband or what do you do?

15 A. He had his hands on his face, and I didn't
16 examine his face. I was -- I was just -- I don't know.
17 I just didn't know what had happened and I just couldn't
18 handle what happened.

19 Q. Did you see the gun?

20 A. It was -- the first time I saw the gun it was
21 laying on Curtis's leg, left leg.

22 Q. And at that point what emotions are you
23 feeling? Are you crying?

24 A. I don't think I was crying then.

25 Q. Were you shaking?

1 A. Oh, yes.

2 Q. What was going through your mind in terms of
3 your emotions?

4 MR. MARTIN: Your Honor, the same objection,
5 relevancy at that point in time.

6 MR. MICHAELS: It's relevant, Judge, because he
7 later gives an interview to the detective shortly
8 thereafter.

9 THE COURT: Overruled.

10 BY MR. MICHAELS:

11 Q. What were you feeling at that moment?

12 A. What I was I feeling?

13 Q. Now, take a moment and think about it. Put
14 yourself back there and tell the Court what you were
15 feeling at that moment.

16 A. I just couldn't believe it.

17 Q. Were you still scared?

18 A. Oh, yes. I was scared.

19 Q. Have you ever been as scared as you were on
20 that day?

21 A. Never.

22 Q. On that moment, at that moment?

23 A. Never.

24 Q. So now what happened? Your husband tells you
25 that he's been hit in the face?

1 A. In the face.

2 Q. He's holding his head in his hands?

3 A. Yes, he's got his hands up.

4 Q. And you said that somebody comes over for his
5 gun?

6 MR. MARTIN: Your Honor, we're back to the
7 looping. Can we please stop that?

8 THE COURT: Well, I didn't --

9 MR. MARTIN: It's the form of the question and
10 it's what --

11 MR. MICHAELS: Judge, a man's life is on the
12 line. We have his wife up here testifying about
13 what happened that day. She's already testified
14 about how shaken she was and, you know, we have
15 these -- I don't know what the legal objection is.
16 No looping? I've never seen that in the evidence
17 book.

18 I have no idea what Mr. Martin is objecting to
19 other than to try to stop me from questioning this
20 witness effectively.

21 MR. MARTIN: I object to commenting on the
22 evidence and not having a direct question. It is
23 improper questioning, improper form. That's my
24 objection.

25 THE COURT: And leading. It was leading, that

1 last question, so just rephrase.

2 BY MR. MICHAELS:

3 Q. After you saw the gun on your husband's leg,
4 what happened next?

5 A. A man came down the row on Curtis's left and
6 said he was an off-duty police officer or whatever,
7 sheriff's deputy or something, and he picked the gun up.

8 Q. Off of your husband's leg?

9 A. Yes.

10 Q. Did you sit there next to Curtis or did you
11 move over?

12 A. I moved over. I think he told me to move over.
13 The man who took the gun took the clip out of it, and I
14 said something to Curtis.

15 Q. What did you say?

16 A. I said, "What happened? You can't shoot into a
17 theater full of people," something like that.

18 And he said, "Not now," and then I moved over.

19 Q. Did your husband ever point at you?

20 A. Not that I remember.

21 Q. Or cuss at you?

22 A. No.

23 Q. Now, you're not seated next to him. You're
24 seated in a seat or two over, as you testified to.

25 Do you see your son, Matt, there at all?

1 A. Not then.

2 Q. When do you see Matt?

3 A. I don't know if I had moved back next to
4 Curtis, but something happened before I saw Matt.

5 Q. What happened?

6 A. I looked down and there was a cell phone
7 between Curtis's feet, and popcorn, and I don't know why
8 Curtis didn't have his phone out but for some reason I
9 assumed that was his phone because I didn't expect
10 somebody else's to be there.

11 And I asked the deputy, "Can I pick -- can I
12 get his phone?" And he said, "Don't touch anything," and
13 I felt like that meant Curtis, too.

14 Q. Let me show you what's been marked as Defense
15 Exhibit 41.

16 MR. MICHAELS: Judge, at this time we would
17 move into evidence Exhibit 41. They've been
18 stipulated to in terms of authenticity and chain of
19 custody.

20 I don't know if the State is going to require
21 me to lay a predicate. Certainly I can with the
22 witness.

23 THE COURT: All right. It will be admitted.

24 MR. MICHAELS: And what number would that be
25 from the Court?

1 THE COURT: 26.

2 (Whereupon, Defense Exhibit 26 for
3 identification was received in evidence by the
4 Court.)

5 BY MR. MICHAELS:

6 Q. This is a composite of three photographs. This
7 is 2060459 JPEG.

8 Do you recognize that, Mrs. Reeves?

9 A. Yes, I do.

10 Q. Okay. What are we looking at here?

11 A. That is in front of Curtis's seat.

12 Q. Is that the aisle that you were seated on?

13 A. Yes.

14 Q. And so I'm pointing to the popcorn. This
15 appears to be popcorn. Is that in front of your
16 husband's seat?

17 A. Yes.

18 Q. And the row that I'm showing, pointing to,
19 which appears to be right in front of the row with the
20 popcorn, is that the row where Chad Oulson was?

21 A. Yes.

22 Q. There's a little bag that looks like of candy
23 down here that I'm pointing to. Do you recognize that?

24 A. Yes, probably.

25 Q. Maybe -- can you see it better up there?

1 MR. MICHAELS: Can you zoom in at all?

2 THE WITNESS: Yes.

3 BY MR. MICHAELS:

4 Q. What is that?

5 A. Skinny Cow candy.

6 Q. And how do you recognize that?

7 A. Because I took it in.

8 Q. Okay. Now, once you're seated there, what's
9 the next thing that happens? Do you see that?

10 A. I saw Matt at the end of my row. He had blood
11 on his hands and on his clothes, and he came down and his
12 dad told him to get me out of there, but he said, "Let me
13 go clean up."

14 Q. Okay. So did he finally get you out of there?

15 A. Yes, he came and got me.

16 Q. Where did you go?

17 A. He sat me down at a table outside by the
18 concession stand, and someone, an employee of the theater
19 told him he could have some bleach or something to try to
20 clean up better, so -- do you want me to keep going?

21 Q. Yeah. Tell me what happened. Did you stay
22 there?

23 A. I stayed there.

24 Q. Did you move at some point?

25 A. At some point, but not then.

1 Q. Why did you move?

2 A. I moved when Matt came back and because people
3 sat down. People came out of the theater, sat down, and
4 they were talking about it.

5 Q. What are some of the things they were saying?

6 A. I can't tell you.

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

8 MR. MICHAELS: She said she couldn't tell me,
9 Judge.

10 THE COURT: What's your objection?

11 MR. MARTIN: Hearsay right now.

12 MR. MICHAELS: It definitely was going to be
13 offered for the proof of the matter asserted. I can
14 assure you that. At any rate, she said she can't
15 recall.

16 THE COURT: Okay. Move on.

17 BY MR. MICHAELS:

18 Q. So, then, now what happens? You're seated
19 there. Your son takes you away. Where do you go to?

20 A. We go stand in front of the concession stand.

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

22 A. Sheriff's deputies came through the front door,
23 and Matt had his badge out. They had guns. And Matt
24 showed his badge and said that it was under control, but
25 they just rushed past.

1 Q. Okay. And so do you wait there in the lobby?

2 A. The theater employee came and got us and said
3 we could go into an office.

4 Q. And what happened once you get in the office?
5 Does anybody come to join you?

6 A. Yes, a deputy stayed with us the entire time.

7 Q. At some point are you interviewed?

8 A. Yes.

9 Q. Now, when you're there in the front lobby and
10 you see the police come in with long guns. What were you
11 feeling?

12 A. I was scared.

13 Q. And when you were put in the room by the
14 employee, how were you feeling?

15 A. I started crying.

16 Q. Now, at some point does a detective come and
17 speak to you?

18 A. Yes.

19 Q. Do you agree to speak to the detective?

20 A. Yes.

21 Q. When you were speaking to the detective, tell
22 me what you were feeling. Like, were you still scared?

23 A. I was very upset.

24 Q. Were you still crying?

25 A. Yes.

1 Q. Now, in your statement you tell the detective
2 that your husband asked Mr. Oulson to stop using his
3 phone. Is that true?

4 A. That's what I thought to be true.

5 Q. Okay. So do you remember your husband saying
6 those exact words, "Stop," or do you remember it as one
7 word, or tell me what you remember.

8 A. No. If I heard anything, that was the word
9 "phone." That's all I heard.

10 Q. The police officer said you told him, and
11 there's a recording of it, that your husband handed the
12 gun to the off-duty police officer.

13 A. No, he picked it up.

14 Q. Off of his lap?

15 A. Yes.

16 Q. And, again, while you're giving the answers to
17 these questions, are you crying?

18 A. I may have stopped, but I was at first.

19 Q. Okay. Were you shaking?

20 A. Yes.

21 Q. Were you upset?

22 A. Very upset.

23 Q. Were you still frightened from what happened in
24 the theater?

25 A. Yes.

1 Q. Did you ever hear your husband say, "Stop
2 playing with your phone" --

3 A. No.

4 Q. -- to Mr. Oulson?

5 A. No.

6 Q. What happened after you spoke with a detective?

7 A. I spoke to two detectives. I was concerned
8 about Curtis, you know, and I asked him about -- I asked
9 about Curtis, you know, what -- and what do I do?

10 And he said, "We'll take good care of him and
11 he'll call you tonight," and then they took Matt and I to
12 stand outside the theater where you buy your -- I don't
13 think it's where you buy your tickets, but we were on the
14 outside and they said, "Don't leave."

15 And they said that -- they asked permission to
16 search my car and said that they might impound it, and --

17 Q. Did you give them permission to do that?

18 A. I did. I gave permission.

19 Q. Okay. At some point you leave the theater?

20 A. Yes. Matt left his truck and drove me home.

21 Q. Okay.

22 MR. MICHAELS: Your Honor, I've shown the
23 prosecutor what has been marked as Defense
24 Exhibit 60. I'm going to have to have it marked by
25 the Court Clerk.

1 Mr. Martin needs some time to contemplate
2 whether there would be an objection or not at this
3 point, so if we could have that marked.

4 THE COURT: It only gets marked when it comes
5 in.

6 MR. MICHAELS: All right. Whenever
7 Mr. Martin's ready.

8 THE COURT: Your exhibit number is what it will
9 be used before --

10 MR. MICHAELS: Okay. In the meantime, may I
11 approach the witness?

12 THE COURT: You may.

13 BY MR. MICHAELS:

14 Q. Without describing what it is, I want you to
15 look at what's been marked as Defense Exhibit Number 60.

16 Do you recognize that?

17 A. Yes. That's Curtis.

18 Q. Well, you're not supposed to say what it is yet
19 officially.

20 A. I'm sorry.

21 Q. It's okay. That's fine.

22 Is that a fair and accurate representation --
23 in other words, is that what he looked like that day, on
24 January 13th of 2014?

25 A. His left eyelid looks red.

1 Q. But you mean that's him from that day?

2 A. Yes.

3 Q. Okay.

4 MR. MICHAELS: At this time, Your Honor, we
5 would ask to admit Exhibit Number 60 into evidence.

6 THE COURT: Any objection?

7 MR. MARTIN: No, Your Honor.

8 THE COURT: It will be admitted as Number 27.

9 THE CLERK: Yes, ma'am.

10 (Whereupon, Defense Exhibit 27 for
11 identification was received in evidence by the
12 Court.)

13 MR. MICHAELS: Your Honor, may we position it
14 so that the Court can see it? Where does the Court
15 want it so Mrs. Reeves can indicate what it is that
16 she's talking about? This is how big it is, so
17 maybe right here.

18 THE COURT: Or a little back so everybody can
19 see it.

20 MR. MICHAELS: That's fine.

21 THE COURT: Probably by the podium.

22 MR. MICHAELS: Okay. If you can come over
23 here.

24 THE COURT: Counsel can reposition, if you
25 wish.

1 MR. MARTIN: May I have Ms. Reeves come down?

2 Madam Clerk, this is Number 25?

3 THE COURT: 27.

4 MR. MARTIN: 27.

5 BY MR. MICHAELS:

6 Q. I'm showing you what's been marked as --

7 MR. MICHAELS: Stand to the side, if you would,
8 please, so the Judge may see the photograph.

9 BY MR. MICHAELS:

10 Q. I'm showing you what's been marked as 27.

11 A. Yes.

12 Q. Who is that a picture of?

13 A. My husband, Curtis.

14 Q. That's him from that day?

15 A. Yes.

16 Q. Now, look -- you're looking at his face
17 closely. You said that you saw some redness on his eye
18 that wasn't there in the morning or it wasn't there?

19 A. I don't recall it being there.

20 Q. You certainly look at his face every morning --

21 A. Yes.

22 Q. -- for fifty years?

23 A. Yes.

24 Q. Would you point to the Court the redness that
25 you indicated that you observed?

1 A. Right there.

2 Q. You're pointing to his left eyelid?

3 A. Yes.

4 Q. And do you see any other redness? If you want
5 to look closer at his left eye if you have to.

6 A. Right there.

7 Q. Okay. You're pointing to the corner of his
8 eye; is that correct?

9 A. Yes.

10 Q. All right. While you're here, let's look at
11 other photos. This one is marked Exhibit 63.

12 Do you recognize this?

13 A. Yes.

14 Q. Is that a fair and accurate depiction of that
15 day, what it looks like it is, in other words?

16 You're not allowed to say what it is, but do
17 you know what this is?

18 A. Yes, I do know what that is.

19 Q. And that's from that day?

20 A. Yes.

21 MR. MICHAELS: At this time I would ask to move
22 Defense Exhibit 63 into evidence.

23 MR. MARTIN: No objection.

24 THE COURT: It will be admitted as 28.

25 (Whereupon State's Exhibit 28 for

1 identification was received in evidence by the
2 Court.)

3 BY MR. MICHAELS:

4 Q. I'm showing you what has been marked as
5 number 28.

6 MR. MICHAELS: Can you see it, Judge?

7 THE COURT: I can.

8 BY MR. MICHAELS:

9 Q. Come up here, please, Mrs. Reeves.

10 I'm showing you what has been marked as Exhibit
11 28. Do you recognize what?

12 A. Yes.

13 Q. What are we looking at?

14 A. Curtis's hands after they had handcuffed him.

15 Q. Okay. Now I'm indicating something that
16 appears to be a cut on his middle finger next to his
17 wedding ring on that finger.

18 Do you see that?

19 A. Yes, I do.

20 Q. Was that there that morning?

21 A. I don't recall anything being on his hands.

22 Q. Okay. So you didn't see any cuts and
23 bruises --

24 A. No.

25 Q. -- or any injuries to his hands at all that

1 morning?

2 A. No.

3 MR. MICHAELS: Thank you. You can retake your
4 seat.

5 THE WITNESS: (Witness complies.)

6 BY MR. MICHAELS:

7 Q. Now, part of the process to get here involved
8 you being questioned by Mr. Martin. Do you remember
9 that?

10 A. Yes.

11 Q. At a deposition?

12 A. Yes.

13 Q. With a court reporter like this?

14 A. Yes.

15 Q. Taking down every word?

16 A. Yes.

17 Q. And how did Mr. Martin make you feel with his
18 questioning?

19 MR. MARTIN: Your Honor, I'm going to object.
20 There is no relevancy there.

21 MR. MICHAELS: Judge, it has to do -- if he's
22 going to impeach her with the statement, frankly,
23 she was scared to death of him. She left there
24 shaking like a leaf.

25 THE COURT: She can testify to that if that's

1 her answer.

2 MR. MICHAELS: Okay. So is the Court going to
3 allow her to answer now?

4 THE COURT: No. No, she hasn't been impeached.

5 MR. MICHAELS: Okay.

6 BY MR. MICHAELS:

7 Q. Let me show you what's been marked as SM13.
8 It's stipulated to exhibit at this point.

9 MR. MICHAELS: Do you mind if I move this into
10 evidence at this time?

11 MR. MARTIN: Have at it.

12 MR. MICHAELS: I would move SM13 into evidence
13 as Defense Exhibit 29. They don't allow us to carry
14 scissors in here.

15 BY MR. MICHAELS:

16 Q. This is Defense Exhibit Number 29. Let me show
17 you.

18 Do you recognize that shoe?

19 A. Yes.

20 Q. Okay. Whose shoe is that?

21 A. That's Curtis's.

22 Q. Is that the shoe he was wearing that afternoon
23 at the matinee theater of Lone Survivor?

24 A. I assume so.

25 Q. Why is it that he bought those shoes?

1 A. He bought those shoes because it was hard for
2 him to tie his shoe.

3 Q. And these just tie by pulling on this?

4 A. They fasten the same way my five-year-old
5 granddaughter's shoes do.

6 MR. MICHAELS: May I have a moment, Judge?

7 THE COURT: You may.

8 MR. MICHAELS: No further questions.

9 THE COURT: Do you mind if we take a recess?

10 MR. MARTIN: No.

11 THE COURT: You probably will be a little
12 lengthy.

13 MR. MARTIN: Yes.

14 THE COURT: We will go ahead and take a
15 ten-minute recess.

16 Ms. Reeves, please don't discuss your testimony
17 with anyone during the recess. Okay?

18 THE WITNESS: Yes.

19 (Whereupon at this time a brief recess was
20 taken.)

21 THE COURT: Is Mr. Martin doing the cross,
22 Mr. Garcia?

23 MR. GARCIA: Yes, Judge. He should be here
24 shortly. He's right behind you.

25 MR. MARTIN: Are you ready, Mr. Martin?

CROSS-EXAMINATION

BY MR. MARTIN:

Q. Good afternoon.

A. Hi.

Q. May I ask you to do me a favor before we get started? If possible, can you pull that seat just a little bit closer to the microphone? You're very soft spoken. And maybe if you can just bring it down, you know, the microphone -- there you go.

Just remember to keep your voice up so that we can hear you. Okay?

A. I'll try.

Q. That was perfect. All right.

Ms. Reeves, what I would like to do, I would like to take you back to January 13, 2014. As soon as I said those words your eyes closed and I saw a grimace on your face.

Does that day bother you?

A. Yes, it does. I don't like to think about it.

Q. Well, you've had an opportunity to go through and talk to -- with Mr. Michaels about what happened that day, and this is my time to go through and ask you some more questions about it. Okay?

A. Okay.

Q. All right. So we're going to get through it,

1 right?

2 A. Right.

3 Q. Let's start with while you and Mr. Reeves are
4 at home, when was it decided that you would meet with
5 Matt and go to the movies?

6 A. I think Matt and Curtis decided that.

7 Q. About what time in the morning?

8 A. I don't know.

9 Q. Just as a frame of reference, on that day the
10 movie starts at 1:20. People usually get there a little
11 bit before.

12 About what time did you leave your residence in
13 order to make a 1:20 matinee movie at Cobb Theater?

14 A. We were there well before 1:20. I'm not sure.

15 Q. All right. Was there any preparation at your
16 house to get ready, special clothing, special hygiene
17 issues, anything to get ready to go to the movies?

18 A. Nothing special.

19 Q. Now, when Mr. Reeves left the house on
20 January 13, 2014, to meet your son, Matt, at the movies
21 at Cobb Theater, he had a loaded pistol in his right
22 pocket; did he not?

23 A. I wasn't aware of it. It's not something that
24 we discuss. He doesn't say, "I've got my gun." I don't
25 ask have you got your gun?" It's just assumed.

1 Q. And on that day you assumed he had his gun?

2 A. I didn't think about it.

3 Q. The car that you drove to the movies that day,
4 whose car is what?

5 A. It was the car that I drove most of the time.

6 Q. The more than fifty rounds of ammunition that
7 was in the car, in the console area of the car, does that
8 ammunition belong to you?

9 A. No.

10 Q. You saw that ammunition in the car; did you
11 not?

12 A. No, I didn't.

13 Q. Is there anyone else who would have had access
14 to the cars to put a box of ammunition in the car?

15 A. No.

16 Q. Only Mr. Reeves?

17 A. Yes.

18 Q. Then would you assume that if that box of ammo
19 was in your car, that your husband put it in there?

20 A. Yes.

21 MR. MICHAELS: Objection. Calls for
22 speculation.

23 MR. MARTIN: That's a logical inference based
24 on what she just said.

25 THE COURT: Overruled.

1 MR. MICHAELS: I also have a relevancy
2 objection as well.

3 THE COURT: I'll overrule that as well.

4 BY MR. MARTIN:

5 Q. That's a logical inference. If you didn't put
6 it in there -- it's your car -- the only other person who
7 had access is Mr. Reeves, so Mr. Reeves put the ammo in
8 the car, right?

9 A. Right.

10 Q. So we get in the car. We have ammunition in
11 the car. We have a gun in Mr. Reeves' right pocket.
12 We're driving to the movie.

13 Is there any discussion about where or when
14 you're going to meet Matt at the movies?

15 A. I don't think so.

16 Q. All right. And when you got to the movies, did
17 you park in a handicapped spot?

18 A. No.

19 Q. Do you have a handicapped sticker on your car?

20 A. No.

21 Q. Now, as we get to the parking lot of the movie
22 theater, you both get out of the car, right?

23 A. Yes, sir.

24 Q. And you both walk to where you get your
25 tickets, right?

1 A. Yes.

2 Q. Now, at that time is Mr. Reeves using a walker?

3 A. No.

4 Q. Is he using a cane?

5 A. No.

6 Q. Is he wearing his back brace?

7 A. No.

8 Q. Does he have any type of knee brace on?

9 A. No.

10 Q. Does he lose his balance and fall down in the
11 parking lot?

12 A. No.

13 Q. Does he have any problem navigating through the
14 artifacts that are in a parking lot, like curbs and curb
15 stops and medians?

16 A. No.

17 Q. Now, before you got out of the car, did you see
18 Mr. Reeves remove a firearm from his pocket and leave it
19 in the car?

20 A. No.

21 Q. So as you're walking to the movie theater,
22 you're still under the same assumption, based on your
23 life experience with Mr. Reeves, that he has a loaded
24 pistol in his right pocket --

25 A. Yes.

1 Q. -- right?

2 A. Yes.

3 Q. Now, were you at the ticket window when
4 Mr. Reeves purchased the tickets?

5 A. I think -- I don't think I was.

6 Q. Okay. After the tickets were purchased, were
7 you with Mr. Reeves as you walked through the doors into
8 the lobby of Cobb Theater?

9 A. I really don't remember. I assume that we
10 walked in together.

11 Q. And, of course, again at that time you're still
12 under the assumption that Mr. Reeves has a loaded pistol
13 in his right pocket. Right?

14 A. Yes.

15 Q. As you walk past those doors, knowing or
16 assuming that Mr. Reeves has a loaded pistol in his
17 pocket, you walk right by the sign, the little circle
18 with the line through it that says, "No guns, no knives"
19 --

20 MR. MICHAELS: Objection. Relevancy.

21 BY MR. MARTIN:

22 Q. -- right?

23 THE COURT: Overruled.

24 BY MR. MARTIN:

25 Q. You walked past, right past that, didn't you?

1 A. I guess we did.

2 Q. And that was a policy of the Cobb Theater,
3 right? It was their --

4 MR. MICHAELS: Objection. Calls for
5 speculation. There's been no predicate that she
6 knows or doesn't know the policies.

7 THE COURT: Argument?

8 MR. MARTIN: Sure.

9 BY MR. MARTIN:

10 Q. Did you see the symbol on the sign?

11 A. I've seen it. I don't know if I saw it that
12 day.

13 Q. All right. Now, the Cobb Theater put that up.
14 It's on their door, right?

15 A. Right.

16 Q. All right. So as you walk through the doors
17 with the symbol that says, "No guns, no knives," you
18 walked through the door with your husband under that same
19 assumption that he has a loaded pistol in his right
20 pocket, right?

21 A. Right.

22 Q. You did not go over and say, "Hey,
23 Mr. Reeves" -- I know you don't call him that, but I have
24 to -- "there's a sign there that says -- maybe you should
25 leave your gun out there, because they don't want them in

1 here." You didn't tell him that, did you?

2 A. No.

3 Q. Now, there was a -- as you testified, before
4 the previews there was an advertisement or notice up on
5 the screen that says, "Please put away your cell phones,"
6 right?

7 A. Yes.

8 Q. You felt that was important?

9 A. Yes.

10 Q. All right. So that the patrons can enjoy the
11 movie experience, if you will?

12 A. Yes.

13 Q. All right. And did you find that any more
14 important than the Cobb Theater putting the placard on
15 the front door saying, "Please don't bring your gun in"?

16 MR. MICHAELS: Objection. Relevancy. What she
17 thinks is more important, one or the other, is
18 irrelevant.

19 MR. MARTIN: It goes to what she did and how
20 she acted with her husband.

21 MR. MICHAELS: Judge --

22 MR. MARTIN: Judge --

23 MR. MICHAELS: -- we're literally asking her to
24 compare an apple and an orange. That's what we're
25 doing.

1 THE COURT: I will overrule it, but let's not
2 go much further in that route.

3 BY MR. MARTIN:

4 Q. My question to you, do you feel that that sign
5 that says, "Please don't" -- it doesn't say, "Please,"
6 but it says, "Don't bring your guns and knives into our
7 theater" --

8 MR. MICHAELS: Objection. That's a
9 mischaracterization of what the sign is in the
10 front. There's been no evidence that's what the
11 sign is.

12 MR. MARTIN: She just indicated she realized it
13 was there. She admitted it was there. I'm just
14 going forward to what she's already testified to.

15 MR. MICHAELS: I think the question originally
16 had to do with a circle and a slash kind of thing.
17 At least that's what the hand motion Mr. Martin was
18 making.

19 Now we have some hand motion indicating kind of
20 the script going back and forth of some sort.

21 THE COURT: Clarify first.

22 BY MR. MARTIN:

23 Q. There's a placard that's a circle with a line
24 through it, almost like a universal symbol. Something
25 behind that means: We don't want it, right? You're

1 aware of that?

2 A. Yes.

3 Q. All right. And that's a type of symbol. There
4 were no words. It was just a picture of a knife and a
5 gun with a circle with a line through it, right?

6 A. Yes.

7 Q. All right.

8 A. I don't -- I cannot describe it exactly. I
9 know I've seen it, but I can't describe it.

10 Q. And you know that to be universally accepted,
11 with no words, that whatever is behind that circle with a
12 line through, it's something that is prohibited in that
13 area?

14 A. Yes.

15 Q. Okay. So my question to you is when you heard
16 the advisement about no cell phones, put them away before
17 the movie starts, that prohibition, did you feel that
18 that prohibition was any more important than the one out
19 front dealing with the circle with the line: No guns?

20 A. I think it depends on the person.

21 Q. Depends on the person.

22 Do you believe that Cobb Theater has the right
23 not only to ask that phones be put away for the benefit
24 of the patrons and also had a right to prohibit firearms
25 in their theater?

1 MR. MICHAELS: Objection. Calls for
2 speculation. There's been no predicate that's been
3 laid that she has any sort of knowledge.

4 THE COURT: Sustained.

5 MR. MARTIN: I didn't ask for --

6 MR. MICHAELS: (Indiscernible.)

7 MR. MARTIN: I didn't ask for speculation I
8 asked in her opinion, and she is a lay person and
9 can render that opinion.

10 MR. MICHAELS: An opinion as to why Cobb
11 Theater is doing something?

12 THE COURT: Sustained.

13 BY MR. MARTIN:

14 Q. Once you go into the concession area and you
15 purchase the food items for the movie, Mr. Reeves still
16 has the loaded pistol in his right pocket?

17 A. Yes.

18 Q. As you walk into Theater 10 and begin to walk
19 up the stairs to find your seat, Mr. Reeves still has the
20 loaded pistol in his right pocket; does he not?

21 A. Yes.

22 Q. As he's walking down the aisle and you're
23 following him down the aisle until you actually take the
24 seat and you sit down with your popcorn and your drink
25 and your -- whatever that candy was, Mr. Reeves still had

1 a loaded pistol in his right pocket, right?

2 A. He never took it out, so, yes.

3 Q. Okay. Now, you indicated that once you took
4 your seat at some point in time you realized that Mr. and
5 Mrs. Oulson were in front of you. I believe you
6 indicated that Mr. Oulson was in front of you and Mrs.
7 Oulson was in front of your husband, Mr. Reeves --

8 A. Yes.

9 Q. -- is that correct?

10 A. Yes.

11 Q. Okay. It was your husband, was it not, that
12 initiated the nonconsensual contact with Mr. Oulson by
13 leaning forward and speaking to him, correct?

14 MR. MICHAELS: Objection to the
15 characterization as nonconsensual contact. He
16 leaned forward apparently and maybe whispered
17 something, but the characterization of nonconsensual
18 contact, Judge, shouldn't be allowed here. It's
19 impermissible.

20 MR. MARTIN: That's what it was. Let me follow
21 it up.

22 BY MR. MARTIN:

23 Q. Mrs. Reeves, did Mr. Oulson, before Mr. Reeves
24 had any contact, turn around and say, "Hey, buddy. Nice
25 to see you. If you want to talk to me any time, just

1 lean forward and you can talk to me"? Did he say that?

2 A. No.

3 Q. All right. Tongue in cheek a little bit, but
4 there was no sign on his back saying, "Hey, anybody can
5 talk to me," right?

6 A. No.

7 Q. I mean tongue in cheek, but that was not the
8 case, right?

9 A. No.

10 MR. MICHAELS: Judge, objection. This is
11 harassment. The Court has inherent power to protect
12 a witness from being harassed.

13 MR. MARTIN: I'm moving on.

14 THE COURT: I think that is in response to the
15 objection, but let's -- yeah, let's --

16 MR. MARTIN: I'm moving on.

17 THE COURT: Let's move on.

18 MR. MARTIN: All right.

19 BY MR. MARTIN:

20 Q. Mr. Oulson had absolutely no contact with your
21 husband until your husband, Mr. Reeves, leaned forward
22 and had contact with Mr. Oulson; isn't that correct?

23 A. Yes.

24 Q. Mr. Oulson never turned around and said
25 anything to Mr. Reeves before Mr. Reeves leaned forward

1 and had contact with Mr. Oulson?

2 A. Verbal contact?

3 Q. Verbal contact. Leaning forward. Spoke,
4 right? That's what you said.

5 A. Right. He didn't touch him.

6 Q. All right. And at the time that Mr. Reeves
7 chose to have that contact with Mr. Oulson and lean
8 forward and say whatever you said he said, he had that
9 gun in his right pocket; did he not?

10 A. Yes, sir.

11 Q. Now, you've watched the video. We're not going
12 to play the video again, but just to remind you that you
13 had watched it. You watched the whole thing.

14 After that initial contact with Mr. Oulson he
15 had a second contact with Mr. Oulson, didn't he?

16 A. Yes.

17 Q. And that was after Mr. Oulson, according to
18 you, had some kind of nasty things to say back to your
19 husband, right?

20 A. Yes.

21 Q. So after your husband, Mr. Reeves, knew that
22 Mr. Oulson really didn't want to have any more contact --

23 MR. MICHAELS: Objection. Speculation. Now
24 we're talking about how he knew he didn't want to
25 have contact.

1 THE COURT: Sustained.

2 Rephrase.

3 MR. MARTIN: I will, and I appreciate that,
4 Judge.

5 BY MR. MARTIN:

6 Q. The comments made by Mr. Oulson back to
7 Mr. Reeves clearly indicated that he didn't want to have
8 any contact with your husband, right?

9 MR. MICHAELS: Objection. It would be
10 speculation on her part. All she knows is that she
11 was scared to death when she heard that.

12 MR. MARTIN: She heard disparaging remarks. It
13 wasn't, "Hi. Nice talking to you."

14 THE COURT: Overruled.

15 MR. MICHAELS: She doesn't know what Mr. Reeves
16 was thinking. That's what he's asking.

17 THE COURT: No, I didn't think that was what he
18 was --

19 MR. MARTIN: No, that's not.

20 THE COURT: All right.

21 THE WITNESS: Would you ask me that again?

22 MR. MARTIN: Sure.

23 BY MR. MARTIN:

24 Q. Based on Mr. Oulson's response to your
25 husband's first contact, there was nothing about that

1 response that would indicate to anyone that he welcomed
2 that first contact, right?

3 A. Right.

4 Q. And as you previously testified just a few
5 minutes ago, Mr. Reeves then leaned forward and had a
6 second contact with him, right?

7 A. Yes.

8 Q. And he did that after Mr. Oulson's words to him
9 were clearly not friendly, right?

10 A. Right.

11 Q. And he leaned forward and had a second contact
12 with Mr. Oulson while he had a loaded pistol in his right
13 pocket, right?

14 A. Yes, sir.

15 Q. After that second contact Mr. Reeves had one
16 last contact with Mr. Oulson before he got up and left
17 for the manager, right?

18 A. I don't recall all those contacts. When you
19 said second contact, I thought you meant when he came
20 back from the manager.

21 Q. No, ma'am. You know we weren't talking about
22 that.

23 MR. MICHAELS: Judge, objection.

24 MR. MARTIN: We were talking about before he
25 went to the manager.

1 THE COURT: Let's keep the comments.

2 MR. MARTIN: I understand, Judge.

3 MR. MICHAELS: And number 2, Your Honor, the
4 testimony from this witness was that she didn't
5 remember the second contact.

6 THE WITNESS: I just -- I don't.

7 MR. MICHAELS: We looked at the video and she
8 said she didn't remember it.

9 MR. MARTIN: Now Mr. Michaels is testifying for
10 his witness. May I just please conduct my
11 cross-examination, please?

12 THE COURT: Go ahead.

13 MR. MARTIN: Thank you.

14 BY MR. MARTIN:

15 Q. Before Mr. Reeves got up and went to complain
16 to the manager, he had one last contact with
17 Mr. Oulson --

18 MR. MICHAELS: Objection to the
19 characterization of the contact with the manager as
20 a complaint. There's been no evidence regarding
21 that Mr. Reeves did anything but politely go to the
22 management station. We had not heard one thing
23 where Mr. Reeves was complaining.

24 MR. MARTIN: This is cross-examination.

25 THE COURT: I'll overrule as to that objection.

1 BY MR. MARTIN:

2 Q. As -- or right before Mr. Reeves got up to go
3 complain to the manager, he had one last contact with
4 Mr. Oulson; did he not?

5 A. I don't remember that.

6 Q. Something to the effect of, "I'm going to the
7 manager," or something like that?

8 A. He told me that. I don't know if he told
9 Mr. Oulson that.

10 Q. Okay. And you said, "Well, let's just move,"
11 right?

12 A. Yes.

13 Q. All right. Now, you know where we are in the
14 scenario, right? Mr. Reeves is standing up and he's
15 going to complain to the manager, right? That's where
16 we're at. That's all I'm talking about.

17 A. He didn't say, "I'm going to go complain." He
18 said, "I'm going to get the manager."

19 Q. He's leaving the theater to go to the manager.
20 All right?

21 A. All right.

22 Q. Thank you.

23 Now, you explained on direct examination that
24 at that point you were scared, right?

25 A. I was uncomfortable because I'm not used to

1 such language, and I'm not used to people acting like
2 that.

3 Q. You didn't tell us on direct examination that
4 you were scared and frightened?

5 A. That happened after Mr. Oulson stood up.
6 I probably was scared because I was just
7 shocked. I was shocked that somebody would act like
8 that.

9 Q. And you've been married, what, 49 years?

10 A. Yes.

11 Q. And Mr. Reeves would be well aware of how
12 things affect you, right?

13 A. Yes.

14 Q. And when he went, got up and was walking to
15 leave to go to the manager or get the manager, you
16 indicated to him, "Let's just move," something like that?

17 A. Yes.

18 Q. He just kept on walking, didn't he?

19 A. Yes. I don't know if he heard me or not.

20 Q. He left you there?

21 A. Yes.

22 Q. And you were scared and frightened --

23 A. Yes, sir.

24 Q. -- and he left you?

25 A. Yes.

1 Q. He walked out of that theater with a loaded
2 pistol in his pocket to go complain to the manager,
3 leaving you in your seat scared, right?

4 A. Yes, sir.

5 Q. Mr. Reeves is gone maybe two minutes?

6 A. I don't know how long. A short time.

7 Q. Could we agree on "short" being less than five
8 minutes?

9 A. Yes.

10 Q. Okay. Ballpark, just a bracket, right?

11 A. Yes.

12 Q. The entire time that you were there, did you
13 take it upon yourself to get up and leave and go sit
14 someplace else?

15 A. No, I didn't. I thought about it, but I
16 didn't.

17 Q. Mr. Oulson is sitting right in front of you,
18 less than two feet away from you, right?

19 A. Right.

20 Q. And this is the man that had that kind of terse
21 conversation with your husband that resulted in him
22 leaving?

23 A. Yes.

24 Q. Mr. Oulson, while he was sitting there and your
25 husband was gone, he never turned around and spoke to

1 you, did he?

2 A. No, I wasn't looking at him, no. He didn't
3 speak to me.

4 Q. He never got up, turned around and spoke to
5 you?

6 A. No.

7 Q. He never spoke to you, without turning his
8 head, in a loud voice so you could hear him?

9 A. No.

10 Q. Basically he ignored that you were even there?

11 A. Yeah.

12 Q. There comes a time that Mr. Reeves returned
13 from going to the manager, and he comes back and he
14 begins to walk down the aisle. That's what I want to
15 talk about. Okay?

16 A. Okay.

17 Q. When he returned and then starts to walk down
18 the aisle, he has to walk past you, right?

19 A. Yes.

20 Q. I'll try to phrase it in a way -- I know it's
21 not literal, but if we're in a movie theater and someone
22 is in front of you, you have to step over, around, or
23 whatever, to get past him, right?

24 A. Right.

25 Q. That's what Mr. Reeves did in this particular

1 case? He had to get past your feet and the aisle and
2 your knees because it's just a very close area, right?

3 A. Yes, sir.

4 Q. And there were some other people sitting down
5 the way also that he had to get by?

6 A. Yes.

7 Q. While Mr. Reeves was gone, at any time did you
8 see Mr. Oulson in any way in possession, using, however
9 you want to describe it, his cell phone?

10 A. No, sir, but I wasn't looking at Mr. Oulson.

11 Q. Could you see his wife, Nicole?

12 A. I wasn't looking at her, either.

13 Q. You saw the two people, you saw the person in
14 front of you just out of your peripheral vision, if you
15 will, and you were looking at the screen; would that be
16 safe to say?

17 A. It might be.

18 Q. Okay. When Mr. Reeves returned, were you under
19 the same assumption that he had a loaded pistol in his
20 right pocket?

21 A. Yes.

22 Q. As he was walking past you, of course, as he
23 walked past you Mr. Oulson is right in front of you.
24 Does Mr. Oulson turn at all to acknowledge that someone
25 is walking behind him?

1 A. Not that I'm aware.

2 Q. Does Mr. Oulson say anything to Mr. Reeves as
3 he walked behind him?

4 A. (No response.)

5 Q. Does Mr. Oulson say anything to your husband as
6 he walked behind him?

7 A. I think that occurred a little bit later.

8 Q. I appreciate you saying that. We want to keep
9 it as he returned to his seat before he sits down, okay.

10 So my question to you is when he's returning
11 from the manager, before he sits down to take out the
12 popcorn, does Mr. Oulson say anything to Mr. Reeves?

13 A. Not that I remember.

14 Q. Does Mr. Oulson turn without saying anything
15 and, like, glare at him or have a frowny face, or
16 whatever you want to call it, to look mean?

17 A. I don't know that. I did not see that, but I
18 wasn't looking at him.

19 Q. Did you have any indication before Mr. Reeves
20 sat down, after returning from the manager, that Mr.
21 Oulson had any contact whatsoever with your husband?

22 A. Before my husband sat down?

23 Q. Yes, ma'am.

24 A. I don't remember any contact.

25 Q. Now, when Mr. Reeves returned and begins to sit

1 down, either as he's sitting down or just after he sits
2 down, Mr. Reeves has contact again with Mr. Oulson; does
3 he not?

4 A. Right, but I handed -- before that happened, I
5 handed Curtis his popcorn, and then he sat down.

6 Q. Yes, ma'am. Thank you.

7 Now, after -- that particular contact with
8 Mr. Oulson was no different than the first contact with
9 Mr. Oulson in that it was not solicited by Mr. Oulson,
10 Mr. Reeves took it upon himself to lean forward and again
11 have contact with Mr. Oulson, correct?

12 A. He leaned forward, but I don't know who spoke
13 first.

14 Q. And this is the same man that while, before
15 Mr. Reeves left, contact was such that you were scared
16 and frightened?

17 A. Yes.

18 Q. All right. This was the same man that had the
19 one, two, if not three contacts with him before he went
20 to the manager and there was some argument and some very
21 nasty remarks, right?

22 A. I don't --

23 Q. The same man?

24 A. The same man, but I don't call it an argument.

25 Q. Okay. And when Mr. Reeves leaned forward to

1 that same man that had those very disturbing remarks,
2 like you described them, back to Mr. Reeves, he did so
3 with a loaded pistol in his right pants pocket; did he
4 not?

5 A. When Mr. Reeves leaned forward?

6 Q. Uh-huh.

7 A. Yes.

8 Q. You mentioned during direct examination that
9 after the shot was fired, that you saw a cell phone in
10 the area of Mr. Reeves' feet. Do you remember that?

11 A. Yes.

12 Q. You didn't see anybody throw a cell phone, did
13 you?

14 A. I did not.

15 Q. As we discussed previously, Mr. Oulson was
16 seated right in front of you?

17 A. Yes.

18 Q. Less than two feet away from you?

19 A. Yes.

20 Q. You mentioned in direct that there came a point
21 in time when Mr. Oulson stood up?

22 A. Yes.

23 Q. When Mr. Oulson stood up -- this would be you
24 back here, okay. Now I'm going to reverse it so that I
25 can talk to you, okay? I'm going to be Mr. Oulson, and

1 this would be his chair and you would be there. Okay?

2 A. Okay.

3 Q. Mr. Oulson never got in his chair, came up come
4 over and got into your aisle, did he, got in -- stood in
5 your aisle?

6 A. No, but I thought he was.

7 Q. You thought he was in your aisle?

8 A. No, I thought he was coming into our aisle.

9 Q. He never got in --

10 A. I did not see him in our aisle.

11 Q. Okay. When Mr. Oulson stood up, he stood up
12 after your husband, Mr. Reeves, had contact with him,
13 right?

14 A. Yes.

15 Q. And when Mr. Oulson stood up, Mr. Reeves had a
16 loaded pistol in his right front pocket; did he not?

17 A. Yes. He never took it out.

18 Q. You mentioned on direct that after the shot was
19 fired you saw popcorn on the floor?

20 A. Yes.

21 Q. And that was the popcorn that was tossed at
22 Mr. Reeves; was it not?

23 A. Yes, sir.

24 Q. And hit Mr. Reeves?

25 A. I didn't actually see it. I saw it on the

1 video.

2 Q. Okay.

3 A. Because I wasn't looking at Mr. Oulson.

4 Q. I appreciate you telling me that, because I
5 want to separate what you saw on the video from your
6 memory, so thank you for that.

7 And my question to you was: Mr. Oulson never,
8 with a closed fist, hit your husband in the face, did he?

9 A. Not that I saw, but I wasn't looking.

10 Q. You were sitting right next to Mr. Reeves when
11 he began to pull the pistol out of his pocket; were you
12 not?

13 A. Yes, I was.

14 Q. Okay. You saw Mr. Reeves kind of lean over on
15 his left butt cheek, stretch his leg out? Did you see
16 that?

17 A. He leaned way back, yes, to the left.

18 Q. Uh-huh. Stretched out his right leg?

19 A. Yes, sir.

20 Q. And after you saw Mr. Reeves lean back and,
21 like you said, I would guess if I'm Mr. Reeves it would
22 be to his left, right --

23 A. Yes.

24 Q. -- and stretch out the right leg, right?

25 A. Yes.

1 Q. It was after that that the shot was fired,
2 right?

3 A. Yes.

4 Q. Okay. And sitting right next to your husband,
5 Mr. Reeves, when he's drawing or pulling the pistol out
6 of his pants pocket, you also noticed that his right leg
7 had come back, right, so he can sit up?

8 A. No. I didn't see him draw the gun.

9 Q. All right. When he shot the firearm, shot the
10 pistol that was in his right front pants pocket, he was
11 seated in his seat, right?

12 A. From the video I see that he was.

13 Q. All right. And he was leaning forward?

14 A. I think they showed that.

15 Q. Okay. And Mr. Reeves, when he drew the pistol
16 and pointed it at Mr. Oulson, he didn't bring it up to
17 his eyes and take a bead on him down the sight, did he?

18 A. I did not witness that.

19 Q. You didn't see this, either?

20 A. No, I didn't.

21 Q. Mr. Reeves shot, fired the pistol when it was
22 low, a little bit above his thigh, right?

23 A. I don't know.

24 Q. Okay. When Mr. Reeves fired the pistol,
25 Mr. Oulson was in his aisle; was he not?

1 A. I don't know.

2 Q. When Mr. Reeves shot Mr. Oulson, Mr. Oulson was
3 not leaning over, climbing over the seat at your husband,
4 was he?

5 A. I don't know, Mr. Martin.

6 After Mr. Oulson -- after I thought he was
7 coming over the seat, I don't know what happened. It's
8 just gone. I didn't know that day and I still don't
9 know.

10 Q. After your husband, Mr. Reeves, shot Mr.
11 Oulson, you turned to him, did you not, and say to him,
12 "That was no cause to shoot"?

13 A. No, sir, I didn't.

14 Q. You did not tell Mr. Reeves that there was no
15 cause to shoot that man?

16 A. I certainly don't -- do not think I said that.
17 I know what I said, but I don't think I said that.

18 Q. Mr. Reeves then told you, "Don't say another
19 word"?

20 A. He did not.

21 Q. Is that when you got up and moved three seats
22 away?

23 A. When Mr. -- when the off-duty officer was
24 pulling the magazine to the gun, I believe Curtis told me
25 to move away, but I said something to him.

1 Q. To who?

2 A. To Curtis.

3 Q. But we've just discussed that, right?

4 A. But what you said is not what I said.

5 Q. I know. That's why I said, we just discussed
6 that, right? I indicated to you, Did you say this and
7 you said no.

8 A. Okay.

9 Q. Is that what we're talking about? You didn't
10 say anything more than that, did you?

11 A. Yes, I did. What you said is not what I said.

12 Q. Okay.

13 A. You didn't ask me what I said.

14 Q. No, but Mr. Michaels did.

15 A. Okay.

16 Q. When you looked over and looked at your
17 husband, Mr. Reeves, after the shooting, did you see any
18 blood about his face?

19 A. I didn't see blood.

20 Q. Did you see -- do you know the difference
21 between an abrasion and a laceration, a cut and a scrape?

22 A. Okay, yes.

23 Q. Okay. Did you sees any cuts on his face?

24 A. No, but I didn't look. I looked from the side.
25 I never looked at his face.

1 When Mr. Hamilton -- when I asked to pick up
2 the phone because I thought it was Curtis's, Mr. Hamilton
3 said, "Don't touch anything," and I felt like that meant
4 Curtis, too.

5 Q. Okay. But we're talking about what you
6 observed as far as injuries. Do you remember looking at
7 the picture --

8 A. From the right side of his face.

9 Q. Well, actually, that's the left side of his
10 face that you pointed to.

11 A. Oh, right, but I'm saying that when I was
12 seated in the theater, I did not see the left side of his
13 face.

14 Q. When did you make the observations, then, that
15 you told us about in the photograph about the left side
16 of his face?

17 A. Just looking at the photograph.

18 Q. Just now?

19 A. Yes.

20 Q. Did you see anything about Mr. Reeves' face
21 that would suggest to you that a paramedic needed to come
22 and tend to your husband?

23 MR. MICHAELS: Objection. Speculation.

24 How does she know what a paramedic needs to
25 come for? Some people have a bone hanging out and

1 say they don't want to see a paramedic --

2 MR. MARTIN: Let's not be silly, Judge.

3 MR. MICHAELS: She said she didn't see his
4 face.

5 MR. MARTIN: No. She said she didn't see the
6 left side.

7 BY MR. MARTIN:

8 Q. Did you think it was necessary for you to call
9 the paramedics?

10 THE COURT: I'll overrule.

11 THE WITNESS: No. I did not think about that
12 at all.

13 BY MR. MARTIN:

14 Q. You mentioned to us about your fingers, you
15 know, they hurt?

16 A. Yes.

17 Q. You can't open a jar?

18 A. Once in a while I can.

19 Q. All right. Do you have a carrying concealed
20 weapon permit?

21 A. Yes, I do.

22 Q. On January 13, 2014 did you have your firearm
23 with you?

24 A. No, I did not.

25 Q. Did you have it in your car?

1 A. No.

2 Q. Now, you and Mr. Reeves go to Shooters World;
3 do you not?

4 A. I've been a few times.

5 Q. You've shot your pistol there?

6 A. Yes, I did.

7 Q. Now, prior to January 13, 2014, how many weeks
8 before that do you think you were at Shooters World?

9 A. I think he gave me a semi-automatic for
10 Christmas.

11 Q. Uh-huh.

12 A. I think that I got to shoot it -- yeah, one
13 time at Shooters World.

14 Q. And you shot the pistol?

15 A. Yes.

16 Q. And you loaded the magazine?

17 A. Yes, sir.

18 Q. All right. And the magazine -- you're familiar
19 with the magazine in a pistol, right?

20 A. Well, he told me what to do. He told me what
21 to do and I did it.

22 Q. All right. Did you use it, hold it on --
23 you're right-handed or left-handed?

24 A. I'm right-handed.

25 Q. So did you hold the magazine in your left hand

1 and then take the bullet and press it on the follower in
2 the magazine against the spring and push it down?

3 A. I don't know.

4 Q. But you loaded it, right?

5 A. I loaded it. It was very hard to load, to hold
6 the spring.

7 Q. What did you put, six or seven rounds in it?

8 A. I don't know.

9 Q. And as you continued to put rounds in that
10 magazine, it was harder and harder to push down against
11 that follower, wasn't it?

12 A. I think so.

13 Q. But you were able to do it?

14 A. Yes.

15 Q. You fired the pistol?

16 A. Yes, I did.

17 Q. You pulled the trigger?

18 A. Yes.

19 Q. Numerous times?

20 A. Yes.

21 Q. You were able to do that with your fingers, as
22 you've described?

23 A. Yes.

24 MR. MARTIN: Your Honor, may I have a moment
25 with counsel?

1 THE COURT: You may.

2 MR. MARTIN: Thank you, Judge.

3 I have no further questions at this time.

4 THE COURT: Thank you.

5 Redirect?

6 REDIRECT EXAMINATION

7 BY MR. MICHAELS:

8 Q. The prosecutor asked you a little bit about the
9 policy of Cobb Theater. Did you know about their policy
10 to have a patron be able to sit where they wanted to
11 enjoy the movie?

12 A. No.

13 Q. Okay. Let me ask you about the injuries that
14 the prosecutor talked to you about.

15 Did you know that your husband requested to see
16 a paramedic that day?

17 A. After the fact, yes.

18 Q. Did the police ever take you to take a look at
19 your husband's face to ask you, "Mrs. Reeves, do you see
20 anything visible or anything unusual about your husband's
21 face in terms of injuries?"

22 A. No.

23 Q. Now, did you ever imagine in your wildest
24 nightmare that somebody would behave like this in a movie
25 theater?

1 A. No.

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

3 MR. MICHAELS: I don't have anything else,
4 Judge.

5 THE COURT: Anything else, Mr. Martin?

6 May this witness be excused?

7 MR. MICHAELS: We would ask that she remain on
8 subpoena for future recall.

9 MR. MARTIN: And the State would also ask that
10 she remain under subpoena for the State's subpoena.

11 THE COURT: Ms. Reeves, you're allowed --
12 you're free to go today, but you will remain under
13 subpoena subject to recall at a later time. Okay?

14 (Witness excused.)

15 THE COURT: Who's next?

16 MR. ESCOBAR: Your Honor, we have two witnesses
17 that we need to call today because one of them is
18 having some therapy tomorrow, so just two witnesses
19 today. We intended to call tomorrow, but we brought
20 them in today to get them done.

21 THE COURT: Hopefully they aren't extremely
22 lengthy.

23 Who are you calling first?

24 MR. MICHAELS: Defense calls Robert Kerr.

25 THE BAILIFF: Step this way, stand right here.

1 Face the clerk, raise your right hand to be sworn.

2 (Thereupon, the witness was duly sworn on oath.)

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

6 THE COURT: You may proceed, Counselor.

7 MR. MICHAELS: I'm going to cut to the chase
8 pretty quickly here, so I'm sure that's music to the
9 Court's ears.

10 THE COURT: Okay.

11 DIRECT EXAMINATION

12 BY MR. MICHAELS:

13 Q. Sir, please state your name.

14 A. My name is Robert Kerr, K-E-R-R.

15 Q. Okay. We will have to do -- only one of us can
16 talk at a time, so I apologize for speaking over you.

17 A. Okay.

18 Q. You anticipated my question.

19 Now, are you retired?

20 A. I am.

21 Q. From where?

22 A. City of Tampa.

23 Q. And what did do you there?

24 A. I was a supervisor at the water plant.

25 Q. You don't know Mr. Reeves at all, do you?

1 A. No.

2 Q. Now, do you remember back in 2014 going to see
3 the movie, Lone Survivor, on January 13th?

4 A. Yes, I did.

5 Q. Who did you go there with?

6 A. My wife.

7 Q. And was that at the Cobb Theater in Wesley
8 Chapel?

9 A. Yeah.

10 Q. And was that also for the matinee that you
11 went?

12 A. Yeah, probably somewhere around 1:00.

13 Q. So you like to get there early?

14 A. Typically, yeah.

15 Q. What area of the theater did you sit in? What
16 I mean by that, the lower area by the screen and there's
17 that kind of upper area?

18 A. I would say the upper area, but not the
19 CineBistro stuff.

20 Q. Okay.

21 A. Just the center section.

22 Q. Now, there's a section that kind of has a
23 railing?

24 A. We were in the first row facing the screen, on
25 the left side.

1 Q. Okay. And you're right by the railing?

2 A. Right at the railing, yeah.

3 Q. Did you get there before or after the previews
4 had started?

5 A. No, the previews -- before the preview started.

6 Q. Now, did something happen during the previews
7 that drew your attention to a part of the theater?

8 A. Yeah, I heard some --

9 MR. GARCIA: Objection as to hearsay.

10 MR. MICHAELS: I asked him if something drew
11 his attention.

12 MR. GARCIA: His response was, "I heard."

13 THE COURT: Well, he can say what he heard
14 without saying the words.

15 THE WITNESS: Yes. It wasn't a conversation.

16 MR. MICHAELS: Okay.

17 BY MR. MICHAELS:

18 Q. And was it loud enough to draw your attention?

19 A. Yeah, it drew my attention. It was voices, but
20 I couldn't hear what they were saying.

21 Q. Okay. At some point did you hear somebody
22 saying something that you could hear the words?

23 A. Yeah --

24 MR. GARCIA: Objection as to hearsay.

25 MR. MICHAELS: Judge, it's an excited

1 utterance. This is what we've discussed before.

2 It's the same statement.

3 MR. GARCIA: Judge, it's not an excited

4 utterance. I have a case directly on point.

5 If I can approach.

6 THE COURT: I am --

7 MR. MICHAELS: If I can see the case.

8 MR. GARCIA: I'll give it to you.

9 THE COURT: Hold on. It's not your typical
10 type of excited utterance. Unless the Defense has
11 one to support their position, I'm going to sustain.

12 MR. MICHAELS: Well, it's not offered for the
13 truth of the matter asserted, either. It's offered
14 for this gentleman's --

15 MR. GARCIA: Judge --

16 MR. MICHAELS: If I can finish, it's not
17 offered for this gentleman's state of mind. What
18 he's feeling, he feels startled and he looks back.

19 MR. GARCIA: Do I even need to respond to that,
20 Judge? His state of mind? Okay. I mean, the case
21 law is clear, Judge. There are no exceptions. The
22 statement is not allowed in, so I don't know if he
23 has any other questions from this witness.

24 THE COURT: He -- I don't need to hear the
25 words.