

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 XIII

CURTIS J. REEVES,

Defendant.

_____ /

PROCEEDINGS: Stand Your Ground Motion

DATE: February 27, 2017

BEFORE: The Honorable Susan Barthle
Circuit Court Judge

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

REPORTED BY: Charlene M. Eannel, RPR
Court Reporter
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INDEX OF PROCEEDINGS

PAGE

DEFENSE WITNESS

MICHAEL KNOX

Cross-Examination by Mr. Martin

1636

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

2 MR. ESCOBAR: Sorry, Your Honor. Time got away
3 from us. I think I remember where I was.

4 BY MR. ESCOBAR:

5 Q. Mr. Knox, perception distortion, what is that
6 all about?

7 A. Well, perceptual distortion is a concept that's
8 been studied in a couple of different studies where what's
9 been found is the research that had been done with police
10 officers that had been extensively interviewed following a
11 line of duty shooting, and it's been found that a large
12 percentage of them had experienced various different
13 distortions of their perception.

14 So, for example, somewhere in the over 80
15 percent mark report experiencing tunnel vision, so not
16 being able to really see anything in their periphery but
17 being able to see only in their focal vision, directly in
18 front of them.

19 Many have reported auditory exclusion, not being
20 able to hear sounds, not being able to hear, for example,
21 their own gunshots or the gunshots of other officers being
22 fired during the course of a shooting, and numbers of
23 other distortions, distortions related to time,
24 experiencing things occurring extremely slowly or
25 occurring rapidly, distortions with regard to memory and

1 memory loss, not remembering things that occurred.

2 So it's -- there's a fair body of research from
3 one professional named David Klinger, who actually did a
4 government grant study on it, and then there's another
5 police psychologist named Alexis Artwall who has,
6 likewise, studied it, and both have published on it and
7 written books about it.

8 Q. So do you use that phenomenon in your accident
9 reconstruction in dealing with the perception distortion
10 that someone seated in Seat Number 9 may be experiencing
11 during the shooting incident?

12 A. Yes. I mean, you have to give some
13 consideration to those factors, because when you're trying
14 to represent, for example, what a person can see, and,
15 obviously, you know, as I sit here right now, I have
16 peripheral vision expanding about 180 degrees, and I can
17 see way over here to my left, way off on my right and
18 everything in between, but you would certainly not have
19 the same vision if you were experiencing a tunnel vision
20 distortion at the time.

21 The same thing with auditory exclusion. There
22 may be issues related to things that somebody doesn't hear
23 and they report not hearing something, and then auditory
24 exclusion can be the explanation for that, so it's
25 certainly something that you would want to address and

1 document and factor that into your reconstruction.

2 Q. Is this something that you would address in
3 documenting questions, you know, certainly in the
4 questioning of the shooter himself?

5 A. Yes. I mean, when you're looking at those
6 different types of factors, perceptual distortion and
7 things like that, there are no diagnostic tools for that,
8 so it's not like you can give a person a task to figure
9 out what they were experiencing, but you can certainly
10 interview the person and elicit that type of information
11 from them.

12 So you can ask them questions related to that to
13 try to get some clarification of what they could see and
14 what they couldn't see, what they could hear and what they
15 couldn't hear, and what they were experiencing during the
16 course of that event.

17 The distortions don't happen just at the moment
18 that the person is pulling the trigger. It's in the time
19 leading up to it, because that's the stress of the event
20 is what's creating that.

21 Q. We're going to get to the stress in just a
22 second and fear, but is this a process that you would
23 expect a major homicide crime scene investigator to have
24 some knowledge of in order to assist in interviewing of
25 the person that's being interrogated for the shooting on

1 the issues of self-defense and what they were able to see
2 and not able to see?

3 A. Right. Certainly, the detective or the person
4 that's doing the interviewing should have some knowledge
5 of that, because they need to be able to question and
6 elicit information with regard to whether or not the
7 person was experiencing those sorts of things.

8 It's not an issue that's uncommon to law
9 enforcement. I mean, the first time I heard about
10 perceptual distortion was when I was in the basic academy
11 becoming a police officer, so it's information that should
12 be pretty readily known by most law enforcement people,
13 because one of the reasons why it's trained to police
14 officers certainly is that you need to know to expect it
15 if you're ever involved in one of these incidents; if
16 you're involved in a shooting or something, you understand
17 what's occurring, what's taking place.

18 It also factors into the training that police
19 officers receive and how that training is disseminated,
20 the firearms training in particular that's given to police
21 officers.

22 Q. If you don't ask the proper questions in order
23 to try to determine those particular factors, what are you
24 left with?

25 A. Well, you're not going to have any way of

1 assessing or knowing whether or not the individual is
2 experiencing any of that.

3 And again, when -- your purpose in documenting,
4 reconstructing, and investigating is to figure out what
5 perception that person had of the event, you know, so it
6 it's key to being able to fully construct and understand
7 what took place.

8 Q. Fear, anxiety -- how does that play a role in
9 your interview process, especially of the individual that
10 is accused of shooting?

11 MR. MARTIN: Your Honor, I'm going to object.
12 Just like the last time we went through -- I forget
13 the topic now -- perception distortion, we never
14 linked it up to the reconstruction. He's just
15 criticizing the interview process potentially, I
16 guess, of one of the officers. That's not
17 reconstruction. What we're dealing with here is not
18 what he's been qualified to do.

19 So, you know, just to say he's this omnibus
20 crime scene reconstruction, that doesn't include
21 every gamut that we've been talking about here, so
22 I'm going to object. There has not been a proper
23 predicate that -- that he's given us information, but
24 he doesn't lead it back to the reconstruction itself,
25 so there's no relevance.

1 MR. ESCOBAR: Judge, there's incredible
2 relevance. In fact, if Mr. Martin would remember,
3 his own officer, Aaron Smith, came up here and
4 testified to all of this and said, "Look, we're
5 trained yearly on this, because these particular
6 factors, fear, tunnel vision, those types of things
7 affect us as human beings when we're out there in the
8 line of duty, and if we're not able to recognize
9 those particular things, then guess what happens,
10 okay? We die."

11 So what this expert is telling you is that:
12 Listen, this is not something that some scientist is
13 coming up with. This is back from the days of the
14 academy that officers are trained day in and day out
15 on these particular factors, so that not only do they
16 use it themselves, but when there's someone else
17 involved in a shooting incident they can elicit that
18 important information that's going to tell us what
19 that person was experiencing at the time of the
20 incident.

21 Why? Because we have to determine whether that
22 person's perception was reasonable at the time of the
23 shooting, and, if you don't ask that question right
24 then and there, it's then lost forever.

25 THE COURT: All right. So the objection is that

1 he should not be asking the question?

2 MR. MARTIN: If he can't relate it back to,
3 quote, "shooting reconstruction," then we've gone
4 afar from what he was touted as an expert, and I
5 object over and over, trying to point out examples
6 how far afield we've come with Mr. Knox.

7 THE COURT: Well, somehow, Mr. Escobar has
8 indicated that other witnesses have testified to
9 this, too, so that ought to put it within his realm.

10 I'm not going to -- we can argue about it for
11 longer than it will take for him to just testify
12 about it. I'll -- I'm just going to allow it. I'll
13 have to overrule, but let's --

14 MR. ESCOBAR: This is my last area, Judge.

15 THE COURT: Okay.

16 BY MR. ESCOBAR:

17 Q. Let's talk about fear and anxiety and what you
18 have learned to use in your interviews in shooting
19 incident reconstruction.

20 A. Well, what is known -- and again, I mean, going
21 all the way back to basic academy and then the application
22 for reconstruction is that that's the whole point, is I'm
23 trying to reconstruct what took place including
24 understanding what in this case Mr. Reeves perceived.

25 So fear leads to what's known as fight or

1 flight. Basically, a person who's under a stressful event
2 where they perceive a particular threat is going to
3 respond both psychologically and physiologically to that
4 threat; your body actually undergoes certain things. You
5 go through, you know, these things that cause perceptual
6 distortion.

7 What happens, for example, with tunnel vision is
8 what you do not need to see in your periphery when you're
9 facing a threat, so your body actually diverts resources
10 away, takes oxygen and stuff away and sends to places
11 where you need it. You need to be able to see well in
12 your focal vision. You need to be able to use your large
13 muscle groups.

14 So one of the things that occurs is you lose
15 fine motor skills. We learned that through the study of
16 various different deadly force incidents including one
17 where police officers got killed and that we used to
18 operate -- when we would work the action on our firearm,
19 we used to reach up, grab it with our thumb and our
20 forefinger, and pull it back.

21 Then we stopped doing that in training. They
22 changed the training and said, "No, reach over and use
23 your whole hand and pull it back to your shoulder." The
24 reason being is they figured out that police officers were
25 having trouble being able to do it under that stress.

1 They couldn't -- they didn't have the strength
2 in their finger -- their thumb and their finger to be able
3 to grab the slide and rack it, so they wanted to use more
4 gross motor skills.

5 You know, a number of things. The days when
6 police officers used revolvers, had to use speed loaders,
7 they found they could not load under stress in an actual
8 shooting because they had to get the fine motor skills to
9 align that speed loader into the cylinder.

10 So these things evolved to the understanding of
11 what happens to a person and when you're assessing a
12 shooting incident, and this is -- we're talking about
13 reconstruction here because we are talking about -- that's
14 the whole idea of reconstruction, to figure out what took
15 place, that you need to understand to the extent that
16 those things affected the person that was shooting.

17 MR. ESCOBAR: One last question. It departs
18 from this area. This is an area I failed to cover,
19 Your Honor, that I want to just touch upon. It will
20 take me about three minutes.

21 BY MR. ESCOBAR:

22 Q. We talked about infrared being there in the
23 movie theater; is that correct?

24 A. Yes.

25 Q. Tell the Court just briefly how infrared is able

1 to capture objects within a theater like this. What is
2 the process of infrared?

3 A. Well, infrared radiation is --

4 MR. MARTIN: I give up. Are you going to let it
5 in or do you want to hear it?

6 THE COURT: Yeah --

7 MR. MARTIN: It's the same objection. I'm going
8 to object for the record. If you want to hear it,
9 you can hear it.

10 THE COURT: At this time, I'm sure there's
11 something in his CV that talks about lighting and all
12 of that, so...

13 MR. ESCOBAR: They talked about photography
14 being his expertise --

15 THE COURT: Infrared and --

16 BY MR. ESCOBAR:

17 Q. How does that happen?

18 THE COURT: Overruled.

19 THE WITNESS: Well, you're talking about it's
20 part of the electromagnetic spectrum. It's basically
21 the same as lighting except that it's in a portion of
22 a spectrum that our eyes cannot see.

23 Forensically we use infrared for several things.
24 It's used in a lot in document analysis. I use it --
25 I have an infrared-sensitive camera that I use for

1 documenting gunshot residue patterns on clothing and
2 such.

3 BY MR. ESCOBAR:

4 Q. Why do you use it for that?

5 A. Well, because what happens is because our eyes
6 don't see it but the camera can see it, sometimes you can
7 look at an article of clothing, particularly if you have
8 an article of clothing that also has blood on it, and not
9 see any type of gunshot residue, not see the powder
10 particles, but, with the infrared camera, what happens is
11 that blood reflects a considerable amount of infrared, so
12 blood becomes very light in the photograph.

13 Conversely, the gunpowder particles absorb light
14 and so they become very dark in the photograph, so I can
15 actually take -- where with my naked eye I cannot see any
16 powder particles in this clothing with blood on it, but I
17 can take photographs with an infrared camera and be able
18 to render that.

19 So what an infrared camera is basically able to
20 do is see infrared radiation and record it where our eyes
21 can't do it, so -- a lot of times, for example, these
22 surveillance cameras use infrared because they can see in
23 the dark effectively.

24 Q. So if you have a black shirt that is being
25 captured by infrared camera and you see that black shirt

1 in the screen as being bright white, how does that work?

2 A. It means that the black material is reflecting a
3 lot of infrared.

4 Again, in a forensic context, we use light
5 energy, and I testified about the light energy application
6 course I've taken. I've used it for many, many years, but
7 you use light energy specifically to be able to do things
8 like take out background.

9 So if I have a dark substance or something
10 that's on a dark material, oftentimes, if you use things
11 like infrared, the dark material, if it reflects a
12 considerable amount of infrared, it will become light, and
13 if the material you're looking for is on it does not
14 likewise reflect it, now you get contrast. Now you have
15 dark material that basically turns white.

16 Then you have other material that remains dark,
17 and now you have contrast to see something that under
18 normal light and under -- with your naked eye you're not
19 able to see.

20 Q. Does the chemical makeup that's on shirts for
21 color and what have you sometimes allow the infrared to
22 enhance that color to like a white?

23 A. Yes.

24 Q. Tell the Court how that happens.

25 A. It just means that it's reflecting a lot of

1 infrared, so an infrared-sensitive camera sees all that
2 infrared and it records it as a light color, because,
3 typically if you're doing stuff with infrared, you're
4 looking at black and white images, but it's going to
5 record a lot of light for that which will make it render
6 as -- appear to be white or very light-colored.

7 Q. Do all black objects in an infrared look white?

8 A. No.

9 Q. And, for example, this tone right here is a
10 different makeup of material than a shirt?

11 A. That's right.

12 Q. So this phone being out there in that theater
13 could possibly not look white at all?

14 A. That's correct. It just depends how much
15 infrared that material reflects.

16 Q. Especially if we're talking about the back side
17 of the phone?

18 A. Right.

19 MR. ESCOBAR: Defense would pass the witness.

20 THE COURT: Okay. Thank you.

21 Who's doing it?

22 MR. MARTIN: I am. Just giving him a moment.

23 May it please the Court, Counsel.

CROSS-EXAMINATION

BY MR. MARTIN:

Q. Good evening, Mr. Knox.

A. Good evening.

Q. Mr. Knox, I will jump around a little bit but, because I'm doing that, I'm going to tell you the topics that I want to discuss each time I move from topic to topic in fairness to you, so that you and I can be on the same page when I start asking questions.

A. All right. Thank you.

Q. One other thing I would like to start with is there was some discussion about measurements and that you, in fact, measured Mr. Reeves.

A. Correct.

Q. All right. As far as the measurements, what is the height of Mr. Reeves that you measured?

A. Let me see. Standing height that I measured for him was six feet, one inch.

Q. Do you have all the measurements now there with you?

A. I do, yes.

Q. Okay. You measured from his shoulder seam to the tip of his middle finger. What was that measurement?

A. Two feet, four and a half inches.

Q. Would that be 28.5 inches?

1 A. Yes.

2 Q. And as far as his standing height, was that with
3 or without shoes?

4 A. I believe that was without shoes.

5 Q. You then measured his shoulder seam to his
6 elbow. What was that measurment?

7 A. Ten inches.

8 Q. And then you measured the shoulder seam to his
9 wrist. What was that?

10 A. One foot, eight inches.

11 Q. Is that twenty inches?

12 A. Yes.

13 Q. And then in a seated position, and I believe you
14 explained that it was on a wooden chair --

15 A. That's right.

16 Q. -- you measured from the top of his right
17 shoulder down to the chair?

18 A. That is right.

19 Q. What was that measurment?

20 A. That was one foot, eleven inches.

21 Q. Did you measure while he was sitting in the
22 chair from the top of his head down to the chair?

23 A. No, I didn't.

24 Q. Why not?

25 A. Well, I was interested in his shoulder height

1 and stuff for positioning the firearm. That's why I was
2 measuring him.

3 Q. Let's keep going a little bit with measurements.

4 MR. MARTIN: Madam Clerk, did you mark those
5 things for me?

6 THE CLERK: I did.

7 MR. MARTIN: May I approach the clerk?

8 THE COURT: You may.

9 MR. MARTIN: May I approach the witness?

10 THE COURT: You may.

11 BY MR. MARTIN:

12 Q. Mr. Knox, I'm going to hand you what's been
13 marked for identification as State's Exhibit A, and it is
14 a series of photographs that you took at the Cobb Theater,
15 and if you'll look on right-bottom corner, you'll see a
16 number real light, like the first one is 93?

17 A. Right.

18 Q. That is your photo number on the PDFs that were
19 provided to the statement and Defense?

20 A. Okay.

21 Q. So I'm going to refer to that number so that
22 everybody can go back and look at that. Fair enough?

23 A. Fair enough, yes.

24 Q. Okay. Now, Photograph Number 93, what does that
25 depict?

1 A. That is showing the height of the seat. This
2 would be in the -- not the back row but the row ahead of
3 that.

4 Q. So your tape measure is on the floor, then, if
5 you will, that Mr. Reeves' feet would be on when he's
6 sitting in his chair?

7 A. I believe so, yes.

8 Q. All right. What's the measurment from that
9 floor up to the top of the seat?

10 A. About two feet, four inches.

11 Q. That would be 28 inches?

12 A. That is right.

13 Q. When you say, "about," why are you saying,
14 "about"?

15 A. Well, I can't quite see the four-inch mark in
16 here, so there may be fractionally higher than that, but I
17 think if we're measuring to the nearest inch, then four
18 would be correct, two feet, four inches.

19 Q. Well, during direct you explained to us how
20 important it was to be absolutely accurate. In fact, you
21 had these rulers out in your shop that were so precise,
22 you would then take your tape measures to make sure they
23 were appropriate for forensic use. Do you remember that
24 on your direct examination?

25 A. Yes.

1 Q. But the bottom line is regardless of how
2 accurate the tape measure is used, it is still subjective
3 on your part because you have to look down and determine
4 where the object ends on the tape measure that you want to
5 measure, right?

6 MR. ESCOBAR: I will object. If this is a PDF,
7 there's probably a better picture that he can refer
8 to.

9 MR. MARTIN: Well --

10 THE COURT: Overruled. This is a
11 (indiscernible) question.

12 BY MR. MARTIN:

13 Q. So you say about 28 inches?

14 A. Right, because I'm giving you to the nearest
15 inch. If you're measuring more than that, then, I mean,
16 you could get fractions of an inch, but I don't see that
17 there's any particular relevance in that.

18 Q. All right. I gave you Picture Number 94.
19 Again, it's the same picture. The reason I did that is to
20 see if it was any better. Is it still the same, 28
21 inches?

22 A. Yes.

23 Q. The next picture is -- excuse me just a second.
24 The next picture is Number 95; what does that
25 represent?

1 A. The measurement to the armrest of the seat in
2 the back row.

3 Q. All right. And we see that it aligns with the
4 bottom of the theater seat that's in the down position;
5 does it not?

6 A. Yes.

7 Q. Okay. And what is that measurement?

8 A. That would be one foot, three and a half inches.

9 Q. So we're rounding off? Are we talking
10 fifteen -- between 15 and 16 inches? Are we talking
11 sixteen inches? How do you work that?

12 MR. ESCOBAR: I'm going to object. If he wants
13 to let Mr. Knox look at his own pictures in a
14 different format -- PDF are not as high quality as,
15 for example, JPEGs, and so, you know, he may want to
16 give him another option if he wants to have those
17 precise types of numbers. Otherwise, it's unfair.

18 It's like me giving a witness a cloudy photo and
19 saying, "Well, figure it out," and somehow -- it is
20 his PDF.

21 Mr. Knox, just so the Court knows, sent him all
22 of the original photos with all the metadata and
23 everything, so --

24 MR. MARTIN: He didn't send me all the
25 originals. He sent me the metadata.

1 THE COURT: All right. I haven't heard the
2 witness say he couldn't see it. If that's the case,
3 then certainly I'll understand, but until then I'll
4 overrule.

5 BY MR. MARTIN:

6 Q. So on this particular case we're talking 15 and
7 a half to 16 inches? Is that the bracket you want to use?

8 A. Well, it's something less than 16 and something
9 more than 15. It comes to right about the midpoint
10 between them, which would be about 15 and a half.

11 Q. Okay. The next picture is 117, and you see that
12 there's a hand pushing down on the cushion. I'm assuming
13 a hand pushing down on cushion, right?

14 A. I don't see a hand pushing down on 117. 117,
15 there's --

16 Q. You see a hand, right?

17 A. No. That's a person's legs, and he's holding
18 the tape. That's Michael Ford holding the tape from the
19 steps.

20 MR. MARTIN: I might have gotten them out of
21 order. Let me see what you're looking at.

22 MR. ESCOBAR: That's what's been marked.

23 MR. MARTIN: All right. Thank you.

24 BY MR. MARTIN:

25 Q. If you'd go back to the next one, please.

1 A. Yeah. To 97?

2 Q. Yes. Let's talk about 97 now.

3 What does that measurement represent?

4 A. Well, that's the seat in the forward row, not
5 the back row, with the seat pressed down. The measurement
6 is just shy of one foot, four inches.

7 Q. Basically the same as the other picture?

8 A. Yes.

9 Q. Okay. Now, Picture 117, what does that
10 represent?

11 A. That is showing the difference in elevation
12 between the floor where the row that the Oulsons were in
13 and the floor of the row that the Reeves were in.

14 Q. Can we refer to that as the riser within the
15 theater?

16 A. That would be an accurate statement.

17 Q. What is the distance of that riser? What is the
18 height of that riser?

19 A. One foot, three inches.

20 Q. In dealing with the relationship between
21 Mr. Reeves and Mr. Oulson -- we're going to change topics.
22 I told you I'd do that, right?

23 A. Yes.

24 Q. I forgot.

25 A. No problem. Thank you.

1 Q. I believe you indicated in some generality the
2 relative position between Mr. Oulson and Mr. Reeves at the
3 time the shot was fired.

4 A. That's right.

5 Q. All right. I believe that you've indicated
6 that, at least in your opinion, the chest of Mr. Oulson or
7 the torso of Mr. Oulson was approximately one foot forward
8 from the back of his seat, forward being towards the movie
9 screen?

10 A. I'm not sure I follow your question. I'm sorry.
11 I'm not sure that I followed that.

12 Q. That's okay. It's been a long day.

13 What I'm talking about is I believe you
14 indicated that the chest of Mr. Oulson at the time he was
15 shot, in your opinion, was approximately one foot forward
16 of the interior back of his seat, forward being towards
17 the movie screen?

18 A. Yes. I think that's -- it would be something
19 like that. I would put it down to the nearest inch, but
20 it would be something like that.

21 Q. Yeah, I said "approximately."

22 A. Right.

23 Q. And I believe you also indicated that as far as
24 where the -- Mr. Oulson's hand was in relation to his
25 chest, it can't be any greater than the extent of his arm,

1 right?

2 A. That's right.

3 Q. But we know that the wound tracks from the palm
4 side -- I'm sorry -- the back side to the palm side, so
5 the arm does have to be bent?

6 A. It has to be bent some, yes.

7 Q. And you don't know exactly where that
8 Mr. Oulson's hand would be in relation to his chest
9 because it does have to be bent?

10 A. That's right.

11 Q. In dealing with relative positions of
12 individuals, we also have Mrs. Oulson, and I believe you
13 opined that wherever Mr. Oulson's hand is in front of his
14 chest, in order for one bullet to go through -- not
15 through, but make a grazing wound of his wrist and then
16 into her fourth and fifth finger and then into his chest,
17 you have opined that her hand was in between his hand and
18 his chest?

19 A. Yes.

20 Q. You don't know exactly where it was?

21 A. No.

22 Q. But it has to be there?

23 A. That's right.

24 Q. I believe there's also a discussion -- we're
25 still talking about the relative position of people, but

1 I'm going to throw the gun in in just a little bit -- you
2 indicated that the distance between the edge of the bottom
3 of the seat to the back of Mr. Oulson's seat was
4 approximately eighteen inches?

5 A. Approximately. That does depend on if the seat
6 is pressed back or not, but it's approximately that, yes.

7 Q. Well, when the seat -- if you pretend if this is
8 the back of the seat and my elbow is the pivot point,
9 where you take that measurement as far as if it's pressed
10 back, of course, up top it's going to be much further less
11 than eighteen as opposed down to the bottom?

12 A. Yes, that's correct.

13 Q. So with the seat straight up, I believe you took
14 the measurement from laying on the bottom of the seat and
15 went straight across, almost to the middle, right?

16 A. Right.

17 Q. And you indicated that that was approximately
18 eighteen inches?

19 A. Yes. I think so, yes.

20 Q. I believe that you've also opined that in your
21 opinion based on the parameters we've discussed plus
22 looking at the video, that you believe that at the time
23 the shot was fired, the end of the muzzle and Mr. Reeves'
24 pistol was approximately nine inches from the back of
25 Mr. Oulson's seat. You said you kind of split the

1 difference because he's leaning forward a little bit.
2 He's not all the way forward. Do you remember that?

3 A. Yes, I think that would be a decent
4 approximation.

5 Q. Not knowing how much time I'm going to have this
6 evening to finish this cross, I'm going to start at the --
7 where we left off and work my way backwards, okay? So as
8 I go through topics, that's what we'll be doing.

9 A. Okay.

10 Q. And you've mentioned at the very end about the
11 IR camera and that sort of thing, and I'm going to save
12 that and talk about that when we talk about earlier in
13 your direct, all right?

14 A. Correct.

15 Q. Now, one of the things -- one of the last things
16 that you talked about with Mr. Escobar, and I'm going to
17 lump these a little bit together, was perception disorder
18 and fear and anxiety. Do you remember that?

19 A. Yes.

20 Q. What you said as a shooting reconstructionist is
21 it's important for the investigator to know what
22 Mr. Reeves perceived as part of the inquiry that has to be
23 done.

24 A. Yes.

25 Q. All right. If you don't ask Mr. Reeves what he

1 perceived, then the investigator just wouldn't know,
2 right?

3 A. Yes. That's right.

4 Q. Now, you went on to say that that has to be done
5 so that you can take that information and factor that in
6 with the environment in which the shooting took place,
7 other witness testimony, and the evidence found at the
8 scene in order to do a reconstruction, right?

9 A. Yes.

10 Q. Now, are you not assuming that if that was done,
11 Mr. Reeves was truthful?

12 A. Well, yes. I mean, I think where you're going
13 is if he's related it to you, then, obviously, you have to
14 assume that what he's saying is truthful or that -- you
15 know, I think that you can consider whatever the possible
16 alternative is as well.

17 Q. And the other possible alternative is he is
18 misdirecting, lying, right?

19 A. Right, but that would be exactly why you would
20 want to get that for reconstruction, because what you're
21 looking for is does the reconstruction -- physical
22 evidence side of the reconstruction tend to support it or
23 does it not, because you may find conflicts that would
24 allow you to discern that what you are being told is not
25 truthful.

1 Q. All right. And that would be an appropriate
2 investigative technique, to go back and look at the video,
3 look at the witness testimony, to try to determine whether
4 or not the self-serving statement by Mr. Reeves to law
5 enforcement, if it was asked about his perception and
6 fears, whether or not that was his true, quote,
7 "perception" or was he trying to misdirect the officers so
8 he would be released and go home. That's what you would
9 do? You would compare all of that?

10 A. Right. You would get all the information and
11 compare it, yes.

12 Q. Now, just by asking the questions: "Well, what
13 did you perceive? What were your feelings?" There is no
14 way for the investigator, once he's doing the
15 investigation or conducting the interview of Mr. Reeves,
16 to know just by the response whether or not Mr. Reeves is
17 being truthful or if he's trying to misdirect the officer.
18 There's no way to know that on the interview process
19 itself?

20 A. Just in the interview alone, no. That's why you
21 would go back and compare it to the physical evidence, to
22 see what you can discern.

23 Q. In the same area regarding perception and fear
24 that you related in a very general fashion to the Court,
25 there's no way of knowing from one person to another when

1 that occurs, is there?

2 A. No. You mean in terms of the --

3 Q. The timing.

4 A. -- the timing that the person is giving you, no.
5 I mean, apart from what you can gather from the
6 questioning, but there's no way that you could discern any
7 of that beyond some of the factors that I talked about.

8 Q. Well -- and that's it. Some of the factors that
9 you talked about, you were providing the Court in a very
10 broad sense your knowledge of the literature that is out
11 there, but there's no way to specifically apply that to
12 Mr. Reeves as a unique individual?

13 A. There is -- no, there's no diagnostic tool to be
14 able to say exactly what he perceived or what his -- when
15 it comes to things like perception reaction time that
16 without testing with a particular individual, there would
17 be no way to know specific to him. What you're doing is
18 just getting a general parameter of what it would fit
19 into.

20 Q. So that's what you provided the Court, just
21 general information, not that Mr. Reeves acted that way?

22 A. Right, except that obviously if -- when the
23 perception reaction times for people who are in a similar
24 population in that they are police officers, trained, you
25 know, with similar training and background, can only

1 respond in a certain amount of time, and, certainly, he
2 would not be able to respond faster than that, but how
3 much slower than that, there's no way to really know.

4 Q. You don't know if he experienced tunnel vision,
5 do you?

6 A. No, no.

7 Q. You don't know whether or not the noise in the
8 theater was distracting to him personally?

9 A. No, no.

10 Q. Let me change topics. Okay?

11 A. Okay.

12 Q. Let's go to the video. I'm not sure if it was
13 video or just single TIF file, but the line of questioning
14 regarding your calculations as it relates to timing,
15 that's where I want to go to.

16 A. All right.

17 Q. What's a TIF file?

18 A. Well, a TIF file is an uncompressed image file.

19 Q. Are you familiar with the GeoVision software
20 like was used in the Cobb case for their surveillance
21 cameras?

22 A. I have some. I've had other cases with the
23 GeoVision systems in it.

24 Q. Have you read the manual?

25 A. No, I never read the manual.

1 Q. You wouldn't know without reading the manual how
2 to conduct a playback?

3 A. No, no. That's why I'm relying upon the video
4 that the FBI used, because they took the video from the
5 GeoVision format and brought it into a standard video
6 format to be played in real time.

7 Q. You would not know how a particular segment of a
8 video is exported out of it using GeoVision software,
9 would you?

10 A. Well, I have done it with GeoVision software in
11 other cases where I've been provided the proprietary
12 player and all the databases of all video, but that's not
13 my specialty as far as actually having that aspect of the
14 video.

15 Q. And you don't know when that exportation takes
16 place exactly what type of information is embedded on the
17 video before it's exported to the end user, do you?

18 A. No, I don't know what that is.

19 Q. Okay. In this particular case, are you aware of
20 the frames per second of the video recording?

21 A. I don't know what the frames per second of the
22 original video is because it's broken up. I'm working off
23 of the video provided by the FBI, and I wasn't even
24 looking at frame rate because they've put a time code on
25 it, and I saw the referencing time code that they put on

1 the video.

2 Q. What time code did the FBI put on the video?

3 A. At the bottom of the video, there's a bar where
4 they have the date and time, and there's a running time
5 code that's provided.

6 Q. And you know that the FBI put that on there?

7 A. Yes.

8 Q. How do you know that?

9 A. Well, that's the way it was represented. That
10 was disclosed to -- through discovery that came from the
11 FBI, and there's a number of different videos that have
12 that added that's not in the original video.

13 Q. And the time you're referring to -- let me just
14 give you an example. That's the first time that you
15 referred to it in your direct -- 13:26:36.436; is that the
16 time that you're referring to?

17 A. Yes.

18 Q. Okay. In making your calculations, how did you
19 calculate the time? What did you add or subtract? What
20 numbers did you use to get to 1.5 seconds?

21 A. Well, what I actually did is I laid out in a
22 spreadsheet the times, so I just numerically took --
23 because it's -- the first time code was 1326 36.346, and
24 the last one was 1326 37.846, so I just took 37.846 and
25 then subtracted back to the 36.346.

1 Q. And that's how you derived at the time?

2 A. Right.

3 Q. And it's your understanding that the numbers
4 point -- I'm just going to use the last numbers that you
5 give, .346 represents time?

6 A. Right. That's seconds and then thousandths of a
7 second.

8 Q. How do you know that?

9 A. It's a running time code. It's obvious what it
10 is, because the time code is 1:00, 26 minutes, 36.346
11 seconds. You see that type of time code on video all the
12 time.

13 Q. And did you know how GeoVision exports that
14 video out and exactly what all of those numbers mean
15 pursuant to GeoVision software?

16 A. No, because those numbers aren't even from
17 GeoVision. That's from the FBI's edition of the time
18 stamp.

19 Q. Would it surprise you to learn that, in fact,
20 you are incorrect, that .346 is simply a frame number and
21 not seconds?

22 A. No, that's not correct. That's not a frame
23 number. If it was a frame number, it would be represented
24 as a frame number. It's represented as a thousandths of a
25 second, and that's standard to any type of video stuff. I

1 do video editing, and filmmaking, and all those sorts of
2 things, and I'm used to using video-editing software.

3 I'm going to shift subjects for a moment. I
4 want to talk about the presentation that you made and
5 where I have an objection regarding the photographs
6 involving the mannequins, so this will be part of that
7 proffer, if you will, that the Judge will decide later.
8 Fair enough?

9 Q. Fair enough.

10 Now, when we talk about those particular
11 pictures, you would agree that a camera lens is not like
12 the human eye?

13 A. Right. It does not depict the same way that you
14 and I would see it. That's correct.

15 Q. In fact, humans have two eyes?

16 A. That's correct.

17 Q. And we're able to take in light not only from
18 our right but from our left, from our peripheral vision;
19 are we not?

20 A. Yes.

21 Q. And as opposed to a camera that has a very
22 focused lens, correct?

23 A. That's correct, yes.

24 Q. So when the camera captures the light in a
25 particular area, it's not the same amount of light that

1 the human eyes can take in with their peripheral vision
2 from left to right, is it?

3 A. No, it's not the same amount, though the area
4 that is represented, the lighting would be very similar to
5 what you would see. That's what I made sure of as I took
6 those photographs.

7 Q. And you indicated you made sure of that because
8 you looked at it and made a determination of that's what
9 you can see?

10 A. That's correct.

11 Q. All right. Do you have the photographs with you
12 of the times that you took a picture and that's not what
13 you saw?

14 A. No, I don't have those photographs. What I
15 photographed --

16 Q. Why not?

17 A. -- was to be a good representation of what I
18 saw.

19 Q. So you threw away those photographs?

20 A. No, I didn't throw them away, but the fact of
21 the matter is what I was trying to do was represent what I
22 could see, and any photograph that doesn't represent that
23 would not be it -- would be misleading. It would not
24 represent what the lighting conditions were that I could
25 see.

1 Q. Well, the reason I bring this to your
2 attention -- because during the time in which you were
3 discussing measurements and everything had to be so
4 accurate, and that what you said was it has to be
5 repeatable, that another person can look at it and can
6 come to the same conclusion regarding the measurement that
7 you did. Do you remember that line of testimony?

8 A. Exactly, yes.

9 Q. Now, by throwing those pictures away that in
10 your mind didn't represent what you saw, we can't repeat
11 that experiment. We cannot look at the photographs that
12 you threw away and say, "No, maybe I don't agree with
13 Mr. Knox."

14 A. No.

15 Q. You've deprived us of that opportunity --

16 A. No.

17 Q. -- to evaluate your perspective on that
18 particular day, haven't you?

19 A. No, absolutely not. That's a complete
20 misrepresentation of what's --

21 Q. Do you have the photographs?

22 A. That's completely --

23 MR. ESCOBAR: Your Honor, I will object. He
24 interrupted the answer, and he needs to let him
25 finish his answer.

1 MR. MARTIN: Mr. Escobar, just can I ask the
2 question?

3 MR. ESCOBAR: Can he finish the answer first,
4 and then you can ask the other question?

5 THE COURT: Stop. Let him finish the answer and
6 then you can ask.

7 THE WITNESS: No, that is a complete
8 misrepresentation. It has nothing to do with
9 repeatability. If you want to repeat it, you go do
10 it.

11 I gave you the photographs. I gave you the
12 metadata. You have the JPEGs. I turned those over,
13 too, and you can have all of metadata, you know, all
14 the camera settings that were used. You have the
15 measurements that you questioned me about in the
16 deposition, so you certainly have the ability to
17 repeat that, but part of repeatability is you do not
18 maintain misleading data.

19 If I were to take a bunch of measurements and
20 one of them was wrong and I wrote it down wrong, I'm
21 not going to sit there and say, Oh, let me give him
22 all the measurements that I wrote down wrong.

23 I'm going to correct the measurements and give
24 you the correct measurements, and that's the same
25 thing that I'm doing here. I'm giving you the

1 photographs that correctly represent what I could
2 see.

3 BY MR. MARTIN:

4 Q. Why in the world would you do that?

5 A. Well, of course that's what I would do, because
6 the point is that I don't want to mislead by providing you
7 a bunch of information that is incorrect or inaccurate.
8 I'm providing you the information that represents what it
9 is that I was able to see when I took those photographs.

10 Q. So by not providing us with the information that
11 you incorrectly obtained or in your opinion you didn't
12 feel accurately represented the lighting, you denied us
13 the opportunity to judge your credibility and your ability
14 to determine what the light source is, haven't you?

15 MR. ESCOBAR: Judge, I'm going to object. I
16 think he's badgering the witness, and he's doing just
17 the opposite. The fact that he's saying, "Hey,
18 listen, I'm providing the Court with what I believe
19 to be now accurate," he's saying that somehow that's
20 doing just the opposite. It's -- it's a circular
21 argument that has no rational basis to it.

22 MR. MARTIN: It's not circular. How are we
23 going to judge the credibility of this witness when
24 he destroys evidence and which we can turn around and
25 make a determination for ourselves whether or not

1 he's a credible witness or not? He's denied us that
2 opportunity, and I have a right to go into that on
3 cross so this Court can make a determination whether
4 or not you're going to believe or not believe this
5 witness.

6 THE COURT: I will allow you to go into it.

7 BY MR. MARTIN:

8 Q. A moment ago I asked the question one more time
9 and I'm going to move on.

10 We don't have those pictures, do we?

11 A. Yeah. No, you don't have them. You could
12 repeat them at any time by sending law enforcement out
13 there to do that job that they probably should have done
14 from the start.

15 Q. But I could not repeat what you saw and threw
16 away, could I?

17 A. Of course you can. You can repeat what I did
18 because I gave you the photographs that represent what I
19 could see, so it's completely repeatable, and you can go
20 do that at any time with any competent forensic
21 photographer and be able to make those own photographs.

22 Q. I'm still on the proffer area dealing with those
23 mannequins.

24 The pictures that we saw, you indicated that you
25 took that camera and you put it in front of your face,

1 right?

2 A. That's right.

3 Q. But as you pointed out, you did not take the
4 measurement of Mr. Reeves while he was sitting in that
5 wooden chair, from that chair up to the top of his head so
6 you could determine approximately what his eye level was
7 in that particular situation, right? You didn't do that?

8 A. That's correct. It is set to my eye level
9 sitting in the seat.

10 Q. And you're much shorter than Mr. Reeves; are you
11 not?

12 A. Yes, I am.

13 Q. So when we talk about how accurate you want to
14 be and for this repeatability so that you don't mislead
15 the Court, you used your own body height in order to
16 produce what we saw and never attempted to reproduce it
17 with the height of Mr. Reeves, correct?

18 A. That is correct, because as I explained earlier,
19 I was not trying to represent what Mr. Reeves could see.
20 I was representing what I could see as I went through this
21 testing and moving the mannequins in different locations.

22 Q. But the difference in his height will make a
23 difference as to what is perceived by at least that camera
24 as you moved the mannequins around, because it's at a
25 different angle and a different perception; is it not?

1 A. Well, here's -- the problem is this, that
2 Mr. Reeves is not even visible in the seat at the time
3 that he -- right before he makes the shot. So I don't
4 even know what his eye level would be, because if I
5 measure him and do it at his eye level, I'm assuming he's
6 sitting straight up in the seat, but the video contradicts
7 that.

8 So I don't know what eye level to use other than
9 my own, and the fact is that whether you raise the eye
10 level a few inches higher or a few inches lower, it will
11 make a negligible difference. The outcome would still be
12 the same.

13 Q. But it wouldn't be accurate for Mr. Reeves,
14 would it?

15 A. But, again, I was not representing what
16 Mr. Reeves saw. I can't do that. There's no way for me
17 to replicate what he saw. He will have to explain that.

18 Q. I'm going to shift to stippling.

19 There was some discussion about the stippling on
20 Mr. Oulson's hand. That's what I want to concentrate on,
21 not Mrs. Oulson, correct?

22 A. Right.

23 Q. You opined that there was a distance of twelve
24 inches from muzzle to target, that being the final
25 discussion. You were referring to the target of the wrist

1 of Mr. Oulson?

2 A. That's right.

3 Q. There was a discussion about the lack of
4 stippling from the knuckles forward. Do you remember
5 that?

6 A. Yes.

7 Q. At the time that Mr. Oulson was shot, you have
8 no way of knowing the configuration of his hand at the
9 time of the shot other than the fact it was in front of
10 the muzzle of the gun, right?

11 A. Well, I don't know what you mean by
12 configuration of his hand.

13 Q. It's not in a fist.

14 A. Right.

15 Q. You can't tell us it's in a fist, can you?

16 A. No.

17 MR. ESCOBAR: Judge, I'm going to object. He's
18 yelling at the witness. If I would have done that,
19 he would have been probably --

20 MR. MARTIN: He --

21 MR. ESCOBAR: He is yelling at the witness and
22 it's inappropriate.

23 THE COURT: All right. Thank you. Bring it
24 down, please.

25 THE WITNESS: I have not represented that his

1 hand was in a fist. All I said was that the absence
2 of any stippling on the fingers indicated that the
3 fingers are not exposed straight out like this, so
4 that could be a number of different configurations.

5 BY MR. MARTIN:

6 Q. And one of the configurations could be that
7 where the hand is, there was a little bit of an angle so
8 the cone is not a perfect circle, but it's obtuse or
9 oblong, right?

10 A. Right. That's correct.

11 Q. And another possibility is that the muzzle was
12 at such as distance where the cone didn't go past the
13 knuckles, correct?

14 A. That's possible, yes.

15 Q. I'm going to shift topics to the discussion
16 about the pistols and the black holster.

17 MR. MARTIN: Judge, with your permission, I
18 would like to remove my jacket and use the chair for
19 the next couple of minutes since I discussed this
20 issue with Mr. Knox. Would that be acceptable to the
21 Court?

22 MR. ESCOBAR: I don't have any objection.

23 THE COURT: Thank you.

24 MR. MARTIN: You'll go through over here so
25 you're not looking through the court reporter. Okay?

1 Oh, wait a minute -- a minute.

2 BY MR. MARTIN:

3 Q. Now, Mr. Knox, I believe your preference is an
4 ankle holster as opposed to the pocket holster, correct?

5 A. That's right.

6 Q. Did you carry a pocket holster before?

7 A. I have not, no.

8 Q. So when you had this discussion with Mr. Escobar
9 about the black holster in connection with the gun, you
10 talked about how the gun is designed so it's -- it will
11 not snag as easy or not at all as it's withdrawn from the
12 pocket, right?

13 A. Right.

14 Q. And the purpose of the pocket holster itself is
15 even to reduce that even further; is it not?

16 A. That's correct.

17 Q. So when you have a pistol and a pocket holster
18 and it is in's your pocket, the gun is actually inserted
19 into the pocket holster, and that texture that you were
20 attempting to describe is such that it clings to the
21 pocket of the pants, right?

22 MR. ESCOBAR: Your Honor, I'm going to object.

23 Improper predicate for that opinion. I mean, how in
24 the world can he now opine that the actual material
25 of the holster has some, I guess, abrasive

1 characteristic with the inside of the pocket when, in
2 fact, the inside of the pocket --

3 MR. MARTIN: Let me just --

4 THE COURT: Lay a foundation, please.

5 BY MR. MARTIN:

6 Q. The whole purpose of a pocket holster is when
7 you draw the gun, the gun comes out freely, right?

8 A. That would be the purpose of it, yes.

9 Q. And the design of the pocket holster is such
10 that when you pull the gun out, the pocket holster doesn't
11 come with it, so you're sticking a gun out with a pocket
12 holster on the end, right?

13 A. That would be correct, yes.

14 Q. So there has to be some function of the pocket
15 holster to make it stay in a pocket, right? I mean,
16 you're an officer. You handle guns, so you know.

17 A. I don't have familiarity with those. I never
18 used one of those type of holsters. I can't really speak
19 to exactly what happens, but the general premise that
20 you're laying out, the idea is that you pull it out and
21 the pocket holster stays in the pocket. That is what's
22 intended. Now, whether or not that happened with this one
23 or not, I can't answer that question.

24 Q. Now, in order to remove -- if I was standing
25 there, in order to remove a pistol that is in my pocket

1 with a pocket holster, all I have to do is take my right
2 hand if it was that pocket, reach in, hopefully keep my
3 finger off the trigger, grab the grip and pull it out,
4 right? You see, right? This is the way it works?

5 A. Yes. That's the general premise, right.

6 Q. All right. Now, when you sit in a chair and
7 whether you're all the way back or you're leaning forward,
8 in order to get your hand in the pocket, would you not
9 agree it's a little more difficult if not impossible?

10 MR. ESCOBAR: Objection, Your Honor. Improper
11 predicate.

12 MR. MARTIN: That's not improper predicate.

13 MR. ESCOBAR: He said impossible. He said
14 impossible. It's improper predicate.

15 THE COURT: It's not impossible is what he said.

16 He's looking at him. It's almost a layman
17 question, I would think, under the circumstances.
18 Overruled.

19 MR. MARTIN: All right.

20 BY MR. MARTIN:

21 Q. So when he's sitting in a chair, and you have a
22 pistol in your pocket and you want to withdraw, it is with
23 more difficulty than when one is standing, correct?

24 A. I think that the general premise is sound, but I
25 can't -- I don't have experience with that to be able to

1 affirm that, in fact, that's correct, but I think the
2 general practice is --

3 Q. Have you ever had car keys in your pocket and
4 you want to reach in and try to get them and you're
5 fighting with your pants pocket as you're sitting here in
6 a ninety-degree angle?

7 A. Yes.

8 Q. Same thing, isn't it?

9 A. I won't say the same thing, but yes. Again, the
10 general premise of what you're describing I think is
11 sound, but I can't speak to whether or not it was more
12 difficult for this particular pistol to be pulled out
13 sitting or standing. I don't know the answer to that.

14 Q. And when you're reaching in the pocket, if you
15 remain in this position, you're going to have the same
16 problem as you went into the pocket as coming out, just
17 like you're trying to get your car keys out of your pants
18 pocket if you are sitting upright with a ninety degree.

19 A. Yeah, I think the general premise is sound, but
20 I have never tested that.

21 Q. Now, in order to more readily remove an item
22 from a pocket when you're sitting in this position is you
23 lean a little bit over on your buttock, stretch your leg
24 out so it mimics like you're standing up, but you're in
25 the chair, right? That would reduce and make it easier to

1 get the gun out of the pocket; would it not?

2 A. It --

3 Q. It's just like you're standing up, right?

4 A. Again, I think the general premise, yes, I think
5 it would probably make it easier, but, then again, I never
6 tested that.

7 Q. And once you removed that item, in this
8 particular case a gun, if you leave this leg sticking out,
9 your range of motion leaning over is restricted by this
10 leg being out in front; is it not (indicating)? Try it.

11 A. Yes. I mean in that -- yes, it's going to stop
12 you from rocking in a certain point, yes. So if you're
13 moving forward, then, obviously, if your leg is back,
14 you're going to be able to continue to go forward at some
15 point and the leg being out will restrict it.

16 Q. All right. So if you bring the leg back, then
17 you have a further range of motion so you can actually
18 lean further forward, right? Just like you just said.

19 A. I think so. Again, I have not really tested it,
20 but it seems like a sound premise.

21 Q. Okay. That's what we saw in the video -- did we
22 not? -- with Mr. Reeves leaning all the way forward,
23 pressing that gun straight forward in the video? Didn't
24 we see that?

25 A. Well, I won't agree, because you had your arm

1 extended fully out. I don't think the video represents
2 that his arm was fully extended when the firearm was
3 fired. His arm was still bent a little bit.

4 Q. I agree. My question is he pressed forward, the
5 gun was fired right at the frame before we lose, and it --
6 it's continuing pressing forward after he fires and he
7 leans back, correct?

8 A. I think so, yes.

9 Q. That seat height is 28 inches, right?

10 A. That's right, yes.

11 Q. Okay.

12 MR. MARTIN: Thank you, Your Honor.

13 BY MR. MARTIN:

14 Q. Now, the discussion about the ammo, correct?

15 A. Yes.

16 Q. All right. This is Corbon.

17 A. Corbon, yes.

18 Q. Corbon, Corbon, Corbon. Okay. All right.

19 You explained to us that it is ejectable with a
20 hole in the tip in the center with some type of substance
21 in it that through testing by the manufacturers reduces
22 penetration, in a nutshell. That was your testimony,
23 right?

24 A. Yes.

25 Q. Mr. Escobar said, "So it has a safety feature,

1 right?" That's what he said. Do you remember that?

2 A. Yes.

3 Q. And you said, "Yeah," right?

4 A. The point is to not over-penetrate and end up
5 hurting somebody behind the person who's been shot.

6 Q. All right. We have a shooting in a theater,
7 right?

8 A. Right.

9 Q. What if he missed? There is no safety feature
10 there, is there?

11 A. No. Definitely not.

12 Q. Thank you.

13 I want to go to another topic about where his
14 arm is in relation to the chair. All right?

15 You indicated that you took a measurement from
16 the floor to the top of the armrest and indicated that his
17 arm resting on that can't be any lower than that because
18 the armrest is a fixed object. Do you remember that?

19 A. That's correct.

20 Q. There is enough room in that seat, is there not,
21 for your arms to be inside that armrest, right?

22 A. That's correct.

23 Q. All right. But what we do know from your
24 shooting reconstruction is that wherever Mr. Reeves' arm
25 was, and as you indicated that you looked at the video

1 when he was leaning forward and pressing straight across,
2 that bullet had to go over the top of that seat which is
3 28 inches?

4 A. That's correct.

5 MR. MARTIN: With the Court's permission, may I
6 conduct my direct from here?

7 THE COURT: You may.

8 MR. MARTIN: I promise I won't yell. Okay?

9 THE WITNESS: I appreciate that.

10 MR. MARTIN: All right.

11 BY MR. MARTIN:

12 Q. Mr. Escobar set this shoe up there. He wanted
13 to talk about what you were attempting to do at the Cobb
14 Theater as far as infrared light?

15 A. That's right.

16 Q. All right. And you explained that, well,
17 there's some material down here that is somewhat
18 reflective and then there's some on the side, correct?

19 A. That's right.

20 Q. And there is some on the outside of the shoe
21 which is the -- it could be -- what are these? That's not
22 Nike, is it? So I won't call it Nike swoosh, but it's a V
23 shape?

24 A. Right.

25 Q. Now, he asked you when you looked at the video,

1 did you see these individual V shapes in the video? Do
2 you remember that?

3 A. Yes.

4 Q. And you said you did not?

5 A. That's correct.

6 Q. And that's what you would expect to see, right?

7 A. Well, all I can say is I don't see them in the
8 video.

9 Q. All right.

10 A. That doesn't show up, so there's nothing
11 definitive to be able to say that's the shoes that you see
12 in the video.

13 Q. But you would expect to see those shapes in the
14 video because that's -- based on your training and
15 experience, that's what you'd be looking for if it's his
16 shoe? You would want to be able to see these three marks,
17 right?

18 A. I would be looking for that, yes.

19 Q. Because that's what you would expect to see.
20 When an IR camera hit this material, you want to see
21 those. That way you can see it's his shoe. That's what
22 you would be looking for, right?

23 A. Right. That's the protruding reflection and
24 that's what I would be looking for, yes.

25 Q. All right. The same with these white marks on

1 the back. You would be looking for a thin white line in
2 that video to confirm whether or not -- or at least
3 corroborate whether or not that's a shoe that you're
4 seeing, right?

5 A. Right. That's what I would be looking for, yes.

6 Q. Do you know whether or not that reflective
7 material actually reacts to infrared light?

8 A. No, that was part of what we were going to ask,
9 because it's not even a matter of infrared, but the
10 particular infrared with that camera; does that camera see
11 it is what I was interested in.

12 Q. But infrared is infrared. That's an infrared
13 LED camera?

14 A. Different cameras read different spectrum,
15 different wave length, different spectrums. You can't
16 take one camera and then say, Well, I see it on this IR
17 camera so, therefore, it would be visible on others. The
18 spectrum could be different on a different camera.

19 Q. What's your basis or source of information that
20 an infrared LED camera which was up in Cobb Theater, that
21 infrared that's being omitted, is any different than any
22 other infrared camera that's being marketed in the United
23 States?

24 A. It has nothing to do with admission. It has to
25 do with what the camera sensitivity is.

1 Every IR camera out there has a specific
2 spectrum of IR that that particular camera is sensitive
3 to, and it's not the same as every other camera, so it
4 would have to be tested individually with that camera.

5 Q. What is that spectrum? What's the broad range?

6 A. Well, IR is basically above 700 nanometers,
7 so --

8 Q. Uh-huh.

9 A. -- but that range can vary because you have some
10 that the infrared --

11 Q. What's the range?

12 A. -- sensitivity --

13 MR. ESCOBAR: Judge, I'm going to object. Every
14 time he's trying to answer, he's getting in and
15 interrupting. It's getting to the point of being
16 very rude. I didn't do that to any of his particular
17 officers when they came. He needs to allow him --

18 THE COURT: The objection is noted.

19 Let him answer.

20 THE WITNESS: You could have a range dropping
21 down into the upper 600-nanometer range that goes all
22 the way up to the lower 800-nanometer range, but it
23 can vary. Some may have sensitivity in a much
24 smaller range than others.

25 IR film, for example, had a wider range of

1 sensitivity than digital sensors have, so it's unique
2 to that particular camera and sensor combination.

3 BY MR. MARTIN:

4 Q. What would be the discernible difference in
5 those ranges?

6 A. It just depends, because if the reflectance is
7 in a particular range that happens to fall outside of what
8 one camera can see but falls within the range that another
9 camera can see, then one camera may actually pick up a
10 greater degree of reflectives of IR than another one does.

11 Q. In looking at the various videos that are
12 introduced that were either produced by Webtech or
13 produced by the FBI, you saw Mr. Reeves walking around and
14 the reflectivity of his shoes in various scenes; did you
15 not?

16 A. Yes.

17 Q. And that includes under IR conditions and also
18 natural light, correct?

19 A. That's correct.

20 Q. All right. And there's no question that his
21 shoe will reflect in IR light within the theater, correct?

22 A. That's correct. There were reflections that's
23 showed up at certain points, yes.

24 Q. Okay. So whether that IR camera up there, if we
25 assume it's at the very lowest level ever, it picks it up,

1 right?

2 A. Right, it did. In certain positions it did,
3 yes.

4 Q. All right. So you're telling me that regardless
5 of what camera you would attempt to use, that you cannot
6 discern whether or not that material reflects to IR light
7 unless you have exactly that camera up there; is that what
8 you're telling me?

9 A. That's not what I'm doing. I'm not looking at
10 whether or not it reflects IR. It's a matter of whether
11 or not the camera that's recording it would record what's
12 reflected, but that can vary from camera to camera, but,
13 again, the camera in the theater does pick up some
14 reflection from the shoes so it does pick it up.

15 Q. And whatever recorded would be what you would
16 expect to see in the recording; you would want to see
17 these V shapes so you can say it's this shoe?

18 A. If you saw the matching shape to that, then you
19 would certainly be able to identify that as being the
20 source.

21 Q. The same as the lines on the back?

22 A. That's correct.

23 Q. All right.

24 Did you make any attempt to determine whether or
25 not this shoe is reflective with IR LED lights regardless

1 of the range, just whether or not the material itself is
2 reflective?

3 A. No.

4 Q. You just assumed it was reflected because it was
5 in the theater where there was an IR camera?

6 A. Well, I haven't assumed that it's reflective. I
7 wasn't able to do the testing that I was looking to do.

8 Q. All right.

9 A. It's not a matter of whether or not it's
10 reflective. I think in terms of the video it is -- that I
11 think is shown, and that some of the frames of the video,
12 not necessarily at the time of the shooting, but what I
13 was trying to test is the other time when it shows up
14 where there was a question between it's a shoe or some
15 other object, whether we could confirm if it is, in fact,
16 the shoe or, if it is, in fact, something else.

17 Q. And the way you would do that, like Mr. Escobar
18 wanted, you would -- you would look for those exact three
19 marks; if you saw those three marks, that would be
20 corroboration for you of the shoe?

21 A. No, no, no. That's not what I testified,
22 because that's not how I described it on direct.

23 What I would do is try to duplicate, so the
24 issue is could it be the shoe being moved, okay? Then we
25 put the shoe in the scene. We shoot surveillance video

1 from the surveillance system of the shoe being moved, and
2 we see what's shown. We see the reflection matching that.

3 If we move the shoe in various positions and
4 then we compare that video to what's seen on the actual
5 video to see if there is some matching of those two between
6 the known sample that we created and the unknown sample
7 that's created from the actual video, it may not
8 necessarily match the particular marks, but what I'm
9 trying to see is when we do it under known conditions,
10 does that match with actual surveillance video.

11 Q. Why would the mark show up any differently in
12 the theater than if you did it at your lab or in your
13 house? The marks are marks, right?

14 A. You're completely misunderstanding what I'm
15 talking about here. What I'm talking about is not kind of
16 matching those marks but trying to duplicate what's on the
17 video.

18 Q. Right.

19 A. Because the video is -- it's a unique system.
20 The camera positioning is unique. What the camera sees is
21 unique. The lighting in the theater is unique, so I'm
22 trying to match whether or not what is displayed in the
23 actual surveillance matches with what would be done in a
24 known sample of recreating it, but we were not able to do
25 that because the video system had been changed.

1 Q. But your answer to Mr. Escobar was that you did
2 not see those V-shaped marks.

3 A. That's correct. I did not see those.

4 Q. But that's what you would expect to see?

5 A. What I would expect to see is that -- if I saw
6 that, it would be confirmation that it was likely from the
7 shoe because that's -- you would be able to match the
8 pattern of the image, but that's not what I'm testing for.

9 If I could see that when I tested it, then it
10 would tell me something about it, but I'm not expecting
11 that that's necessarily what I'm going to find.

12 Q. Different area. I want to talk about the --
13 your discussion with Mr. Escobar regarding witness
14 contamination.

15 There was some discussion about the concept of
16 witness contamination?

17 A. Right.

18 Q. Other than the very broad representation that
19 people were talking, you don't have any information from
20 any witness that what I heard or saw is what I wrote down
21 or what I've testified to, do you?

22 Why are you looking over at Mr. Escobar?

23 A. I'm not looking at Mr. Escobar. Mr. Escobar is
24 writing.

25 Q. Do you want me to stand over here so you can

1 see?

2 A. I'm not looking at Mr. Escobar.

3 Q. That's where your eyes went.

4 THE WITNESS: No, sir.

5 MR. ESCOBAR: These antics are beyond --

6 THE COURT: Come on.

7 THE WITNESS: I looked up toward the ceiling
8 because I'm thinking. I'm making recollection. If
9 you're familiar with recollection, in fact, if you
10 recall, eyes tend to go up when you're making
11 recollection.

12 MR. MARTIN: I forgot that.

13 BY MR. MARTIN:

14 Q. What I'm looking at is the fact that there are
15 no specific statements where anybody came out and said
16 that, in fact, they had been contaminated, but there are
17 some issues such as statements where two people together,
18 they've turned in identical written statements that
19 obviously were done by one of the two people writing.

20 MR. ESCOBAR: Written in the same handwriting,
21 for goodness sake.

22 THE WITNESS: Exactly. Exactly. So to say I
23 think that --

24 BY MR. MARTIN:

25

1 Q. I don't know --

2 A. -- absolutely there is no evidence would be
3 inaccurate, but I think to the extent that you're saying
4 can I point to a statement and say this person has said:
5 No, that I was told this, I didn't really remember, no, I
6 didn't have anything of that nature.

7 Q. All right. Do you know how those two statements
8 came about?

9 A. I don't know all the specifics of it.

10 Q. Do you know whether or not one person said to
11 the other person, "Just write down what you did and we got
12 to get out of here"?

13 A. No, I don't know.

14 Q. Right?

15 A. Right.

16 Q. What we do know from the interview process and
17 the witnesses that were involved that because the
18 witnesses involved were not participants in the crime and
19 subject to potential arrest, they surely were not
20 self-serving statements, were they?

21 A. I don't believe they would be, no.

22 Q. But that would be the case for Mr. Reeves. He
23 sits in a much different light than the witnesses that
24 were interviewed on that day?

25 A. Yes, he does.

1 Q. He was sitting in the cruiser, handcuffed?

2 A. That's right.

3 Q. So when we're looking at trying to do this
4 reconstruction and what we're going to consider, what we
5 know absolutely is that Mr. Reeves, who was the subject of
6 the investigation, sitting in a cruiser with handcuffs,
7 his statements would be self-serving as opposed to the
8 witnesses in the theater, right? That we do know.

9 A. Well, I wouldn't-- I'm not going to characterize
10 it as self-serving. I mean, first, I think about
11 self-serving, you're using a legal term. I'm not a
12 lawyer. I'm not using a legal term, but, moreover, you
13 don't know that.

14 I mean, he could tell you something about the
15 shooting that becomes incriminating. I mean, that's part
16 of when you're interviewing people, the idea of when
17 you're interviewing anybody in any potential criminal case
18 is that you're looking for them to confess to things, so
19 it's not necessarily self-serving.

20 It's just -- you know, obviously, he's relating
21 something about what he did and that may be self-serving,
22 but I'm not going to characterize it that way necessarily.

23 Q. When we talk about how do we decide -- how is
24 this Judge going to say, "Okay, I'm going to believe this.
25 I'm going to look at the evidence here, and I'm going to

1 believe this," because your discussion with Mr. Escobar
2 was that there was witness contamination and what's in
3 their head, then we can't believe any of them.

4 Do you remember that conversation?

5 A. Yes.

6 Q. So if we have the witnesses that can't be
7 believed, we have Mr. Reeves' -- that because he's sitting
8 in a cruiser with handcuffs -- self-serving statement, and
9 then over here we have evidence that according to Mr.
10 Escobar should have been processed right there on the
11 dirty floor, what do we rely on?

12 MR. ESCOBAR: Improper predicate for that
13 opinion. I mean, here he is describing anything that
14 an accused says as self-serving. I mean, we do have
15 presumption of innocence in this country, and, as the
16 witness has testified, if you were to just presume
17 that everything that an individual who's accused of,
18 anything that he says is self-serving, we'd be in
19 trouble, because then let's not talk to them because
20 everything that this person says is self-serving.

21 This person can't give an opinion like that.
22 There is no proper predicate for what he's trying to
23 elicit. You know, I gave him a little bit of leeway,
24 but this is really outrageous type of
25 cross-examination.

1 Thank God for presumption of innocence as well.

2 THE COURT: Response?

3 MR. MARTIN: This has nothing to do with the
4 Constitutional presumption of innocence. This has to
5 do with his reconstruction and what we're going to
6 rely on. It has nothing do with whether or not
7 Mr. Reeves sits there and is presumed innocent.
8 Absolutely. He sits there presumed innocent, and I
9 would never say anything different.

10 I'm not talking about that. I'm talking about
11 what he wants you to rely on, and he wants you to
12 throw out the witness statements and believe
13 Mr. Reeves. I have a right to go through the fallacy
14 in that argument, and I believe I should be allowed
15 latitude in order to go into that.

16 MR. ESCOBAR: Judge, he doesn't want you to
17 throw out anything. He's the one that's doing the
18 questioning with that, but let's just think of it.
19 The reason that people are wrongly accused many times
20 in this country is for that very reason.

21 When the police officer immediately is going to
22 accuse someone and he's immediately going to presume
23 that whatever that person says is self-serving, guess
24 what? You can't believe it. That's where the
25 problems in our system of justice happen right before

1 someone is charged with an information, and so how is
2 this person at this point in time, how is this person
3 going to be able to answer that particular question?
4 It's preposterous.

5 THE COURT: I've forgotten what the question
6 was. That happens every time we have ten minutes of
7 argument over, you know, a question that wasn't even
8 answered yet or -- all right. So you were asking
9 him --

10 MR. MARTIN: Judge, it's late. May I start
11 over, and then we'll just go forth and if there's a
12 problem, we will deal with it?

13 THE COURT: And can we please just keep our
14 objections and responses to a lawful objection? I
15 don't need a whole lot of discussion at this point.
16 Just tell me what you're objecting to, lawful basis.
17 I'm a big girl. I can figure it out usually. If
18 not, I'll ask for more clarification.

19 I don't want to have a ten-minute discussion on
20 collateral issue at this point. It doesn't do me any
21 good. I'm the trier of fact. I can't -- you know, I
22 need to know -- I can't have all this banter back and
23 forth.

24 Thank you.

25 MR. MARTIN: Change the topic?

1 THE COURT: Go ahead.

2 BY MR. MARTIN:

3 Q. I want to talk about the collection of the
4 video.

5 A. Okay.

6 Q. There is some discussion with Mr. Escobar about
7 the process that was utilized at Cobb Theater.

8 One of the things that Mr. Escobar indicated
9 was -- and you discussed was the quality of the video at
10 Cobb Theater, right?

11 A. That's right.

12 Q. You did not know the purpose that Cobb Theater
13 put those cameras in, did you?

14 A. No.

15 Q. You do not know exactly where the cameras in the
16 theater were pointed?

17 A. That's correct.

18 Q. What the interest was, right?

19 A. That is correct.

20 Q. You would agree with me that Cobb did not put
21 those cameras in for the purposes of law enforcement?

22 A. I doubt that was their purpose.

23 Q. It was for their own business model?

24 A. I'm certain that that's the case.

25 Q. And whatever settings those videos were at, to

1 record for whatever purpose, to save space, to do whatever
2 on the hard drive, whatever their legitimate reason as a
3 business was, they didn't have to get with law enforcement
4 in order to make those settings and say, "We're going to
5 do it this way. Is that okay with you?" Right?

6 A. That's correct, right.

7 Q. The quality of the videos, would you not agree,
8 is not associated with the collection process, but it's
9 the manner in which Cobb Theater wanted to use their
10 videos?

11 A. That's correct, yes.

12 Q. New topic: You and Mr. Escobar had a discussion
13 about interviewing the -- I'm sorry -- interviewing
14 Mr. Reeves and how important it was, according to
15 Mr. Escobar's question, that the officers delve into the
16 perceptions of Mr. Reeves at the time of the event.

17 Do you remember that line of questioning?

18 A. Yes.

19 Q. You indicated that, yeah, you can ask Mr. Reeves
20 what his perceptions were, right?

21 A. Yes.

22 Q. Now, as a trained investigator, you would not
23 take those statements at face value, would you?

24 A. No, no. I think on direct I talked about that,
25 that part of the purpose of eliciting that information was

1 to test it in your reconstruction to see whether or not it
2 corresponds with what you find or if you find something
3 that shows that it's conflicting with your reconstruction.

4 Q. And if you find it is conflicting, then at least
5 on that point the person being interviewed who gave the
6 conflicting testimony, I won't say would be wrong, but we
7 really don't know his motive, do we?

8 A. No, but I think what you are getting at,
9 obviously, if it's -- if the person says something and the
10 physical evidence says something different, then the next
11 step would be to try to evaluate it, you know, whether
12 it's a person being dishonest or whether it's a person
13 that's -- recollection is simply faulty, that's not
14 uncommon in shooting cases.

15 Q. And there's no way to tell that during the
16 initial interview, right, whether or not someone is
17 misdirecting law enforcement or being truthful in that
18 self-serving statement?

19 A. Not always. I won't say there's no way.
20 Sometimes you can, but there are cases where you're not
21 going to know that initially until you do some follow-up
22 testing.

23 Q. Have you been presented any type of facts prior
24 to coming into the courtroom that any of the witnesses,
25 patrons, if you will, in Theater 10 had a motive to lie

1 about what they said?

2 MR. ESCOBAR: Objection, Your Honor. Hearsay.

3 How can he -- how can he at this point in time
4 be talking about some witness in his interpretation?
5 It's improper predicate for that opinion. It's
6 whether they had a motive to lie. That's what he's
7 asking, improper lay opinion. It can't be an expert
8 opinion.

9 MR. MARTIN: Ask him if this particular witness
10 has a motive to lie. I asked him because we were
11 talking about witness contamination, and the issues
12 that they brought up with the witnesses that there's
13 been no information provided about any one of the
14 patrons having a motive or bias in that particular
15 event to lie about what they said.

16 They're not an employee. They're a patron.

17 THE COURT: Sustained.

18 MR. MARTIN: May I just have a moment, Your
19 Honor?

20 THE COURT: You may.

21 BY MR. MARTIN:

22 Q. In your discussion with Mr. Escobar regarding
23 the timing, you had some discussions about how long it
24 took, and we already talked about how you made those time
25 encapsulations. I'm not going into that, but you

1 mentioned that you observed the movement Mr. Oulson's hand
2 coming in, and then there was a movement of popcorn. Do
3 you remember you were saying what you saw on the video?

4 A. Right.

5 Q. That's what I want to talk about.

6 Based on the timing calculations that you made,
7 that in and of itself does not tell us the thought process
8 of Mr. Reeves, does it?

9 A. No. No, it doesn't.

10 Q. We don't know when Mr. Reeves made the decision
11 to pull that pistol from his pocket and shoot Mr. Oulson,
12 do we --

13 A. No.

14 Q. -- based on that timing calculation?

15 A. No. We don't know what the -- perception and
16 reaction just means if it's in response to a particular
17 event, there has to be sufficient time for that to have
18 occurred. But in terms of at what point he makes that
19 decision, though, there's no way that I could discern
20 that.

21 Q. Based on those findings and whether or not those
22 calculations were correct we already discussed, but based
23 on that you don't know the motive for Mr. Reeves to shoot
24 Mr. Oulson, do you --

25 A. No.

1 Q. -- based on that timing?

2 A. No, I can't opine on that.

3 Q. And based on that timing calculation, you cannot
4 tell us whether or not Mr. Reeves was acting in
5 self-defense or in retaliation, can you?

6 A. No, no, I have no opinion in that regard.

7 MR. MARTIN: No further questions.

8 THE COURT: Thank you, Mr. Martin.

9 Mr. Escobar?

10 MR. ESCOBAR: Just briefly, Your Honor.

11 REDIRECT EXAMINATION

12 BY MR. ESCOBAR:

13 Q. Good afternoon again, Mr. Knox.

14 One of the demonstrations of the prosecution --
15 I won't have to take my jacket off -- one of the
16 demonstrations that the prosecutor did in this particular
17 case had to do with him sitting and then having some kind
18 of difficulty in removing a pistol from his -- from his
19 pocket, correct?

20 A. Correct.

21 Q. And when people sit and they have items in their
22 pocket, sometimes, when they sit, they grab their pants
23 leg -- do they not -- and they do this?

24 MR. MARTIN: That calls for speculation, Judge.

25 That's my legal objection.

1 THE COURT: I'm going to overrule.

2 BY MR. ESCOBAR:

3 Q. And part of the reason is because they don't
4 want to have bulges on their legs pressing against their
5 legs?

6 MR. MARTIN: Legal objection. Speculation.

7 THE COURT: Response?

8 BY MR. ESCOBAR:

9 Q. What are the reasons that --

10 MR. ESCOBAR: I'll rephrase it.

11 BY MR. ESCOBAR:

12 Q. What are the reasons that possibly people are
13 doing this?

14 MR. MARTIN: Again, that would call for
15 speculation. That's my legal objection.

16 BY MR. ESCOBAR:

17 Q. For example --

18 THE COURT: I will let it go.

19 BY MR. ESCOBAR:

20 Q. And, for example, if I put my wallet that's
21 rather thick -- not because it has money, just a lot of
22 cards -- and I put it in my pocket and now I sit like
23 this, not very comfortable, is it?

24 MR. MARTIN: Judge, calls for speculation. He
25 doesn't know what Mr. Escobar is feeling.

1 THE COURT: All right. To the extent that he
2 knows what you're talking about, this is a similar
3 situation, so I'll --

4 BY MR. ESCOBAR:

5 Q. What do I have here?

6 THE COURT: -- I'll allow it.

7 THE WITNESS: Well, you have an obvious bulge
8 there, but I think to the extent -- I mean, I -- what
9 you're describing I have done when I have keys in the
10 pocket or things like that, yes, pulling pants up
11 before you sit down to kind of relieve some of the
12 pull on those pockets.

13 BY MR. ESCOBAR:

14 Q. And sometimes that's done second nature?

15 A. I think so. I mean, I've done it that way, not
16 really even thinking about it.

17 Q. So you really don't know the positioning of
18 Mr. Reeves and his pocket and the gun that he had in his
19 pocket and where it was actually sitting in his pocket at
20 the time that he sat down?

21 A. That's correct.

22 Q. There's lot of variables in that process, right?

23 A. That's correct, yes.

24 Q. But, certainly, as an experienced homicide crime
25 scene detective, that would be a pretty good line of

1 questions to ask Mr. Reeves when you have him in the back
2 of a car and you have him in handcuffs and you're trying
3 to elicit all of these --

4 MR. MARTIN: I object to yelling at the witness,
5 Judge. I don't care if it's his own.

6 THE COURT: Settle down.

7 MR. ESCOBAR: You're right. I think I've
8 adopted --

9 MR. MARTIN: No, you didn't adopt. That's you.

10 THE COURT: Bring it down. Thank you.

11 BY MR. ESCOBAR:

12 Q. So when you're about to ask, you know, those
13 self-serving questions that you asked of someone that is
14 now in handcuffs, that would be a great line of
15 questioning to ask, right?

16 A. It would certainly make sense to ask a line of
17 questions about how a gun was positioned, how the pockets
18 were positioned and things like that, yes.

19 Q. Now, you've listened to Mr. Reeves' alleged
20 self-serving statements, right?

21 A. Yes.

22 Q. And you've listened on Detective Proctor's
23 interview of Mr. Reeves, correct?

24 A. That's correct.

25 Q. At any point in time did you hear Mr. Reeves in

1 those statements say, "I don't want to talk to you"?

2 A. No.

3 Q. Did you ever hear Detective Proctor say,
4 "Mr. Reeves, could you kind of tell me, show me exactly
5 how you had the gun in your pocket? You know, you've got
6 your pants here that you were actually wearing. Let's go
7 through that process"?

8 A. No, he never asked that.

9 Q. Are those appropriate questions to be asking
10 when you have a crime scene detective that is working,
11 hopefully, in conjunction with the lead detective in an
12 effort to find out the truth?

13 A. I think it would be appropriate questioning,
14 yes.

15 Q. Just like the appropriate questioning with
16 reference to perception?

17 A. Yes.

18 Q. Because, after all, what do we want to do at the
19 end of the day before someone is arrested?

20 A. Well, the whole point is to figure out what
21 happened and assess whether or not what happened fits with
22 the facts to be able to charge somebody with a crime.

23 Q. Because if you arrest someone without doing all
24 of that and then later on you're doing more investigation,
25 what's the purpose of your investigation later on?

1 A. Well, once you've already made --

2 MR. MARTIN: Your Honor, I'm going to object to
3 that. That's beyond my cross, and it also calls for
4 speculation about what the purpose would be after the
5 arrest. That's the legal objection.

6 MR. ESCOBAR: So he gets to ask all these
7 questions about self-serving, but I don't get to ask
8 the questions according to him dealing with once
9 you've made your decision and now you're going to do
10 your investigation later on in order to prove your
11 decision?

12 THE COURT: What does this have to do with
13 self-serving questions?

14 MR. ESCOBAR: Well, Your Honor, at this point in
15 time, they've made a decision before asking the
16 appropriate questions in this investigation, and now
17 they're trying to --

18 THE COURT: It sounds like it's beyond the scope
19 of cross because it's not about self-serving
20 questions. Now you're talking about investigation
21 further on, and I'm not seeing a link to the
22 self-serving questions of the Defendant.

23 MR. ESCOBAR: Okay.

24 THE COURT: Sustained.

1 BY MR. ESCOBAR:

2 Q. Do witnesses that have been contaminated
3 normally volunteer the fact that they've been
4 contaminated?

5 A. No, no. You would have to try to elicit that.

6 Q. And do witnesses that have been contaminated
7 sometimes believe that they haven't been contaminated
8 because they believe what they've gathered is their own?

9 A. Yes.

10 MR. ESCOBAR: No further questions.

11 THE COURT: Thank you, Mr. Escobar. You're
12 good.

13 All right. Thank you, gentlemen. I think we've
14 reached a stopping point today.

15 May this witness be released?

16 MR. ESCOBAR: This witness may be released
17 subject to being recalled.

18 THE COURT: Thanks, Mr. Knox. Long day. Well
19 done. Hanging in there, and we'll -- you'll still be
20 under subpoena, and you will get as much advance
21 notice as possible if you're recalled.

22 Thank you. You are free to go for tonight.

23 THE WITNESS: Thank you, Your Honor.

24 I would ask that Mr. Escobar call my wife if he
25 tries to have me come back down here, because she was

1 already unhappy about me coming back down here
2 yesterday.

3 THE COURT: I'm sure.

4 (Witness excused.)

5 THE COURT: So are there any other matters we
6 need to address? I know we were hoping to get one
7 other witness today, but that is not going to happen.
8 I've reached the limit of my listening powers today.

9 MR. ESCOBAR: I understand, Your Honor.

10 THE COURT: So do we need to begin early
11 tomorrow to make up for that?

12 MR. ESCOBAR: Your Honor, I think -- I can tell
13 you Mr. Michaels is going to be doing Mr. Hayden. We
14 believe that will be obviously much shorter because
15 he didn't go into as much of a process, and then I
16 do -- I will tell you that I believe that Mr. Reeves'
17 testimony will be lengthy.

18 THE COURT: Yeah, I figured.

19 MR. ESCOBAR: So whatever the Court's
20 preference, I think that if we started at 9:00, we
21 probably would be able to do it, especially for some
22 reason if we need to run a little later, we're
23 available.

24 THE COURT: I'm okay with that. All right.

25 Any thoughts over here?

1 Mr. Martin, I hope you recover from your --

2 MR. MARTIN: I'm good, Judge.

3 THE COURT: I know it's been going around. I've
4 been praying that none of us become unavailable
5 because of that, and, so far, we've all been here.

6 MR. MARTIN: I will be available.

7 THE COURT: All right. Everybody, we will
8 reconvene at 9:00 tomorrow.

9 Oh, hold it. What is this? Mr. Martin, that's
10 yours?

11 MR. MARTIN: It is. I didn't know how the Judge
12 felt about entering evidence in the other case, so
13 I'll either --

14 THE COURT: Yeah, typically not.

15 MR. MARTIN: I know. That's why --

16 THE COURT: You can take it back, then. It's
17 not been admitted yet --

18 MR. MARTIN: But I can admit it in my case.

19 THE COURT: Sure.

20 MR. MARTIN: Even without a witness I could --
21 it's form over substance, really. It's coming in,
22 so...

23 THE COURT: Right, but what's the name of it
24 just for identification purposes?

25 MR. MARTIN: It's A.

1 THE COURT: Okay.

2 MR. MARTIN: The State is using A through
3 double -- whatever.

4 THE COURT: Okay. So that's State's A for ID?

5 MR. MARTIN: Right. And then let me see if I
6 can --

7 THE COURT: However you want.

8 MR. MARTIN: -- and I'll just move it in on
9 Wednesday?

10 THE COURT: Okay. Very good.

11 Any other matters? Everybody is good?

12 We will reconvene at 9:00 tomorrow morning.

13 Thank you, everybody.

14 (Proceedings concluded for 02/27/17.)

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