

Exhibit A:
Alan
Hamilton's
Voluntary
Statement on
January 13,
2014

CASE #: _____

I, Alan L. Hamilton Sr. am writing this statement of my own free will. My statement is:

On 1/13/14 at approximately 1330 hrs my wife and I were beginning to watch "Lone Survivor" at the Cobb Theater. As the movie began I observed a w/m stand up to my "RIGHT" and lean over his back seat and begin to yell something to the affect, "I am trying to find my fucking daughter if you don't mind. I seen him throw what appeared to be a bag of popcorn at the seated gentleman (suspect shooter) behind him. Note: I was sitting in the top row of the bottom section of the theatre approximately 5 to 6 seats south/left of the seated suspect/shooter.

Shortly after the standing subject threw the bag of popcorn I heard a loud pop and a muzzle blast. I seen the standing subject/person who was shot grab his chest and stagger toward the north side of the theatre. He then collapsed and fell between the seats. Other patrons began to perform (CPR). As soon as I heard the shot I moved to the area of the shooter and noticed that he had just layed a small black semi-auto hand-gun in his left knee. I placed my hand in the chest of the suspect and retrieved the weapon. I dropped the magazine from the weapon and maintained my position in front of the suspect. The older w/m began to request to leave where I continued to make him stay seated until the arrival of law enforcement. I handed the weapon + magazine to a Sgt of the Pasco Co Sheriff's Office. Note: None of the above statements are quotes or writer verbatim,

PRINTED

NAME:

DATE:

1/13/14SIGNATURE: 

WITNESS (Printed Name): _____

WITNESS SIGNATURE: _____

WITNESS (Printed Name): _____

WITNESS SIGNATURE: _____

Exhibit B:
Sworn,
recorded
interview of
Alan Hamilton
on January 13,
2014

PASCO COUNTY
STATE OF FLORIDA

AGENCY NUMBER 2014-001529

INTERVIEW OF ALAN HAMILTON

TAKEN BY: A PASCO COUNTY DETECTIVE
LOCATION: WESLEY CHAPEL, FLORIDA
DATE: TUESDAY, JANUARY 13, 2014
TIME: 1432 through 1438

Proceedings Recorded by Electronic Sound Recording;
transcript produced by transcription service.

R E C O R D

1
2 DETECTIVE: All right. Today's date is January
3 the 13th, year is 2014, the time is 1432.

4 Corporal Hamilton?

5 CORPORAL HAMILTON: Yes, sir.

6 DETECTIVE: Sumpter County Sheriff's Office,
7 correct?

8 CORPORAL HAMILTON: Yes, sir, that's correct.

9 DETECTIVE: And I've interviewed you here for a
10 few minutes, and now I'm asking you to give me a taped
11 statement; is that correct?

12 CORPORAL HAMILTON: That's correct, sir.

13 DETECTIVE: I'm here at the Cobb Theater.

14 Can you tell me what happened this afternoon over
15 in the theater? What movie were you watching?

16 CORPORAL HAMILTON: *The Lone Survivor*.

17 DETECTIVE: *The Lone Survivor*. And you told me
18 earlier that the lights had just went down, the movie
19 had just started?

20 CORPORAL HAMILTON: That's correct.

21 DETECTIVE: And what happened, sir?

22 CORPORAL HAMILTON: Just as soon as the lights
23 went down I observed two, which would be to my north,
24 to my right-hand side of the theater, a white male
25 stood up and leaned over towards the back -- which

1 would have been behind him, and began to argue, or
2 actually it was just a one-way argument, is what I
3 heard. And he said something to the effect of, "I was
4 trying to text my fucking daughter. Do you fucking
5 mind?" And he said something else, and I seen a bag
6 of popcorn fly, I seen his hand come up. And then, I
7 mean almost instantaneously I heard one shot.

8 I jumped up out of my seat and ran towards
9 -- the best I can, I mean it's short aisles in there.

10 DETECTIVE: Yes, sir.

11 CORPORAL HAMILTON: -- past my wife, and I made
12 it to where the shooter was still sitting. And as I
13 approached him, he lays the gun down and I stick my
14 hand at his chest and grabbed the gun and take it away
15 from him, and basically secured him and start talking
16 to him.

17 And then I see, you know, in between that time
18 I'm watching this gentleman stagger. He has -- the
19 victim that was shot, I watched him stagger towards
20 the north wall and then he collapsed in the middle,
21 and then, you know, later on they were doing CPR on
22 him.

23 DETECTIVE: Right. Does he say anything to you,
24 the guy who had the gun?

25 CORPORAL HAMILTON: He says, "I can't believe I

1 just done that shit. What happened?" He says -- I
2 told him, I said, you need -- he wanted to get up and
3 I told him, I said, "You need to stay seated."

4 He wanted to reach down and grab, which there was
5 a cell phone in front of him. I still don't know
6 whose cell phone that was, placed directly between his
7 legs and on the floor. I told him, I said, "Don't
8 touch anything." He goes, "I'm a cop. I've been a
9 cop for 30 years. I know exactly what you're talking
10 about."

11 And he looked up me and he says, "I'm going
12 outside," and I said, "No, you're not." I said,
13 "You're going to sit right there where you're at," and
14 I said, "You're going to sit here until law
15 enforcement gets here." I said, "You're not going to
16 get me shot and anybody else shot," I said. That's
17 basically it.

18 DETECTIVE: Okay.

19 CORPORAL HAMILTON: He says, "I feel like I don't
20 know what's going on." And he goes, "I feel like I
21 got something in my eye." I told him, I said, "I
22 don't see anything in your eye but your finger." And
23 that's basically -- and then as I'm making sure,
24 because he keeps wanting to get up and go outside, his
25 wife sits down. Keeps continuing to distance herself

1 within two or three seats.

2 And she comes over and she says something to him,
3 and he leans over and puts his finger in her face and
4 shakes his finger at her and she -- I can see the
5 disgruntlement in her face. And she stands up again
6 and never makes contact.

7 During this period of time a white -- a younger
8 white male comes up to me and asks me if I'm okay and
9 says, "This is my dad and I'm a cop, too." And he
10 leaves. I never see this kid again.

11 DETECTIVE: Okay. Was he in the theater at the
12 time, or do you know?

13 CORPORAL HAMILTON: The younger -- younger white
14 male?

15 DETECTIVE: Yes, sir.

16 CORPORAL HAMILTON: I have no clue.

17 DETECTIVE: Okay.

18 CORPORAL HAMILTON: He just comes up and he has
19 blood on his hands.

20 DETECTIVE: Okay.

21 CORPORAL HAMILTON: So, I mean, it was --

22 DETECTIVE: Just how about describing that
23 shooter for me, if you can?

24 CORPORAL HAMILTON: He was -- he appeared to be
25 probably in his late 60's, maybe 70's.

1 DETECTIVE: Uh-huh.

2 CORPORAL HAMILTON: He was wearing a pair of
3 glasses and had on a pair of dark pants, and I believe
4 a lighter-colored shirt.

5 DETECTIVE: Big man, a little man, bald-headed?

6 CORPORAL HAMILTON: No. He was balding, but, you
7 know, he still had -- still had hair. He was a
8 decent-size fellah.

9 DETECTIVE: What would you say, how tall? Do you
10 got any idea how tall he would be? Just approximate;
11 five-eight, five-ten?

12 CORPORAL HAMILTON: Maybe about five-ten, the way
13 he was sitting, maybe 2 -- 200 pounds-plus.

14 DETECTIVE: Anything unusual about him; acne,
15 beard, mustache?

16 CORPORAL HAMILTON: No. I didn't see any facial
17 hair at all on him.

18 DETECTIVE: Okay. Clean cut?

19 CORPORAL HAMILTON: Yes, sir.

20 DETECTIVE: Long hair, short hair?

21 CORPORAL HAMILTON: Short hair.

22 DETECTIVE: Do you remember the color?

23 CORPORAL HAMILTON: I believe it was grey,
24 greying.

25 DETECTIVE: All right. Anything else you can

1 tell me?

2 (No response.)

3 DETECTIVE: Now, you say you were -- you told me
4 earlier you were four or five seats away from him on
5 the same row.

6 CORPORAL HAMILTON: On the same row.

7 DETECTIVE: And you said there might've been a
8 couple of people between you and the -- you're sitting
9 on the shooter's row, for lack of a better terms,
10 correct?

11 CORPORAL HAMILTON: Yes, sir. Absolutely.

12 DETECTIVE: Now, is the victim sitting behind him
13 or in front of him?

14 CORPORAL HAMILTON: In front of him. Actually
15 the seat that we were in --

16 DETECTIVE: Uh-huh.

17 CORPORAL HAMILTON: -- is the very last row in
18 the bottom seating section --

19 DETECTIVE: Okay.

20 CORPORAL HAMILTON: -- before you get up into the
21 top tiers.

22 DETECTIVE: Okay.

23 CORPORAL HAMILTON: And they were, like I said,
24 from our position, sitting on the north side of us, to
25 our right, my wife and I --

1 DETECTIVE: Okay.

2 CORPORAL HAMILTON: -- so. And then, like I
3 said, everything happened so quickly and, you know,
4 just trying to -- you know, I mean it was that quick
5 deal of trying to make sure you get over there and do

6

7 DETECTIVE: Right, right.

8 CORPORAL HAMILTON: -- do what you got to do, so.

9 DETECTIVE: Right. You did not have a gun on you
10 at the time that you approached him?

11 CORPORAL HAMILTON: No, sir.

12 DETECTIVE: Okay. And you heard one gun shot?

13 CORPORAL HAMILTON: One gun shot.

14 DETECTIVE: Okay. Anything else you can tell me?

15 CORPORAL HAMILTON: Nothing.

16 DETECTIVE: 1438.

17 (END OF RECORDING)

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CERTIFICATE OF TRANSCRIBER

STATE OF FLORIDA)
COUNTY OF PASCO)


I, GRETCHEN L. SCHULTZ, being a Certified Court Reporter and Transcriber, hereby certify that I was authorized to and did transcribe the foregoing, consisting of 9 pages, and that the transcript is a true and complete record, to the best of my ability, from the cassette recording provided to me, having been recorded by a Detective for the Pasco County Sheriff's Office, in Wesley Chapel, Florida.

SCHULTZ REPORTING

(727) 808-1484

I FURTHER CERTIFY THAT I am not a relative,
employee, attorney or counsel of any of the parties hereto,
nor am I financially interested in the matter.

DONE AND SIGNED THIS 14th day of February, 2017,
in the City of Holiday, County of Pasco, State of Florida.

A solid black rectangular box used to redact the signature of the notary.

Gretchen L. Schultz

Notary Commission No.: FF76860

Commission Expiration: 1/3/2018

Exhibit C:
Testimony of
Alan Hamilton
at Bond
Hearing on
February 5,
2014

1 consideration the cross-examination. It's
2 obviously been very lengthy as opposed to our
3 direct examination.

4 THE COURT: I understand. I understand
5 what you're saying. I'm just trying to figure
6 out what -- what our time frame's going to be
7 like tonight.

8 MR. GARCIA: It's going to be late, Judge,
9 because we have the video still to consider, we
10 have the audio to consider, we have the
11 witnesses to consider.

12 THE COURT: How long is the audiotape?

13 MR. GARCIA: It's approximately 15-to-20
14 minutes, Judge, 25.

15 THE COURT: Okay. All right. Let's get
16 that other witness in here and let's get going.

17 MR. GARCIA: Thank you.

18 Judge, Alan Hamilton, please.

19 THE COURT: Raise your right hand,
20 Mr. Hamilton.

21 THEREUPON,

22 ALAN HAMILTON,
23 the witness herein, was placed under oath.

24 THE COURT: Come on up, Officer. I'm
25 sorry, it's corporal, isn't it?

1 THE WITNESS: Yes, sir.

2 THE COURT: I didn't mean to deprive you
3 of rank. I apologize.

4 THE WITNESS: That's all right.

5 THE COURT: You may proceed.

6 MR. GARCIA: Thank you, Your Honor. May
7 it please the Court, counsel.

8 DIRECT EXAMINATION

9 BY MR. GARCIA:

10 Q Corporal Hamilton, good afternoon, sir.

11 A Afternoon.

12 Q Can you state your name, please.

13 A Yes, sir. Alan L. Hamilton, Senior.

14 Q And your profession?

15 A I'm a corporal at the sheriff's department
16 at Sumter County.

17 Q And how long -- how long have you been
18 employed by the Sumter County Sheriff's Office?

19 A Thirteen years October.

20 Q What are your duties with the Sumter
21 County Sheriff's Office?

22 A I am a road corporal on Alpha shift for
23 the sheriff's department. I'm supervisor.

24 Q Corporal Hamilton, directing your
25 attention to January 13th of 2014, do you recall

1 that date?

2 A Yes, sir, I do.

3 Q Did you and your wife happen to attend the
4 Cobb Movie Theater?

5 A Yes, sir, we did.

6 Q And were you there to see *Lone Survivor*?

7 A Yes, sir.

8 Q Do you remember what time you purchased
9 your tickets?

10 A Like 12:53, I believe. I have a copy of
11 it.

12 MR. GARCIA: Judge, I'd ask the record to
13 reflect that I'm showing State's Exhibit A for
14 identification purposes to Mr. Escobar.

15 May I approach the witness, Judge?

16 THE COURT: You may.

17 Q (By Mr. Garcia) Corporal Hamilton, I'm
18 handing you what's been marked as State's Exhibit A
19 for identification purposes. Do you recognize these
20 tickets?

21 A Yes, sir.

22 Q And are those the actual tickets that you
23 purchased for *Lone Survivor*?

24 A That is correct, yes sir.

25 Q And you indicated, I believe, it's time

1 stamped January 13th, 2014, 12:53 p.m.

2 A Yes, sir, that's correct.

3 Q That's the time that you actually
4 purchased the ticket?

5 A Yes, sir.

6 Q And then it says 1:20 on it. Is that the
7 time that the movie was starting?

8 A Yes, sir, that's correct.

9 MR. GARCIA: Judge, I would offer these
10 into evidence as whatever prospective number it
11 is.

12 THE COURT: Any objection, Mr. Escobar,
13 for the limited purpose of this hearing?

14 MR. ESCOBAR: No objection, Your Honor.

15 THE COURT: Shall be admitted as State's
16 Exhibit -- well, it's marked as A, but is it 1
17 still?

18 THE CLERK: Whatever you want. It can go
19 in as A.

20 THE COURT: But we haven't had a State's 1
21 yet, have we?

22 THE CLERK: No.

23 THE COURT: So that's State's 1. That's
24 fine.

25 Q (By Mr. Garcia) You purchased the tickets

1 at 12:53 p.m. Did you immediately go into the movie
2 theater or did you stop to get a drink or popcorn or
3 anything or --

4 A Yes, sir. I mean we bought the tickets
5 out at the front booth which is on the exterior
6 facade of the --

7 Q Right.

8 A -- theater. The wife and I went inside
9 and I believe we bought a bottle of water, box of
10 popcorn or bag of popcorn and some Cheetos or
11 whatever they are.

12 Q Okay. And what is your wife's name,
13 Mr. Hamilton?

14 A Angela.

15 Q Angela?

16 A Yes, sir.

17 Q When you arrived in the movie theater,
18 were the previews already showing?

19 A No, sir.

20 Q Okay. And when you arrived there, was Mr.
21 and Mrs. Olson already seated as well as Mr. and
22 Mrs. Reeves?

23 A I don't know that.

24 Q Okay. You don't know.

25 A I don't know.

1 Q All right. Where did you sit in the movie
2 theater?

3 A I sit -- sat on the lower deck from where
4 the upper deck is, on the very back row, about
5 center on the south side of the theater.

6 Q Okay.

7 A Close in that area.

8 Q Did you later come in contact with a
9 person known to you as Curtis Reeves? Was he
10 sitting in the same row as you?

11 A Yes, sir.

12 Q How many seats were you away from either
13 Mr. Reeves or his wife?

14 A Approximately five or six seats.

15 Q Was there anyone in between you all and
16 the Reeves?

17 A Yes, sir. There was another couple.
18 There was a few -- if you want me to tell you --

19 Q Yeah, please, if you don't mind. If you
20 can tell us where everyone was when this happened.

21 A We were on the back row again. And they
22 were positioned on the north side of me, to my
23 right. My wife was to my right. Then there was an
24 empty seat. There was an elderly couple and an
25 empty seat and then Mr. Reeves and his spouse.

1 Q And Mrs. Reeves next to him.

2 A Yes, sir.

3 Q And then where were the Oulson's seated?

4 A The Oulson's were seated the next row down
5 in front of Mr. and Mrs. Reeves.

6 Q Okay. Did there come a time that
7 something drew your attention to that area?

8 A Yes, sir. I could hear someone's raised
9 voice. You know, it wasn't a scream, it was just a
10 raised voice above what was going on in there.
11 Normally it's not loud in there. That brought my
12 attention.

13 Q All right. Could you tell where the voice
14 was coming from?

15 A Yes, sir, to my right.

16 Q Okay. Could you tell if it was Mr. Reeves
17 or Mr. Oulson?

18 A It was Mr. Oulson.

19 Q Okay. Could you hear what he was saying?

20 A No, sir, I couldn't make out other than
21 just a brief statement that Mr. Oulson made during
22 that real brief conversation or argument, whatever
23 you want to call it, between them two.

24 Q You could not make out what Mr. Oulson was
25 saying?

1 A No, sir.

2 Q Did Mr. Reeves respond to whatever
3 statement was made to him by Mr. Oulson?

4 A I don't know that either.

5 Q You didn't hear anything?

6 A No, sir.

7 Q At that point in time, being a law
8 enforcement officer, did you feel that you had to
9 intervene?

10 A During the conversation between them?

11 Q Right, correct.

12 A No, sir.

13 Q There was nothing that alarmed you,
14 nothing you -- that you, in your own mind, would
15 have said I need to intervene, somebody's going to
16 get hit, there's going to be a fight, nothing like
17 that?

18 A Not at that time, no, sir.

19 Q Okay. Tell us what the next thing that
20 happens.

21 A You know, I stood up towards the front of
22 my seat and leaned over. I mean it's just -- it's a
23 cop thing. I lean up, see what's going on, what's
24 happening.

25 And as soon as I leaned up, I seen

1 Mr. Oulson -- it was like a flick of popcorn. I
2 just seen some kernels of popcorn in a bag go. And
3 the next thing, I mean, it was almost
4 instantaneously from there I seen a muzzle blast and
5 heard, you know, obviously the loud bang.

6 Q Could you see if -- did the popcorn hit
7 Mr. Reeves?

8 A I couldn't tell from all that.

9 Q You just saw popcorn fly.

10 A I just saw popcorn fly.

11 Q You saw a muzzle flash.

12 A Yes, sir.

13 Q Did you see when -- did Mr. Reeves have
14 the gun in his hand when the muzzle flash went off?
15 Could you see that?

16 A I couldn't see him, no, sir.

17 Q Okay.

18 A I couldn't see him.

19 Q Was there any statements attributed to
20 Mr. Reeves either before or after the shooting?

21 A I'm sorry?

22 Q Mr. Reeves. Did Mr. Reeves say anything
23 after the shot rang out?

24 A I didn't hear him say anything.

25 Q Did you hear Mr. Oulson say anything?

1 A No, sir.

2 Q What did you do then?

3 A As soon as that went on, I mean I had
4 already made up my mind of -- of basically what I'm
5 looking for, maybe what close proximity, where it's
6 at.

7 And I head in that direction and I find
8 Mr. Reeves sitting in his chair, you know, sitting
9 up. And I reached down. He had the -- there was a
10 weapon on his left knee. I reached down and grabbed
11 the weapon and I felt, you know, the warmth, you
12 know, in my hand of that weapon, so that kind of --
13 you know, alerted me that, okay, I'm in the right
14 spot.

15 Q Did you determine the type of firearm it
16 was as far as the model, make, caliber?

17 A No, sir, not at that time.

18 Q Okay. Did you take the magazine out of
19 the firearm?

20 A Yes, sir, I sure did.

21 Q Did you clear the chamber?

22 A I attempted to clear the chamber, yes,
23 sir.

24 Q Did you identify yourself to Mr. Reeves?
25 Did you show any identification, your badge?

1 A Yes, sir, I did. I immediately, just the
2 situation, I mean knowing -- I mean obviously it
3 wasn't -- didn't somebody run over a -- a, you know,
4 soda bottle in the parking lot.

5 It was -- you know, it was -- it was a
6 very definite thing that I knew what was going on,
7 so I wanted to make sure that the person that I was
8 after knew what I was and -- before I got there and
9 that we didn't have any more issue or problems. And
10 then if we did, that I had already announced myself
11 and hopefully lulled the situation.

12 Q Did you have your off-duty weapon on you
13 or with you?

14 A I had it with me, but not on me, no sir.

15 Q Okay. When you approached Mr. Reeves
16 after you had taken the firearm away from him, did
17 he make any statements to you?

18 A There was a couple different statements
19 that he made. You know, whenever I approached him,
20 he had said he needed -- he needed to leave, he
21 needed to get up. I reassured him that he wasn't
22 going to do that, just the situation. He wanted to
23 get his cell phone at one point in time.

24 During -- during that, we had -- I don't
25 even want to say it's a conversation, just back and

1 forth. It was -- he said at one point -- and I
2 don't know if you want me to use the --

3 Q I do, please.

4 A He said, "I can't" -- and he pushed his
5 glasses back. He said, "And I can't -- I can't
6 believe what I done."

7 Well, as the process lingered on and
8 basically he continued to want to get up; reassuring
9 him he's not. And I told him why he wasn't going to
10 get up because I didn't want to get him and me
11 killed because I knew what was coming from the
12 bottom door down there, or whatever door they may
13 come in, I knew what was coming.

14 So he had asked -- he says, "I -- I just
15 got hit by something and look at my eye." And he
16 again pushes his -- and turns his head. I didn't --
17 I didn't see -- I mean I didn't see anything on him.

18 Q Did you see any injuries on Mr. Reeves?

19 A No, sir.

20 Q None.

21 A No, sir.

22 Q After he pushed his glasses up, did he say
23 anything else to you?

24 A At about that time, again, I'm checking
25 for my wife, you know, because there's quite a bit

1 going on. I can hear the distinctive sound that
2 I've heard numbers of time over my career, a
3 gurgling sound. And I told -- I leaned kind of
4 backwards and I said, "That's not good."

5 And he again leans back and he says,
6 "Holy, fuck, what have I done?"

7 Q And that -- when you say that, you're
8 attributing that to Mr. Reeves.

9 A Mr. Reeves, yes, sir.

10 Q Did you respond to him?

11 A No, sir.

12 Q Did you hear any other statements that
13 were attributed to Mr. Reeves?

14 A No, sir.

15 Q Did you hear a conversation between he and
16 his wife?

17 A Yes, sir, I did.

18 Q Okay. Can you tell us about that.

19 A Yes, sir. During the first portions I
20 mean it was dark. I mean I -- they eventually turn
21 on the lights.

22 And he had leaned towards -- you know, at
23 the time I didn't know who she was, but she was
24 sitting to his right -- leaned towards his wife and
25 made a comment. And then she postured and she said,

1 "That was no cause to shoot anyone."

2 And then he leaned back around and stuck
3 his finger out, you know, as to, you know, scold her
4 and said, "You shut your fucking mouth and don't say
5 another word."

6 Mrs. Reeves gets up and goes down one
7 chair and again postures. And her -- the look in
8 her face was just -- she was -- she was P.O.'d at
9 him, she was mad at that point. I mean I just
10 couldn't fathom, and I guess that was in my mind,
11 someone in such a situation that would -- your
12 spouse is always someone that you're going to lean
13 on, not walk away from. So I didn't --

14 Q Did -- did Mr. and Mrs. Reeves engage in
15 any other conversation after that?

16 A No, sir.

17 Q Did you have any other conversations with
18 Mr. Reeves?

19 A No, sir.

20 Q Did the Pasco County Sheriff's Office
21 eventually arrive?

22 A Yes, sir, they did.

23 Q And did you later come in contact with a
24 person known to you or identified himself as
25 Sergeant Greiner with the Pasco County Sheriff's

1 Office?

2 A Yes, sir.

3 Q Do you remember that sergeant coming in?

4 A Yes, sir, I do.

5 Q Rather large, six-six, six-seven?

6 A He's -- he's a big boy, yes, sir.

7 Q Okay. And when he came in, did he -- he
8 tell you to -- to kind of, like, back off, I have
9 this now?

10 A Not in a sense. I mean it was just a --
11 it was -- it was, you know, just kind of a fluid
12 motion. I mean --

13 Q Okay.

14 A -- everything went --

15 Q But you saw him then get Mr. Reeves up
16 from the chair, he bent him over the chair in front
17 of him and then handcuffed him and then they
18 escorted him out of the theater?

19 A Yes, sir. There was two other deputies
20 there that -- that eventually got him in handcuffs,
21 bent him over the chair in front of him and then
22 walked him out, and I -- I never seen him again.

23 Q Did you, at any time, see Mr. Reeves stand
24 up from his chair?

25 A No.

1 Q He was sitting the whole entire time?

2 A I never -- I've never -- I never seen him
3 stand up.

4 Q Okay.

5 MR. GARCIA: May I have a moment, Judge?

6 THE COURT: You may.

7 MR. GARCIA: May I approach the clerk,
8 Judge?

9 THE COURT: You may.

10 MR. GARCIA: Your Honor, I'd ask the
11 record to reflect that I'm showing what's been
12 marked at State's Exhibit H for identification
13 purposes to Mr. Escobar.

14 May I approach the witness, Judge?

15 THE COURT: You may.

16 Q (By Mr. Garcia) Corporal Hamilton, I'm
17 handing you what's been marked as State's Exhibit H
18 for identification purposes. Do you recognize that
19 firearm?

20 A Yes, sir.

21 Q Is that the firearm that you retrieved
22 from Mr. Reeves back on January 13th of 2014?

23 A It is a -- it is a weapon, a Kel-Tec.

24 Q Okay.

25 A You can feel the Kel-Tec in it.

1 Q Yes, sir.

2 MR. GARCIA: Judge, I would offer this
3 into evidence as State's Exhibit Number 2, I
4 believe.

5 THE COURT: Mr. Escobar, for purposes of
6 the bond hearing, do you have any objection to
7 the picture of the firearm?

8 MR. ESCOBAR: No objection.

9 THE COURT: All right. It shall be
10 admitted as State's Exhibit 2 in evidence
11 without objection.

12 Mr. Garcia, any further questions?

13 MR. GARCIA: No, sir, Your Honor.

14 THE COURT: Mr. Escobar, you may inquire.

15 MR. ESCOBAR: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. ESCOBAR:

18 Q Corporal Alan (sic), good afternoon.

19 A Good afternoon, sir.

20 Q Corporal Alan (sic), what time did you
21 actually go into the theater?

22 A Just long enough to walk inside, make our
23 purchase, find our directions to make our purchase,
24 and then we -- my wife and I walked directly into
25 the movie theater.

1 Q Okay. And so you were in the theater
2 before the trailers started to show, correct?

3 A Yes, sir.

4 Q You know what the trailers are?

5 A Yes, sir.

6 Q The previews? I should call them previews
7 probably.

8 A Yeah, they were commercials is basically
9 what they were.

10 Q In a theater, when you first come in and
11 the trailers are not on, it's well lit, correct?

12 A Yes.

13 Q Okay. At some point in time as you were
14 seated there with your wife, did the lights go dim?

15 A Yes.

16 Q Is that when the previews started?

17 A Yes, sir.

18 Q It was relatively dark at that point in
19 time, correct?

20 A You can still make out, you know,
21 people's -- the frames of their person and the
22 person --

23 Q But details is very --

24 A -- according to where you're sitting.

25 Q -- details is very difficult.

1 A Could be, according to where they're at.

2 Q Okay. And so the trailers are showing,
3 it's darker, you can see figures but not detail.

4 Are you paying attention to the previews?

5 A Yes, sir.

6 Q Okay. Are you watching them?

7 A Yes, sir.

8 Q And I would imagine that there was sound
9 to those previews as well, correct?

10 A Yes, sir.

11 Q And they were loud because previews are
12 normally louder than the movie.

13 A I don't know about that, but, you know --

14 Q Well, were they loud?

15 A They're -- they're -- I mean they're
16 louder than normal, yes, sir.

17 Q Okay. And so you are seated there. And
18 the first commotion that you hear is a commotion
19 from Mr. Oulson, correct?

20 A Yes, sir.

21 Q And in this particular case, after this
22 incident occurred, you had an opportunity to write
23 out your statement of what you recall, correct?

24 A That's correct, yes, sir.

25 Q And your memory of this event, I would

1 imagine, is much clearer on the 13th than it is
2 today?

3 A Yes, sir.

4 Q And you were able to write that statement
5 in a -- in a calm way, correct, taking your time to
6 write? Sort of all like you write a report,
7 correct?

8 A Right.

9 Q And you know how important in your job it
10 is to write a thorough report.

11 A Correct.

12 Q Because you want to memorialize everything
13 that you remember that day for a future day.

14 A Correct.

15 Q Like today, correct?

16 A Total different circumstances, but yes,
17 sir.

18 Q So you were thorough in your statement to
19 law enforcement in your form that you filled out,
20 correct?

21 A To the best of my ability at the time,
22 yes, sir.

23 Q And you were providing details,
24 chronological details of the events as they
25 occurred?

1 A To the best of my ability, yes, sir.

2 Q And you signed that form.

3 A That's correct, yes, sir.

4 Q And in addition to signing that form, you

5 had the opportunity to have a conversation with

6 Detective Proctor. Remember Detective Proctor?

7 A Yes, sir, that's correct.

8 Q And where did that conversation take

9 place?

10 A It was maybe like in a child's daycare or

11 where children can play.

12 Q Within the theater building?

13 A Within the theater building.

14 Q Okay. So he took you to a location away

15 from individuals?

16 A Correct, yes, sir.

17 Q So that you could have a peaceful, quiet

18 place to converse?

19 A Yes, sir.

20 Q And he questioned you in detail concerning

21 what you remembered of the incident, correct?

22 A Yes, sir.

23 Q And you would agree that your recollection

24 on the 13th of January is much better than your

25 recollection today?

1 A Should be, yes, sir.

2 Q And the whole reason -- and you were aware
3 that he was taking notes, correct?

4 A I knew -- I knew that I was being
5 recorded.

6 Q Even better, right?

7 A Right.

8 Q And so -- and the reason for that is that
9 law enforcement wants to memorialize your events as
10 you remember them that day.

11 A Document events, yes, sir.

12 Q And you do that in your job everyday.

13 A Yes, sir.

14 Q And you know the importance of it.

15 A That's correct.

16 Q So let's get back to the theater if we
17 can.

18 A All right.

19 Q Now, the first commotion that you hear is
20 from Mr. Oulson, correct?

21 A Yes, sir.

22 Q That's -- that withdrew your attention
23 from watching the previews to Mr. Oulson.

24 A That's correct.

25 Q And you're saying that Mr. Oulson was to

1 your right?

2 A To my right, yes, sir.

3 Q About how many seats from you would you
4 say?

5 A Five, six seats I would imagine.

6 Q And he was in Row B, correct, which is the
7 next --

8 A That would be --

9 Q -- second row?

10 A -- the row in front of us, yes, sir.

11 Q You were in Row A, correct?

12 A That's correct.

13 Q And so your backrest to your seat is right
14 next to a wall.

15 A That's correct.

16 Q It's a six-foot wall, correct?

17 A I don't know, approximately. It's tall,
18 yes.

19 Q Okay. And so there's no way for you to
20 escape your seat backwards because there's a wall
21 there.

22 A That's correct.

23 Q Okay. And behind that wall, up higher, is
24 the Cinebistro --

25 A Right.

1 Q -- is that correct?

2 A That's correct.

3 Q And so if you're in Row A and Mr. Oulson
4 is in Row B, he is one step down.

5 A That's correct.

6 Q To your right.

7 A To my right.

8 Q And you've indicated that your wife is to
9 your immediate right.

10 A Yes, sir.

11 Q You've got an empty seat --

12 A Uh-huh.

13 Q -- correct?

14 A That's correct.

15 Q And you've got another couple.

16 A Couple, yes, sir.

17 Q That couple was a rather large couple,
18 correct?

19 A I don't know. I don't think so.

20 Q You don't think they were heavyset?

21 A No, I don't think they were large. No, I
22 don't think they were heavyset.

23 Q Okay. And so the first thing that you
24 hear and see with Mr. Oulson when he stands up is he
25 leans over the back of his seat, Mr. Oulson does.

1 A Correct, yes, sir.

2 Q And he's leaning significantly over his
3 seat. His body is leaning over the back of his
4 seat, correct?

5 A He's propped.

6 Q Those seats recline; do they not?

7 A Yes, sir.

8 Q As you could see Mr. Oulson there, he's a
9 tall gentleman, correct?

10 A Yes, sir.

11 Q Big gentleman.

12 A He's tall, yes, sir.

13 Q And his body is pushing over his backrest
14 and into Mr. Reeves' space, correct?

15 A I wouldn't say into his face, no, sir, he
16 wasn't.

17 Q No, space. Space.

18 A Oh, I thought you said his face.

19 Q Space.

20 A To his space.

21 Q And as he's doing that, he is yelling,
22 "I'm trying to text" -- pardon the language -- "I am
23 trying to text my fucking daughter if you don't
24 mind."

25 A That's correct.

1 Q That's what you remember him saying. This
2 guy was yelling.

3 A That's correct.

4 Q And he was cursing in Mr. Reeves' space,
5 correct?

6 A Correct.

7 Q That alarmed you.

8 A Just the -- just the loudness, yes.

9 Q Well, did it not alarm you that he was
10 intruding on someone else's space?

11 A I didn't see who he was intruding on so I
12 was just trying to evaluate the situation.

13 Q Certainly it was not the type of behavior
14 that you expected, correct?

15 A Correct.

16 Q Using the word "fucking" in a theater.

17 A Correct.

18 Q Now, is there a reason that you didn't
19 tell Mr. Garcia that in direct examination?

20 A No, sir.

21 Q Now, had you seen Mr. Oulson -- as he had
22 stood up, had you seen Mr. Oulson with anything in
23 his hands?

24 A Did I see him stand up with anything in
25 his hands?

1 Q Yeah.

2 A I never seen him stand up.

3 Q You saw him when he was already standing.

4 A I seen him already standing, yes, sir.

5 Q So when he was standing --

6 A Yes, sir.

7 Q -- was he facing the screen or was he

8 facing Mr. Oulson (sic) -- I mean Mr. Reeves?

9 A He was facing the back wall away from
10 them, the screen.

11 Q Did you see him having anything in his
12 hands?

13 A No, sir.

14 Q No phone?

15 A No, I didn't see no phone, no, sir.

16 Q No bag of popcorn?

17 A Didn't see the bag of popcorn.

18 Q You had a clear view at that point in
19 time?

20 A Yes, sir.

21 Q Could you see detail?

22 A Could I see the details?

23 Q Yeah.

24 A I was focusing more on the type of
25 conversation because this incident happened so

1 quickly. It was no more -- and I sat up. The
2 conversation was initially what I was focusing on
3 and then --

4 Q I think you indicated earlier in cross
5 that because of the lighting, it was difficult to
6 see detail. You could see the outlines.

7 A I could see an individual standing there.
8 And it -- and I mean once this person stood up, my
9 wife and I walked in with them and he walked behind
10 them. So I identified with that gentleman.

11 Q You mean Mr. Oulson?

12 A Mr. Oulson.

13 Q How did you -- what do you mean
14 "identify"?

15 A I could see his stature from standing
16 there. We had walked in with them early on.

17 Q I understand. But as you're seated, your
18 wife to your side and you're looking over there,
19 you're not able to see detail, correct, facial
20 details?

21 A No.

22 Q His expression, correct?

23 A No. No.

24 Q You couldn't see whether he had rage in
25 his eyes?

1 A No.

2 Q Rage in his face?

3 A No, sir.

4 Q But you could tell that he was yelling and
5 cursing.

6 A Yes, sir.

7 Q And that yelling and cursing was being
8 directed at Mr. Reeves.

9 A Yes, sir.

10 Q Now, you indicated that you actually saw a
11 throwing of popcorn, a bag of popcorn.

12 A I seen the flicker of Mr. Oulson's hand.
13 Whether he had that bag in his hand or he knocked it
14 away, the only thing I know is the next thing I seen
15 was popcorn one way or the other.

16 Q So let's talk about flicker. So you're
17 saying that you saw some movement in Mr. Oulson's
18 hand.

19 A Right, correct.

20 Q Left hand, right hand? Which one?

21 A Don't know.

22 Q Why not?

23 A All's I seen was just a hand, a hand
24 movement.

25 Q So you couldn't tell --

1 A It would've --

2 Q -- what was in the hand?

3 A It would have had to been closer to me or
4 I would suggest it would have been in his right hand
5 when he flicked it.

6 Q Okay. Listen to me for a second so we
7 can --

8 A Yes, sir.

9 Q -- try to answer each question.
10 You couldn't tell which hand.

11 A Correct.

12 Q You couldn't tell what was in -- whatever
13 hand he was flicking, you couldn't tell what was in
14 that hand.

15 A No, sir.

16 Q Now, did you ever make a statement,
17 written statement, that said that Mr. Oulson threw a
18 bag of popcorn?

19 A It appeared to me at the time, when I
20 filled out the statement, yes, sir, that he had
21 thrown a bag of popcorn --

22 Q But as you sit here today under oath --

23 A -- from the moment.

24 Q As you sit here today, you can't tell us
25 whether he threw a bag of popcorn or whether you saw

1 a movement of his hand towards Mr. Reeves and then
2 popcorn flew.

3 A All's I know is popcorn flew.

4 Q Okay. And at the time that Mr. Oulson was
5 making that -- that motion with his hand, whether it
6 was his right hand or whether it was his left hand,
7 he was leaning over into Mr. Reeves' face, correct?

8 A No, sir.

9 Q Oh, so he had backed off there?

10 A No. He wasn't -- I don't know if you're
11 trying to explain that this gentleman was, I mean,
12 completely across the chair. He was not. He was in
13 a propped position.

14 Q Okay. What do you mean by "propped"?

15 A When I'm saying "propped," it's -- he
16 was -- if you're trying to define it for me as
17 saying this gentleman was leaned completely -- I
18 mean there's a little bit of a difference between
19 breaking your body in half and leaning over versus a
20 propped gestured position. Mr. Oulson was not over
21 into the chair. You know what I mean? And
22 that's -- if that's what you're asking.

23 Q Okay. But you would agree, at the very
24 least, he was leaning over the back of his seat.

25 A Excuse me, Mr. Oulson?

1 Q Yes.

2 A Yes, he was propped. And I mean, like you
3 said, the chair is there, but he wasn't over top of
4 the chair.

5 Q And that chair --

6 A I mean I can show you.

7 Q And the back of that chair moves, correct?

8 A The back of the chair does recline a
9 little bit, yes, sir.

10 Q And it moves into Mr. Reeves' space.

11 A Could, yes, sir.

12 Q And you saw that.

13 A Yes, sir.

14 Q You don't know what Mr. Oulson was saying
15 at the time that he was doing a motion with his
16 hand, whether it was his left hand or his right
17 hand, correct?

18 A No, sir.

19 Q But you knew he was saying something.

20 A He was saying something, yes, sir.

21 Q And that something was something other
22 than the cuss words that you had previously heard,
23 correct?

24 A Are you talking -- I mean are you saying
25 prior to -- the only thing that I heard was just

1 what I wrote on that paper.

2 Q That "I'm trying to text my fucking
3 daughter if you don't mind."

4 A That's all I heard.

5 Q Okay. Then you hear a shot go off.

6 A Yes, sir.

7 Q Now, at that moment you move into action,
8 correct?

9 A Yes, sir.

10 Q Were you going to be moving into action
11 when you saw Mr. Gulson cursing in the middle of the
12 theater and leaning over the back of his chair?

13 A I didn't feel it was necessary at that
14 time.

15 Q Why not?

16 A I just didn't.

17 Q You hear a shot, you move into action,
18 correct?

19 A Yes, sir.

20 Q Mr. Reeves is seated there.

21 A Yes, sir.

22 Q The gun is placed on his knee.

23 A Yes, sir.

24 Q Doesn't have his hand on the gun.

25 A No, sir.

1 Q Just there on the knee, visible for you to
2 see.

3 A Correct.

4 Q You retrieve it.

5 A I retrieve it.

6 Q He doesn't give you any problems in
7 retrieving that gun.

8 A No, sir, sure didn't.

9 Q Now, while he's seated there, he doesn't
10 tell you that he has to leave. He tells you "I want
11 to get up," correct?

12 A "I need to get up and leave."

13 Q Are you sure that he said leave or just
14 get up?

15 A He initially wanted to get up and I didn't
16 want him to get up.

17 Q Okay. So initially his words were "I need
18 to get up."

19 A Correct.

20 Q Did you ask him why?

21 A No; no, sir.

22 Q You could tell he was an elderly man,
23 correct?

24 A That's correct, yes, sir.

25 Q And you remember telling Mr. Proctor,

1 Detective Proctor -- the only thing you told
2 Mr. Proctor is that Mr. Reeves had said that he
3 wanted to get up.

4 A Correct. He had said also he wanted to
5 get up.

6 Q You never told Detective Proctor that
7 Mr. Reeves allegedly told you that he wanted to
8 leave, did you?

9 A No, sir, I didn't tell Mr. Proctor that.

10 Q Why would you not tell the lead detective
11 in this case that statement?

12 A I don't know. I just told him --

13 Q Well, you didn't think that Mr. Reeves
14 wanted to flee the theater, did you?

15 A No, sir.

16 Q Now, of importance in a shooting like
17 this --

18 A Uh-huh.

19 Q -- is that the physical evidence there at
20 the scene is preserved.

21 A Correct.

22 Q You've been in law enforcement for long
23 enough to know that that is probably the most
24 important part of the whole process, correct?

25 A That's correct, yes, sir.

1 Q Because you want to be able to test items
2 forensically.

3 A Correct.

4 Q Forensic analysis most of the time doesn't
5 lie, correct?

6 A That's correct.

7 Q And so you wanted to test or preserve the
8 area right around Mr. Reeves because that was the
9 area where gunfire had taken place.

10 A That's correct.

11 Q And that was also the area that you had
12 seen Mr. Oulson leaning over the back of his seat,
13 correct?

14 A That's correct.

15 Q And so when you look down -- and you got
16 to Mr. Reeves pretty quickly, right?

17 A Yes, sir.

18 Q You knew that was very important.

19 A Yes, sir.

20 Q And so when you got to Mr. Reeves very
21 quickly, you could see that on the floor in between
22 his legs was a cell phone.

23 A Yes, sir.

24 Q Because as you approach someone like that,
25 after you've taken the gun, you're looking around to

1 make sure that you're safe and that everybody else
2 is safe.

3 A Yes, sir.

4 Q And so you immediately saw that cell
5 phone, correct?

6 A That's correct.

7 Q In between his legs.

8 A On the floor.

9 Q And you recognized that phone to be an
10 iPhone?

11 A I don't know if it's a iPhone.

12 Q You don't remember?

13 A It's big enough it resembles the iPhone or
14 one of the bigger phones, yes, sir.

15 Q Because it was a big phone.

16 A Correct.

17 Q It wasn't a little tiny phone?

18 A No.

19 Q Still dark?

20 A Yes, sir.

21 Q Hadn't turned on the lights yet, correct?

22 A Correct.

23 Q And Mr. Reeves pointed to that cell phone;
24 did he not?

25 A I don't know if he pointed to it or just

1 gestured that he needed to get -- he leaned up, I
2 need to get my phone or get the phone.

3 Q Well, let's -- let's talk about it. Do
4 you remember exactly what he told you or do you
5 remember him pointing?

6 A He may have pointed at some point in time
7 or just gestured forward. I don't recall.

8 Q You didn't let him touch it, correct?

9 A No, sir, I didn't.

10 Q You didn't let anybody touch it --

11 A No, sir.

12 Q -- because you wanted crime scene to come
13 over and properly handle it and preserve it.

14 A Hopefully, yes, sir.

15 Q You didn't know whose phone it was at the
16 time --

17 A No, sir.

18 Q -- correct?

19 A No, sir, I did not.

20 Q And you're aware that all sorts of
21 evidence sometimes can be derived from a phone,
22 correct? Fingerprints.

23 A That's correct, yes, sir.

24 Q DNA.

25 A Could be.

1 Q All kinds of things.

2 A Yes, sir.

3 Q That forensically could help shed some
4 light on what actually happened, correct?

5 A Could be, yes, sir.

6 Q And so in your business when forensics,
7 when crime scene comes in, you want them to wear
8 gloves, carefully pick up that phone, package it and
9 not open that phone until it gets to the Florida
10 Department of Law Enforcement so that they can,
11 under their controlled conditions, examine it and
12 retrieve evidence, correct?

13 A That's what a forensic specialist probably
14 should do. I'm not -- yes, sir.

15 Q Now, you then talked on direct examination
16 about a conversation that you had with Mr. Reeves as
17 you were standing there waiting for, I guess, law
18 enforcement to arrive.

19 A That's correct, yes, sir.

20 Q Because law enforcement had not yet
21 arrived?

22 A That's correct.

23 Q It was still dark?

24 A There was a couple of different points
25 there. We had conversations when it was light,

1 dark --

2 Q Well --

3 A -- at some point in time.

4 Q Well, at this point in time his wife is
5 right next to him, correct?

6 A That's correct, yes, sir.

7 Q And you made a statement that he made some
8 awful remark, that his wife said something that was
9 uncalled for. Is that what you're telling us today?

10 A No, sir, I didn't say it was not called
11 for. I said that she said that there was no cause
12 to shoot him.

13 Q Now, you didn't write that in your
14 statement that you wrote on January the 13th of
15 2014, did you?

16 MR. GARCIA: Judge, I object to negative
17 impeachment.

18 THE COURT: Overruled.

19 Q (By Mr. Escobar) Correct? You didn't
20 write it in your statement, did you?

21 A No, sir. No, sir, I did not.

22 Q I'm going to show you what's been marked
23 as Defense Exhibit Number 2.

24 MR. ESCOBAR: Can I approach, Your Honor?

25 THE COURT: You may.

1 Q (By Mr. Escobar) And see if Exhibit Number
2 2 is a document that you recognize.

3 A Yes, sir, that's mine.

4 Q What is that document?

5 A It's a voluntary statement form from Pasco
6 County Sheriff's Department.

7 Q Is that your handwritten voluntary
8 statement form?

9 A It is, yes, sir.

10 Q Is that a true and accurate copy of your
11 voluntarily statement form?

12 A Yes, sir.

13 Q It's not been altered, deleted?

14 Take your time and read it, please. If
15 you have any questions, I want to make sure that it
16 is a clean copy.

17 A (Perusing document.)

18 This is -- this is mine.

19 Q Okay. Now, in that form you made no
20 statements as to what Ms. Reeves told Mr. Reeves,
21 correct?

22 A No, sir, I did not.

23 Q There's -- there's no documentation of
24 that.

25 A No, sir.

1 Q And then I believe in direct examination
2 you said something to the effect of "Shut your
3 fucking mouth."

4 MR. ESCOBAR: Excuse my language, Your
5 Honor.

6 Q (By Mr. Escobar) Correct?

7 A Yes, sir, that's correct.

8 Q You didn't write that in there either?

9 A No, sir.

10 Q Those are pretty important statements; are
11 they not?

12 A Yes, sir.

13 Q But they weren't important enough to put
14 in that statement?

15 A I didn't put them in there, no, sir, I
16 didn't.

17 Q My question was whether -- we know that
18 you didn't put them in there.

19 They weren't important enough for you to
20 put it in that statement?

21 A Sure, they're important.

22 Q Well, let's take it one more step. In
23 addition to you writing this statement in the
24 comfort of your space there, correct --

25 A Yes, sir.

1 Q -- you also had the opportunity of going
2 with Detective Proctor, the lead detective in this
3 case, to that playroom and to discuss with him in
4 great detail everything you knew about this case,
5 correct?

6 A In great detail?

7 Q Yeah. You wanted to tell him as much as
8 you could possibly --

9 A As much as I could possibly do.

10 Q Because you knew you were being recorded.

11 A Correct.

12 Q Well, did you tell Detective Proctor in
13 that room that Mrs. Reeves had allegedly made that
14 statement?

15 A No, sir, I did not.

16 Q Well, did you tell Detective Proctor in
17 that room that my client allegedly said, "Shut your
18 fucking mouth"?

19 A I don't recall if I told him that or not.

20 Q You don't recall?

21 A I don't recall that I told him verbally
22 that or not.

23 Q Did you believe that that session with you
24 and Detective Proctor was important?

25 A Yes, sir, it was.

1 Q So as you sit here, you can't imagine any
2 scenario why you wouldn't have told him that?

3 A Any scenario why I wouldn't have told him
4 that?

5 Q Yeah. You're being recorded. They're
6 asking you to give him all the details of what you
7 know, right?

8 A That's correct, yes, sir.

9 Q What you heard Mr. Reeves tell his wife
10 was, Vivian, "They're going to come in here
11 storming. Move a couple of chairs over." That's
12 what you heard him say to her --

13 MR. GARCIA: Judge, I'm going to object.
14 Where's this testimony coming from?

15 THE COURT: I have no idea, but let's let
16 him answer the question and see.

17 Q (By Mr. Escobar) That's what you heard him
18 say, correct?

19 A No, sir, that's not what I heard him say.

20 THE COURT: All right.

21 Q (By Mr. Escobar) Mr. Reeves appeared
22 concerned for Mr. Oulson, correct?

23 MR. GARCIA: Object, calls for
24 speculation, Judge.

25 THE COURT: Overruled. I'll hear that.

1 Q (By Mr. Escobar) Correct?

2 A Did he appear concerned for him?

3 Q Yes.

4 MR. GARCIA: Object to the form of the
5 question. Concerned how, Judge, concerned that
6 he was going to die?

7 THE COURT: Overruled, but if you want him
8 to answer the question, you've got to let him
9 answer it. Okay?

10 All right. Answer the question if you
11 can.

12 A I'm not too sure if you can use "concern"
13 for an incident of this nature. I'm not -- I'm not
14 tracking you on that.

15 Q (By Mr. Escobar) Okay. Law enforcement
16 comes in, correct?

17 A Yes, sir.

18 Q They handcuff him, correct?

19 A Correct.

20 Q They're not rough with him at all?

21 A No, sir.

22 Q Actually -- they were actually very gentle
23 with him, correct?

24 A I felt so.

25 Q They were telling him commands and he was

1 complying.

2 A That's correct.

3 Q And he went very peacefully with them.

4 A That's correct, yes, sir.

5 MR. ESCOBAR: No further questions.

6 THE COURT: Okay. State, do you have any
7 redirect that you feel compelled to ask
8 Corporal Hamilton?

9 MR. GARCIA: Yes, Judge.

10 Judge, I want to clarify something. Can
11 Corporal Hamilton step down, please, Judge?

12 THE COURT: Yeah.

13 MR. GARCIA: Can you step down, Corporal,
14 please.

15 THE WITNESS: Sure.

16 THE COURT: Where's he going? No, no, no.
17 Corporal Hamilton, over here. It's okay. No,
18 no, you don't get to leave yet. Come on over
19 here. I think he means step down so that you
20 can do a demonstration.

21 THE WITNESS: I'm sorry. I'm sorry.

22 REDIRECT EXAMINATION

23 BY MR. GARCIA:

24 Q Corporal Hamilton, can you please
25 demonstrate for the Court how Mr. Oulson was.

1 There's been testimony -- Mr. Escobar, on
2 cross-examination, wants the Court to believe that
3 he was leaning way over, that the back of the chair
4 was leaning into Mr. Reeves' space.

5 THE COURT: Let's just leave it at let him
6 show how it looked.

7 MR. GARCIA: Okay.

8 THE COURT: And why don't you put another
9 chair there to make the simulation a little bit
10 closer here, if this works for you.

11 Corporal Hamilton, does this work for you?

12 THE WITNESS: Yes, sir, that's fine.

13 THE COURT: Okay. And Mr. Escobar, if you
14 want to reposition yourself so you're in a
15 better spot to see, you're welcome to do so. I
16 know that you're kind of at a disadvantage at
17 that angle.

18 First, give Corporal Hamilton the chance
19 to set up. Is -- is that what you believe the
20 distance or do you think they're closer or
21 further?

22 THE WITNESS: It's close, Your Honor.

23 THE COURT: Okay.

24 A From my position, when I leaned up and I
25 seen the -- this brief argument, Mr. Oulson was in a

1 propped position. Not -- and I don't want to lean
2 over this thing because I'll wind up head first.

3 Q (By Mr. Garcia) Right.

4 THE COURT: Let's not do that.

5 A Not in what the Defense was trying to say
6 as far as breaking -- breaking that bridge in the
7 middle of your body to lean over. He was propped,
8 you know, talking or hollering.

9 Q (By Mr. Garcia) So he was not in any way,
10 shape or form in Mr. Reeves' space?

11 A No, sir.

12 Q Absolutely not.

13 A No.

14 Q It didn't happen.

15 A No.

16 Q You can retake your seat, please,
17 Corporal.

18 Corporal Hamilton, did you, at any time,
19 see Mr. Oulson strike, hit or touch Mr. Reeves in
20 any way?

21 A No, sir, I did not.

22 Q Did you ever see him with the cell phone
23 in his hand and reach up and strike Mr. Reeves in
24 the left side of his head?

25 A No, sir, I didn't.

1 Q Never happened?

2 A No, sir.

3 MR. GARCIA: I have nothing further,
4 Judge.

5 THE COURT: All right. Mr. Escobar, I
6 know you're going to want to ask a few more
7 questions. Go ahead.

8 MR. ESCOBAR: Just a -- just a couple of
9 them.

10 RECROSS EXAMINATION

11 BY MR. ESCOBAR:

12 Q So your testimony here today is that not
13 only was he leaning over the back of the --

14 MR. GARCIA: Judge, I'm going to object as
15 to mischaracterization. He's already said he
16 was not leaning, he was propped.

17 THE COURT: Overruled. Corporal Hamilton
18 is a law enforcement officer. It's not his
19 first time testifying. He can correct any
20 mischaracterization if he wants to. It's up to
21 him. All right? I figured we were going to.

22 All right. What have you got?

23 Q (By Mr. Escobar) Isn't it a fact that your
24 statement is that "Mr. Culson was leaning over his
25 back seat."

1 A Okay. Well, I want to make -- make --

2 Q Answer my question.

3 A Leaning -- leaning --

4 MR. GARCIA: Judge, I'm going to object,
5 Judge.

6 THE COURT: Overruled. Overruled. Hold
7 on.

8 You asked him a question, he gets to
9 answer it. It's -- he gets to answer it how he
10 wants; you get to follow up. Let him answer
11 it.

12 A He was in more of a propped position so --

13 Q (By Mr. Escobar) Did you --

14 A Yes, sir, I put leaning on the -- on
15 the --

16 Q Not just leaning. You said leaning over
17 back seat, correct?

18 A Back seat, yes, sir.

19 Q Would you like to see your statement?

20 A No, sir, I've seen it.

21 Q And this is the same statement that you
22 told not only Your Honor, but everyone here in this
23 courtroom that at the time you wrote it, your mind,
24 your memory was much fresher than what it is today.

25 A That's correct.

1 MR. ESCOBAR: Your Honor, we would move
2 Defense Exhibit Number 2 into evidence.

3 THE COURT: Mr. Garcia, any lawful reason
4 I shouldn't take it, Exhibit 2 for the purposes
5 of the bond hearing?

6 MR. GARCIA: No, sir.

7 THE COURT: I'll admit it as Defense
8 Exhibit 2 for the purpose of the bond hearing.

9 Mr. Escobar, any further questions for
10 Corporal Hamilton?

11 MR. ESCOBAR: No further questions.

12 THE COURT: Mr. Garcia, any further
13 questions for Corporal Hamilton?

14 MR. GARCIA: No, sir.

15 THE COURT: All right. Corporal Hamilton,
16 now you can leave. All right?

17 All right. We are now at 5:46. That
18 means we've been going approximately an hour
19 and twenty minutes off the last break.

20 How many more witnesses you have tonight,
21 State?

22 MR. GARCIA: Three, Your Honor.

23 THE COURT: Three. How many of them are
24 going to be more than 15 minutes? And it's
25 just an estimation. I'm just trying to figure

1 out whether we're going to break for dinner or
2 whether we're going straight into this, because
3 people are hungry I'm imagining, and I can't --
4 I can't enthrall my courtroom staff and keep
5 them here forever. They're entitled to some
6 food as well.

7 MR. GARCIA: Judge, I can't -- I can't in
8 good faith say they're going to be less than 15
9 minutes because --

10 THE COURT: Well, one of them has got a
11 video that's going to be a few minutes and
12 another one's got an audio that's going to be
13 20 minutes. Well --

14 MR. GARCIA: Friedhoff would be probably
15 be the quickest witness, Judge.

16 THE COURT: If both sides take a chance to
17 pow-wow with each other and determine whether
18 you want to break and come back here at 6:30
19 after everybody gets a chance to raid the
20 vending machines in the hallway or if you want
21 to go right into it.

22 And I'll let anybody and everybody that
23 wants to bring food in can bring food in. I've
24 got a couple power bars. That's about it.

25 Otherwise, I don't think we're going to be

1 able to finish today because that's -- my other
2 option is, I'm taking a break now and I'll get
3 some other judge to cover my calendar at 1:00
4 on Friday and I'll do -- I'll do this 1:00 on
5 Friday. I can't do it tomorrow morning; I
6 can't do it tomorrow afternoon; and I
7 definitely can't do it Friday morning. So that
8 leaves me Friday afternoon.

9 MR. GARCIA: Judge, what I would suggest
10 to the Court, Judge, is that we go ahead and do
11 Friedhoff now -- he should not be that long --
12 and then take a break for court personnel and
13 everyone else, and then resume this bond
14 hearing, Judge.

15 THE COURT: Okay. You want to keep going.

16 MR. GARCIA: I -- I want to keep going,
17 Judge. I don't want to --

18 THE COURT: I want to keep going, too, but
19 I've got to talk to my courtroom staff and make
20 sure they're going to be okay.

21 Mr. Escobar, do you join the State in
22 wanting to keep going?

23 MR. ESCOBAR: I would agree, yes, Your
24 Honor.

25 THE COURT: You want to keep going.

1 MR. ESCOBAR: Yes, Your Honor.

2 THE COURT: You okay? Can you do another
3 one or you need a break?

4 THE COURT REPORTER: I'm fine.

5 THE COURT: You can do one more?

6 THE COURT REPORTER: Yes.

7 THE COURT: Can you keep going tonight or
8 you going to be --

9 THE COURT REPORTER: I have no choice.

10 THE COURT: You say uncle and I'll take a
11 break. It's not fair to you.

12 THE COURT REPORTER: Okay.

13 THE COURT: Rocko, you okay?

14 THE CLERK: (Nods head.)

15 THE COURT: You're okay.

16 All right. Where is Captain Ferrantelli?

17 THE BAILIFF: He stepped out.

18 CORPORAL BRUCE: He's taking a break.

19 THE COURT: He's probably making phone
20 calls. Lieutenant Bain here still? Who's
21 ranking officer?

22 CORPORAL INVERSSO: They already --

23 THE COURT: Everybody with rank left. All
24 right.

25 CORPORAL INVERSSO: He just stepped out.

1 THE COURT: Are we okay? I mean can we
2 keep going?

3 CORPORAL INVERSSO: Absolutely. We prefer
4 to finish today.

5 THE COURT: Prefer to finish today. All
6 right. Everybody's on the same page. It
7 sounds great.

8 Call your next witness, then, State.

9 MR. GARCIA: Your Honor, the State would
10 call Derek Friedhoff.

11 THE COURT: All right. And the plan would
12 be to take a short recess, then, after
13 Derek Friedhoff for a comfort break. And then
14 you want to go right back -- keep going on
15 witnesses or you want to give everybody 45
16 minutes to run to McDonald's?

17 MR. GARCIA: No, Judge. What I was saying
18 is do Mr. Friedhoff. He's going to be a short
19 witness.

20 THE COURT: Yes.

21 MR. GARCIA: And then if court personnel
22 and everybody takes 30 or 45 minutes to grab
23 something and then come back.

24 THE COURT: Thirty minutes enough for you?

25 THE CLERK: I'll do whatever.

1 THE COURT: You'll do whatever.

2 Thirty minutes okay?

3 THE COURT REPORTER: Yes.

4 THE COURT: Mr. Escobar and Mr. Michaels,
5 can you -- can you get some food in 30 minutes
6 and be back?

7 MR. ESCOBAR: Your Honor, I'm -- I'm good.

8 THE COURT: Okay. I'm just making sure.
9 I am told that sometimes I go way too long and
10 that I put other people in discomfort. It's
11 not my intention to do that.

12 So, like I said, if anybody needs to bring
13 in food, I know generally there's a
14 prohibition, but if you've got a power bar,
15 something like that, trail mix, whatever,
16 you're welcome to it. I don't want anybody
17 passing out on me.

18 Where's the witness? Oh, yeah, bring him.
19 Let's not -- let's not delay.

20 You can just approach the witness chair.
21 I'll give you the oath over here.

22 THEREUPON,

23 DEREK FRIEDHOFF,
24 the witness herein, was placed under oath.

25 THE COURT: All right. State, you may

Exhibit D:
Deposition
Testimony of
Alan Hamilton
on March 20,
2015

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR PASCO COUNTY
CRIMINAL FELONY DIVISION

----- :
STATE OF FLORIDA, :

Plaintiff, :

vs. :

CURTIS JUDSON REEVES, :

Defendant. :
----- :

: Case No.:CRC1400216CFAES
: Division: I

DEPOSITION OF:

CORPORAL ALAN HAMILTON

DATE:

March 20, 2015

TIME:

1:50 p.m. to 4:16 p.m.

PLACE:

Pasco County Courthouse
Office of the State Attorney
38053 Live Oak Avenue
Dade City, Florida 33523

PURSUANT TO:

Notice by counsel for
Defendant

REPORTED BY:

BETH A. MALONE
Notary Public
State of Florida at Large

INDEPENDENT REPORTING SERVICE
418 East Madison Street
Tampa, Florida 33602
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1 THE COURT REPORTER: Do you swear or
2 affirm that the testimony you are about to
3 give will be the truth, the whole truth, and
4 nothing but the truth?

5 THE WITNESS: I do.

6 THEREUPON,

7 DETECTIVE ALAN HAMILTON,
8 having been first duly sworn or affirmed,
9 was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. MICHAELS:

12 Q. Please state your full name.

13 A. Alan L. Hamilton, Sr.

14 Q. And how are you employed?

15 A. I work for -- as a corporal for the
16 Sumpter County Sheriff's Department.

17 Q. How long have you been with Sumpter
18 County Sheriff's Office?

19 A. 13 years come October 1.

20 Q. And you're a corporal now?

21 A. Yes, sir.

22 Q. Before Sumpter County Sheriff's Office
23 were you employed in law enforcement at all?

24 A. Yes, sir.

25 Q. Where at?

1 A. Brooksville Police Department.

2 Q. From what year to what year?

3 A. I'll be honest with you, I can't even
4 remember. It was the -- because I left the jail
5 and went there. It must have been the late -- by
6 mid 90s. I'll be honest with you, I can't
7 remember.

8 Q. Okay. So sometime in the mid 90s, up
9 until --

10 A. I started in 2002. So 2001, 2000, and
11 then '98. So right around ninety -- '98,
12 somewhere right around there, I imagine.

13 Q. And what did you do for the Brooksville
14 Police Department?

15 A. I was a patrol officer.

16 Q. The whole time you were there?

17 A. Yes, sir.

18 Q. Uniform patrol?

19 A. Yes, sir.

20 Q. Marked vehicle?

21 A. Yes, sir.

22 Q. And before that you said you worked in
23 the detention center?

24 A. Yes, sir.

25 Q. For how long?

1 A. Worked there, I imagine, about
2 three-and-a-half years. I would imagine.

3 Q. All right. So that puts us to 1994, more
4 or less.

5 A. Somewhere right around that area '94, to
6 '96. Like I said, I don't keep -- I don't even
7 keep up with that that far back.

8 Q. And that was -- what's that?

9 A. Hernando County CCA.

10 Q. Right, that was for CCA, right?

11 A. Right, that's correct.

12 Q. Because the sheriff's office recently
13 took it over?

14 A. Right, correct.

15 Q. So you actually worked for CCA?

16 A. Correct.

17 Q. Did you work in any of their other
18 facilities?

19 A. No.

20 Q. Like Citrus or anything?

21 A. No, sir.

22 Q. And what rank did you have?

23 A. At CCA?

24 Q. Yes.

25 A. They -- I don't know if you want to call

1 it a promotion. I went from regular CO --
2 actually I started there before they gave us
3 certificates. You could work before that. So I
4 went from a -- a basically a private CO to -- and
5 they promoted me to working in the supply, and
6 after that I went to Brooksville PD.

7 Q. Now you say you needed a certificate?

8 A. Yeah. You had to be State -- be State
9 certified, but back then they allowed you to work,
10 you know, before, just, you know, with -- as
11 long as you were in the school you had to do
12 everything else but, you know, without a
13 certificate. They didn't require that at the
14 time.

15 Q. So you went to school for a detention
16 officer?

17 A. Yes, sir.

18 Q. And what kind of course is that?

19 A. It's a, I don't know, seven -- seven,
20 eight month corrections course. Then back then
21 you could do the crossover and go to LEO,
22 which was just a few months to do the remainder of
23 the courses that were required for, you know, law
24 enforcement.

25 Q. Okay. And so what is -- that's a

1 certificate?

2 A. Sure, both of them are.

3 Q. And do you have to take an exam on the
4 corrections one after you get the certificate?

5 A. Correct, you have to take an exam on both
6 of them.

7 Q. And then before that what sort of work
8 history?

9 A. I worked mainly as a truck driver, worked
10 at the mines, I worked at Pepsi-Cola. I moved to
11 Georgia for a few years and pumped propane. They
12 sent me up there from Brooksville to Georgia,
13 Moultrie, Georgia. And then came back and decided
14 that I was going to go into corrections and that's
15 basically where I went.

16 Q. Okay. And so as a truck driver you would
17 drive, what, tractor trailers, tankers? What
18 would you drive?

19 A. I've driven anything -- pulled anything
20 from flatbeds to, you know, reefers to, you know
21 you name it. Rock, we hauled rock. I did that
22 for a little while. Drove over the road for a
23 short period of time; realized that wasn't a money
24 maker so -- I had a family to support, so I moved
25 out of that.

1 Q. And what's your educational background?

2 A. I have an associate's in criminal
3 justice, obviously high school diploma, and I'm
4 three classes -- three or four classes, I think,
5 from finishing my bachelor's degree in
6 occupational safety.

7 Q. Occupational safety. What made you go in
8 that direction, a new career?

9 A. Well, I'm not going to be this age
10 forever.

11 Q. Right.

12 A. We're all going to get old one day so
13 I'm -- you know, eventually want to settle down
14 and do something different.

15 Q. Which would go well with your background
16 in --

17 A. Right.

18 Q. -- trucking and being around the mines
19 and all that stuff?

20 A. Could be. I mean --

21 Q. I smell a consultant's business coming
22 down.

23 A. No, no. I'm just a plain Joe. I don't
24 ask for much, just do what I've gotta do to get
25 by.

1 Q. Where did you get your AA from?

2 A. Columbia Southern University.

3 Q. And where's that at?

4 A. That's based out of Orange City, Alabama,
5 I believe it is.

6 Q. And you take courses online?

7 A. Yes, sir.

8 Q. And what about your bachelor's, same
9 place?

10 A. Same place.

11 Q. The same situation, online?

12 A. Same situation.

13 Q. When did you get your AA degree?

14 A. Let's see, that was last year, I believe,
15 I finished up my AA.

16 Q. After this theater incident sometime?

17 A. Yes.

18 Q. And where did you go to high school at?

19 A. Hernando High.

20 Q. All right. So let's talk a little bit
21 about your career with the Sumpter County
22 Sheriff's Office.

23 A. Okay.

24 Q. When you started on where did you start
25 at? What was your assignment?

1 A. Road patrol. They moved me from, you
2 know, south end to north end because at that time
3 we didn't have that many deputies. I believe it
4 was within about a year-and-a-half maybe on the
5 road, if even that, they moved me to school
6 resource deputy. And I was in the school system
7 for I would think probably about four or
8 five years and a detective's position came open.
9 It said it was a dead-end job, so I moved from
10 detective -- or from SRO into a detective's
11 position, and I was back there within about a
12 month of being five years.

13 Decided to let go of the rope before I
14 drowned and move back to the road and within just
15 a short period of time I was promoted to corporal
16 and that's where I'm still basically running the
17 central zone and/or supervising south and north
18 end, whenever a sergeant's out in the absence of
19 him.

20 Q. So as a detective how does that
21 department work? Do you handle all crimes that
22 require a detective?

23 A. At times, yeah. I mean, I was a property
24 crimes detective. That was basically my
25 assignment, but when we called -- what we used to

1 call as a roundup, we would go and do certain
2 different crimes against -- you know, crimes
3 against people or search warrant, you know,
4 whatever -- whatever it took. And you may be
5 asked to do a, you know, a certain thing on a
6 certain case so, you know, it wasn't always, hey,
7 this is your job. You know, like a heart -- you
8 know, a heart doctor, hey, you operate on hearts
9 and you work on legs; it's not like that. As our
10 attorney says, he likes well rounded deputies, and
11 you can tell I'm almost there.

12 Q. So as a detective you were in name a
13 property crimes detective. However, wherever you
14 were needed, whenever you were needed you were a
15 detective in that particular area, right?

16 A. That's correct, just --

17 Q. Is that why you were drowning?

18 A. Why I was drowning?

19 Q. Yeah. You said --

20 A. It was just an analogy. I told those
21 guys, it's a fishbowl and if you've ever
22 waterskied before, if you're skiing you got two
23 ops when you'd fall off the ski; let go of the
24 rope or continue in the water without no skis.
25 And I decided, hey, I'm gonna let this go to the

1 young guys and I'm going to go back to the road
2 and --

3 Q. All right.

4 A. -- do that. So just an analogy.

5 Q. And what sort of training do you have
6 within the police department. Any special
7 certifications?

8 A. I mean, I've been to, you know, sex
9 crimes classes. We've been to, you know -- I
10 mean, anything -- are you specifically talking
11 about like State of Florida or just training in
12 general?

13 Q. Well, let's go State of Florida first.

14 A. Okay. State of Florida can range
15 anything from my certificates, to radar class, to
16 a responding to runaway, abducted juveniles. Boy
17 you're really making me think back. You know, ASP
18 certifications, homicide investigations, I took
19 that. I believe that's what the title of it was.
20 And I honestly, whenever I was in CID we didn't
21 really go to -- I mean, we took some -- there was
22 a guy from Texas that came in and gave a couple of
23 courses that were involved with pedophilia and
24 such that -- day shooters, recognizing them and
25 seeing what they did. We've taken handwriting

1 analysis classes to read, you know, someone's
2 statement and try to pick apart whether or not
3 they're being truthful or not. But, I mean,
4 that's overall basically it.

5 Q. So essentially you have been trained in
6 the field of homicide investigation, right?

7 A. I'm going to answer that -- I mean,
8 whenever you say "trained" to do homicide, I
9 worked homicides on our own back when I worked at
10 Brooksville PD. You know, we had to set up our
11 own scenes, do our own markings with cups and
12 stuff. So when you say training, it's not like an
13 associate's degree. You sit in a class for a week
14 and when you leave out of there you take whatever
15 they've given you and either you expound on or you
16 throw it down the drain and you don't use it
17 anymore. Those classes are those ones, yeah, we
18 sent you there and now you know. You know, that's
19 -- that's kind of what that -- when you say that
20 training. I hate to, you know, go in depth with
21 that, but, yes.

22 Q. One thing I remember from junior high, I
23 had a shop teacher who said, you learn by working.
24 And so it's kind of the same thing with homicide
25 investigation, or anything else?

1 A. Yeah. Unless, you know, it's karate or
2 race car driving, unless you do that every day, --
3 my specific assignment was homicides -- then you
4 don't know every aspect, you know, about that, you
5 know, that particular crime. You might have a
6 good idea when you get there. Hey, keep everybody
7 out and this is what you do and, you know, set it
8 up for the guys that that's their job. So, you
9 know, it's time is experience and, you know, a lot
10 of it's just common sense.

11 Q. And you've certainly been involved in all
12 kinds of different criminal investigations
13 throughout your police career, I would imagine?

14 A. Yes, sir.

15 Q. Can you give me a number? I thought I
16 would at least make you smile if I ask for a
17 number.

18 A. I mean, what are you looking for,
19 homicides?

20 Q. I mean, 100, 500, between all the kinds
21 of investigations that you've done?

22 A. I've had a rough career. I mean, I
23 really have. Yeah, I'd -- I'd have to say in, you
24 know, in the hundreds, around there.

25 Q. What's that?

1 A. Or better, maybe. I don't know.

2 Q. And so, and part of an investigation, a
3 central part could be interviewing witnesses and
4 that sort of thing, right?

5 A. That's correct, yes, sir.

6 Q. And so can we agree that it's important
7 that where possible you get the 100 percent truth
8 from those individuals?

9 A. That's the -- that's what you're looking
10 for.

11 Q. Right. If you have the ideal witness and
12 you question that ideal witness, you want that
13 witness to give you 100 percent truth?

14 A. That's what you're -- that's what you're
15 looking for.

16 Q. Okay.

17 A. Or the best of their recollection.

18 Q. Right.

19 A. You know, if you got a witness. Now when
20 you're talking about a witness, there's a
21 difference between a witness and a suspect.

22 Q. Right. But if you have a professional
23 such as yourself you would expect them to tell you
24 what they either know 100 percent to be true or if
25 they don't know, for them to say, I can't be 100

1 percent sure, right?

2 A. Right, one way or the other.

3 Q. Okay.

4 A. We're not -- I mean, I don't think we're
5 all perfect, I mean --

6 Q. But certainly you realize the importance
7 of that?

8 A. Absolutely.

9 Q. And as a professional yourself if you're
10 put on the other side, like you were in this
11 case --

12 A. Uh-huh.

13 Q. -- yes?

14 A. Yes, I'm sorry. I'm sorry.

15 Q. When you're put on the other side of this
16 case you know the importance of being 100 percent
17 accurate in your statements?

18 A. We try to put 100 percent in there, but
19 it's not always that.

20 Q. I know but, you know, it's like you get
21 on an airplane tomorrow and the pilot says, you
22 know, I'm going to try to land this thing; you
23 want him to be able to land otherwise you're not
24 getting on there. It's that important.

25 A. Yeah. I mean, you want to give 100

1 percent but, you know -- but, yeah, you're right.

2 Q. Or him to say, look, I'm not 100 percent
3 sure, right?

4 A. I don't think you can ever be 100 percent
5 sure unless you -- you know, unless I'm 100
6 percent sure that's black right now, that's black
7 right now. But, you know, ten years down the road
8 or 100 years, I mean, we're putting time frames
9 and there's all kinds of different things that go
10 into 100 percent. But if you told me the color of
11 her shirt, me and you might argue over that,
12 mauve, purple, whatever. Is that 100 percent?
13 That's my interpretation of -- you know what I'm
14 saying? I just -- whenever you ask somebody for
15 100 percent the only thing that they can give you
16 is the best that they know.

17 Q. Okay. So we can agree then that people's
18 experiences or their perceptions can color what
19 they see as 100 percent?

20 A. Sure. I mean -- I mean, we -- I'm glad
21 you didn't do this depo with me and my wife; it
22 would have took us four hours to do this.

23 Q. Okay.

24 A. I can never tell a full complete thing.
25 You know, I mean, that's what I'm saying. It's

1 just a -- when you ask a question and you ask me
2 to run the numbers, I'm going to tell you exactly
3 what I remember and my interpretation of what I
4 seen, you know, there's no -- there's no black or
5 whites in that. I mean, it's what I seen or what
6 I perceived happened. That's human nature. I
7 can't -- so I don't think we can put numbers --

8 Q. Okay.

9 A. -- on that.

10 Q. So it's possible for two people to see
11 the same thing and not agree on what happened?

12 A. Could be.

13 Q. Now back in January of 2014 you were a
14 corporal then; is that right?

15 A. Yes, sir.

16 Q. And you were doing road patrol?

17 A. Yes, sir.

18 Q. What was your shift back then?

19 A. I believe I was -- yes, I was on night
20 shift.

21 Q. And so what does that mean?

22 A. My shift -- that means we're to be in our
23 zones, or our deputies that work for us to be in
24 the zones at 5:45 and you hope and cross your
25 fingers for 5:45 the next morning.

1 Q. Okay.

2 A. It could be longer.

3 Q. So it's a 12-hour shift?

4 A. Yes, sir, 12 hours.

5 Q. So let's talk about going to the movies.

6 How do you end up deciding to go to the movies;
7 did you work that night?

8 A. Yes, sir. I worked Sunday --

9 Q. The night before?

10 A. Sunday night, yes, sir.

11 Q. And so tell me when you decide to go to
12 the movies?

13 A. Actually it had -- it had been a few days
14 because we had purchased a home not long before
15 that and I told my wife, we haven't done anything.
16 And I told her, I said, why don't you go to the --
17 let's go out and go to a movie and let's go out
18 and eat and do something of that nature. I said,
19 I don't care.

20 And she said, I've gotta work. And I
21 said, well, I'm sure you can make those
22 arrangements to, you know, take off or whatever
23 you need to do.

24 I wake up the next morning. She's not in
25 the bed so my assumption was that she went to

1 work, you know. Come out there, she's sitting on
2 the couch and I'm like, I guess you were going to
3 wait on me; made me extremely happy. So we're
4 going to have our day.

5 When we pulled into the driveway, or our
6 road, which is, you know, just a few yards from
7 the main road I said, which way you want to go?
8 She says, let's go to Brownwood, which is way
9 closer. I told her, I said, okay. We headed that
10 way, made it to 470, which is a cut through back
11 to the Interstate, and I said, you know what, heck
12 with it. I want to go down to Pasco County. We'd
13 only been there like maybe once before, I believe.
14 And I said, I want to sit in the bistro. She
15 goes, we don't need to do all that nonsense, it's
16 too expensive. I said, I don't care. I want to go
17 to the bistro.

18 Turn around and go back the opposite way
19 south bound; get there, walk in behind these
20 people. Get our popcorn, and chips, and whatever
21 else that nonsense is you pay for -- too much for,
22 and that's basically how we got to that. Went in
23 and sat down.

24 Q. Let me ask you this. Did you decide
25 ahead of time which movie you were going to see?

1 A. No. We had basically went back and forth
2 on what we wanted to watch. And I can't remember
3 what they had playing, but when we got there
4 that's what we opted for.

5 Q. And so did you look up ahead of time to
6 see which movies were playing at the theater with
7 the Cine Bistro?

8 A. My wife did. I think they basically had
9 the same thing playing at one deal as they did --
10 you know, Brownwood as they did at the other, the
11 best I recollect.

12 Q. And so who chooses the movie Lone
13 Survivor?

14 A. Oh, we normally agree mostly on
15 everything so it was probably a group effort on
16 both of our parts.

17 Q. And once you get to the theater you buy
18 your tickets there in front?

19 A. Yes, sir, outside.

20 Q. And what do you pay, cash, credit card?

21 A. Pay with a debit card.

22 Q. Debit card? And once you get your
23 tickets tell me where you go?

24 A. We go into the -- I guess it's the lobby
25 area out there where they have the dispensary and

1 the popcorn, I guess that's where we initially go.

2 Q. And what do you get there?

3 A. I believe I got a bucket of popcorn and
4 she got some Tostito chips or something, whatever
5 those things were, because I remember that because
6 I'm like -- she wanted extra cheese and I'm like,
7 okay, just ask her.

8 One lady said it was, I don't know, a
9 couple dollars and I'm like, are you kidding me?
10 Do you really need extra cheese that bad? She
11 goes, you're going to complain about everything
12 today? And I'm like, no, I'm just telling you.

13 Q. So you get popcorn and she gets Tostitos,
14 without extra cheese?

15 A. No, she gets her cheese. I mean, it was
16 my day to make sure she was good.

17 Q. And do you get drinks or anything?

18 A. I believe we got water, I think.

19 Q. Bottled water there?

20 A. As best I -- best I remember, bottled
21 water, I think.

22 Q. Now you said you've been in that movie
23 theater before?

24 A. Oh, here we go with the numbers again.
25 It had -- yeah. Yes, sir, I've been there before

1 but I can't remember specifically what -- when we
2 had been there before, but it had been quite a
3 while. If you give me a second, I mean, if you
4 continue on I'll tell you exactly what --

5 Q. Okay. Well, take a moment and think
6 about --

7 A. It had been a while. We actually went
8 there with some friends, I believe, is the last
9 time we went there. And I couldn't tell you
10 what -- what we watched. I'm not a big fan of
11 movie theaters, I'll be honest with you. I can't
12 remember what we watched.

13 Q. Okay. And so you go into the -- now you
14 got your ticket, you have your food; now you're
15 going to go into the theater itself, correct?

16 A. Yes, sir, down the hallway, I believe.

17 Q. Okay. Do you remember -- what's that?

18 A. I can't -- I can't remember what exact
19 theater we were in, I just remember walking down
20 the hallway and going -- going in.

21 Q. You don't remember the number of the
22 theater?

23 A. No. I didn't pay any attention to the
24 number of the theater.

25 Q. Okay. Let me show you -- this is, looks

1 like it's marked Defense Number 2. Does that look
2 like the theater you were in?

3 A. If not it's very similar.

4 Q. Okay. Looking at that --

5 A. Yeah, the bistro.

6 Q. Right. You see and you're pointing to
7 the back edge of the picture, kind of that lighted
8 area of different colored chairs is the bistro,
9 right?

10 A. Yes, sir.

11 Q. And when you come in the theater do you
12 know where you actually walk in?

13 A. I want to say we walked in on this side,
14 I believe.

15 Q. So you're pointing to the left side?

16 A. The left side, which would be the north
17 side.

18 Q. And it looks like there's some railing?

19 A. Correct.

20 Q. So where do you go once you get into the
21 theater?

22 A. Again, I wanted to go more towards this
23 side, and my wife --

24 Q. And you're pointing to the right?

25 A. To the south side of the theater.

1 Q. In other words, as you're looking at the
2 movie screen you're on the left side?

3 A. You know what, give me a second. When we
4 walked in we didn't walk across anybody, that I
5 remember. We may have came in on this side. But
6 our conversation, the wife and I, was that I
7 wanted to sit in the corner where I feel more
8 comfortable and she said, let's sit in the middle
9 this time and do something different. And I said,
10 okay, here we go with again with the cheese thing;
11 we'll do that too. So that's basically the way
12 that that went.

13 Q. All right.

14 A. So whatever -- I mean, I don't remember
15 walking across anybody. I don't like to interfere
16 with other people while they're sitting. You
17 know, sticking your rear end in their face as
18 you're making your way down to a specific chair.

19 So that's what I'm saying is, whatever
20 side we came in we made a decision not to sit at
21 the top right, to move towards the center. So
22 however that goes.

23 Q. And you said you don't like movies?

24 A. I'm not a -- well, I like movies, I'm
25 just not a fan of movie theaters.

1 Q. All right. You don't like movie
2 theaters. When you go to the movie do you have a
3 favorite place that you like to sit?

4 A. I normally like to sit to the highest
5 point to the furthest outside.

6 Q. Okay. Is there a reason for that?

7 A. Yes, sir.

8 Q. What is that?

9 A. Always take the high ground when you need
10 to take care of business and/or, to the outside
11 you can move down and move out a little bit
12 quicker when the movie starts getting over.

13 Q. Okay.

14 A. So in the event that somebody starts
15 showing out -- I mean, I don't know if you've been
16 in the military where, I mean, I take the high
17 ground? That's just the way I think. I don't sit
18 with my back to doors and I don't like sitting
19 here with this -- with my back to the door, so I
20 don't do that.

21 MS. SUMNER: That's why I sit here.

22 A. I know.

23 MR. MICHAELS: Thank you, Stacey.

24 Q. Do you have a military background?

25 A. No, sir.

1 Q. Okay. Let me show you. This is
2 marked -- and this, let me ask you first. In this
3 Defense Number 2 can you point to the area where
4 you actually sat with your wife that day?

5 A. It would have been somewhere right around
6 here. We moved down. We were going to sit more
7 up in here, but we sat up in this area. If I
8 could see the fricken chairs, I don't what -- I
9 don't remember the count.

10 Q. Here's Defense Number 3. Does that help
11 you?

12 A. Yeah. Like I said, we sat -- we sat down
13 right about in here somewhere. I mean, I
14 couldn't -- if I counted the numbers of chairs I --

15 Q. How many numbers of chairs in do you
16 think you were from the aisle? And we're talking
17 about looking up at the Cine Bistro from the
18 right-hand side, these steps here. You said you
19 were in the back row, right? Against the wall or
20 the row in front?

21 A. Wherever -- no, I'm in the back row.

22 Q. Okay.

23 A. Wherever Mr. Reeves was, I was
24 approximately about five, six chairs this side of
25 him.

1 Q. Well, do you know how many seats you were
2 in from the end?

3 A. I can't recall exactly. I didn't count
4 them, I just -- I wanted to sit here initially and
5 my wife wanted to move down more towards the
6 center. So we were right about in here, like I
7 said. Honestly I didn't count chairs.

8 Q. So three, four, five, six -- you're
9 pointing to chair seven, eight and nine from the
10 right-hand side?

11 A. Yeah. Like I said, right -- somewhere
12 right around in here I would imagine. To be
13 honest with you I couldn't -- unless I was sitting
14 in the theater and sat down and -- or watched -- I
15 didn't even know they had video in those places.

16 Q. So you're closer to the middle, you're
17 saying, than the end?

18 A. I'm closer to the north side of the
19 building than -- I mean, more -- more centered up,
20 is what I'm saying, is when we come from here and
21 moved inward.

22 Q. So when you walked down that row, that
23 last row, is there anybody that you have to do the
24 thing you don't like to do, walk over and say,
25 excuse me, and that sort of thing?

1 A. Not that I remember, no, sir. Are you
2 talking about when I initially entered?

3 Q. Yes.

4 A. Okay. No, sir, I don't remember doing
5 that.

6 Q. Now you're in your seat and you're
7 looking at the screen. Where is your wife?

8 A. She's to my right.

9 Q. Okay. So you're looking at the screen,
10 your wife's to your right; who's to your left?

11 A. Nobody to my left.

12 Q. All the way down to the end of the row?

13 A. I don't remember anybody being there
14 close enough to me to where I recall anybody being
15 there.

16 Q. Okay. But certainly when you're taking
17 the high ground you try to be aware of your
18 surroundings, I would imagine?

19 A. Try to.

20 Q. And so you're in your seat and your
21 wife's to the right. Who's to the right of your
22 wife, the very next seat to her right?

23 A. There's nobody next to her.

24 Q. And what about -- so there's an empty
25 seat to her right?

1 A. There's two or three empty seats, and
2 then there's an older couple that were sitting
3 there, male and -- obviously male and female, and
4 then there was like a space and then Mr. Reeves
5 and then Mrs. -- what I would assume it was
6 Mrs. Reeves, and then there was some people -- I
7 couldn't tell you down beyond that.

8 Q. All right. So, and so I understand, your
9 wife's to your right?

10 A. Uh-huh.

11 Q. Is that, yes?

12 A. Yes, sir. Yes, sir, I'm sorry.

13 Q. And to her right there are at least two,
14 maybe three empty seats?

15 A. Yeah. There's -- yeah, there's probably
16 three -- at least three empty, four empty seats
17 there between --

18 Q. Between your wife and the next couple?

19 A. Yes, sir.

20 Q. Three to four seats?

21 A. The best I recall, yes, sir.

22 Q. And then after those three to four empty
23 seats there's an older couple?

24 A. That's correct.

25 Q. Any description on them?

1 A. I mean, everything -- you gotta consider
2 everything was a little quick at that time. The
3 only thing I knew is that they were -- no
4 disrespect for them, but an older couple, maybe in
5 their 60s, maybe. Maybe, but I know it was a male
6 and a female, because I was kind of at awe that
7 they were still -- they were the only ones still
8 there, except for me.

9 Q. Okay. And you're talking about later on?

10 A. Later on, yes, sir. But as far as
11 contact with them before, I had no clue those
12 people were sitting there. Didn't --

13 Q. Okay. So four seats, a couple, and then
14 is there -- who's the next one next to that older
15 couple?

16 A. That would have been Mr. Reeves would
17 have been the next person, best I remember.

18 Q. Is there any empty seats -- are there any
19 empty seats between the couple and Mr. Reeves?

20 A. Yes, sir. Like maybe one seat, one or
21 two seats, best -- like I said, again, when we're
22 talking truthful answers, I truly cannot recall.

23 Q. I got you. And then next to Mr. Reeves
24 was a woman who turns out to be Mrs. Reeves?

25 A. Yes, sir.

1 Q. Do you notice anybody down the row to the
2 right of Mrs. Reeves?

3 A. No, sir, not at the time that I can --

4 Q. Okay. Now let's talk about what it was
5 like when you walked into the theater. Do you
6 remember what time you got there?

7 A. About 1:30 I believe I put in my
8 statement, 1330.

9 Q. Okay.

10 A. Whatever you want to call it.

11 Q. And you read your statement before this
12 deposition?

13 A. Yes, sir.

14 Q. And are you talking about the written
15 statement that you provided?

16 A. The written statement that they had us
17 lay down on the carpet here and write inside the
18 movie theater within minutes after that happened.

19 Q. Right. So you had a chance to read that?

20 A. I had -- obtained a copy from somewhere
21 of -- my own copy, yes.

22 Q. Do you remember where you had that copy?

23 A. I've had it in my patrol car over the
24 ceiling, along with the depositions and whatever
25 else that goes with this.

1 Q. Okay. When you say "depositions" what
2 sort of -- what are you talking about?

3 A. I had a deposition with the State prior
4 to this on -- when was that? I can't remember the
5 date on that.

6 Q. Well, that probably wasn't a deposition.
7 That might have been an invest. You gave a
8 statement to the State?

9 A. Yeah, that's correct.

10 Q. Is that right?

11 A. I sat in the same room, I believe.

12 Q. And was it a recorded statement?

13 A. I don't know. I don't remember what --
14 what it was.

15 Q. Do you have a transcript of that
16 statement?

17 A. Uh-uh, no.

18 Q. And what do you have in your visor?

19 A. I have a copy of my -- my statement that
20 I made to the sheriff's department.

21 Q. And what else do you have with that?

22 A. Just the deposition from the State given
23 to me and my wife.

24 Q. The subpoena?

25 A. Yes, a subpoena for the deposition.

1 Q. Okay. But is there any transcript or
2 anything printed up about what you said or any of
3 that?

4 A. No, not that I know of. I don't have it.

5 Q. So you say you get to the theater about
6 1:30, right?

7 A. Uh-huh.

8 Q. What time is the movie starting; do you
9 remember?

10 A. It wouldn't have been long after we sat
11 down. I think it was -- it wouldn't have been
12 long because, I mean, they've already started the,
13 you know, turn your cellphones off and they were
14 actually playing sitcoms. And I thought that was
15 kind of odd that they were playing sitcoms, old
16 ones, new ones, or the ones that were being
17 released. So it wouldn't have been long before
18 the movie started.

19 Q. When you walk into the theater what's
20 going on?

21 A. Yes, sir, that's all. That started
22 shortly thereafter so, you know, I knew that it
23 wouldn't be long.

24 Q. So, I mean, when you take your seats
25 finally is there something already on the screen

1 or does it start after you sit down?

2 A. No. There's stuff already going on on
3 the screen. I couldn't tell you exactly what it
4 was. I'd like to say it was mainly commercials is
5 what they were playing.

6 Q. All right. And commercials for what,
7 like products or previews?

8 A. No. They were -- they were basically
9 commercials of sitcoms. You know, I'd never seen
10 half of them, never heard of them, and that's the
11 reason why I wasn't truly paying a whole lot of
12 attention to what was going on.

13 Q. All right. And so now you take your
14 seats. You have -- you say you have a tub of
15 popcorn?

16 A. A box or a tub, a little square, whatever
17 it was.

18 Q. What was it?

19 A. It was a bucket of popcorn.

20 Q. But was it a box or one of those, like, a
21 Kentucky Fried Chicken box?

22 A. It's more than likely one of those square
23 ones. I can't eat all one of those big boxes. So
24 it was more than likely a, you know, just a large
25 deal of sorts.

1 Q. Do you remember what it was?

2 A. Popcorn.

3 Q. But, I mean, do you remember what size it
4 was?

5 A. Oh, no.

6 Q. What kind of container it was in?

7 A. I believe it was like a square container,
8 I believe.

9 Q. Do you know what color the container was?

10 A. I don't remember. I didn't even get a
11 chance to eat it. I probably took a couple of
12 hands full and then the remainder of all that
13 stuff. To be honest with you, we bought it,
14 walked in, probably got my hands in it once or
15 twice and that was it.

16 Q. And when you sit down what do you do, put
17 it your lap? Do you put it in a holder in front;
18 where do you put the popcorn?

19 A. More than likely on the ground because
20 there's not a whole lot of room there to -- you
21 know, I mean, you got a little bit of space in
22 between there, a little bit more than most places;
23 more than likely on the ground.

24 Q. And would you put that between your legs?

25 A. I probably set it down beside me so I

1 could reach over and pick it up.

2 Q. Do you know where you put it?

3 A. No, to be honest with you. To be honest
4 with you I couldn't tell you, but more than likely
5 if I had to -- if I was a betting man it would
6 have been right, you know, down between my wife
7 and I.

8 Q. All right. So to your right is where
9 you're imagining?

10 A. Is where -- yeah, that's what I'm saying.
11 If I had to bet on it, because I'm more right-hand
12 dominant than anything else; that's where I would
13 have reached to get the popcorn.

14 Q. Okay. If somebody flipped a coin are you
15 gonna bet heads or tails?

16 A. I'm gonna bet heads every time.

17 Q. All right. You're wearing glasses. Did
18 you wear glasses to the movie?

19 A. No.

20 Q. What do you need the glasses for?

21 A. Reading, mainly. They're a very low -- I
22 have contacts and those help me out for reading.

23 Q. All right. And it looks like they're
24 progressive lenses?

25 A. Right, yeah. No, I didn't have those on.

1 I don't have a problem seeing distance.

2 Q. So those glasses don't have any
3 correction for distance?

4 A. Un-unh, no, sir. You can look at them;
5 they're basically clear. I wear two different
6 contacts. That helps me see up close and it
7 doesn't mess up my distance.

8 Q. And so that day would you have contacts
9 in?

10 A. I don't think I had contacts at that
11 time, the best I remember. If I had them they
12 were in, but I don't think I had -- I haven't been
13 wearing contacts that long.

14 Q. And you didn't have glasses?

15 A. Un-unh. No, sir, I don't need them.

16 Q. And you don't have any hearing aids or
17 anything of that kind of stuff?

18 A. No.

19 Q. So and were you taking any medication
20 that day at all?

21 A. No, sir.

22 Q. Now once you get to your seat you say
23 there's some sitcoms on the screen?

24 A. Right, previews.

25 Q. And is it dark in the theater?

1 A. They had -- they had just dropped the
2 lighting down to where, you know, you had those
3 bulb -- bulb lighting, I mean, from I guess the
4 stairwell so people can see to at least walk in.

5 Q. But in the theater itself was it dark?

6 A. When you say dark, I mean, it wasn't like
7 that. I mean, it was -- it was -- the lighting
8 was very low, let me put it that way.

9 Q. Okay. And when you say, "like that,"
10 you're pointing to the photograph I show you; it
11 shows the lights on bright in the theater?

12 A. Yeah, I said it was not like that.

13 Q. Right. It was dark?

14 A. It was darker.

15 Q. And what was playing on the screen, you
16 said it was sitcoms. Was it loud like a
17 commercial on TV?

18 A. I mean, yeah. It was amplified well more
19 than what, you know, you're normally used to
20 sitting in somewhere watching TV. So, yeah, I
21 mean, that's -- I guess that's the reason why
22 everybody likes to go so they can listen to the
23 loud stuff. It's great.

24 Q. And so as you're sitting there any
25 conversation between you and your wife, at least

1 initially sitting down?

2 A. Yes, sir. And when we're talking about
3 telling the truth, you're going to think I'm an
4 idiot, but there had been, I forgot how many
5 commercials says, please don't use your cellphone,
6 please turn your cellphone off, and I had already
7 turned mine off. I don't mess with my cellphone.
8 And I told her, I said, you know what, if they
9 have that commercial one more time I'm gonna turn
10 mine back on and just stick it in my pocket, I
11 said, just to say I've done something wrong today.
12 And she, says, no, you're not. And I said, you're
13 right, I'm not gonna do that. That's disturbing.

14 And so when that happened I leaned all
15 the way back down and she was still sitting up and
16 I'm -- I don't know what you want to call it,
17 lounging?

18 Q. Now when you say lounging, those chairs
19 recline at least a little bit?

20 A. A little -- a little bit, but not -- not
21 much. So, I mean, I took it to the extremes and
22 kinda sloped my feet, because I really wasn't
23 worried about anybody walking and if they would
24 have came by I'da sat up.

25 Q. So you actually slumped down in your

1 seat?

2 A. I'm slumped just like I am now, I'm
3 slumped, you know, at a 45, or whatever you want
4 to say. And we really didn't have much more
5 conversation. I'm sitting there just basically
6 relaxing and she bumps me and said, hey, you may
7 want to pay attention to this.

8 Q. Now are you watching the screen when she
9 bumps you?

10 A. I'm just kinda staring around. I mean,
11 I'm watching periodically what's going on. Like I
12 said, all that stuff up there didn't interest me
13 at the least and, you know, if doesn't interest me
14 I don't pay attention to it. And she bumps me and
15 says -- and before she bumped me I heard, you
16 know, just a little muttered conversation, but it
17 was a little bit louder than it was. But being in
18 those theaters, you know, people bring -- you
19 know, you may bring your son, your wife, your
20 husband, three kids and you get into a
21 conversation, and because of the noise in there it
22 may be a little bit louder. And I really didn't
23 think of it as being a, you know, something that
24 would lead to what we're fixing to about talk
25 about here.

1 Q. So let's talk about the muttered
2 conversation that you hear. Is that before your
3 wife nudges you?

4 A. About the same time. I heard -- like I
5 said, it was just a -- I don't even know how to
6 describe it. It just wasn't really that loud of a
7 conversation to me, you know, from where I'm
8 sitting.

9 Q. Well, we can agree that whatever's going
10 on on the screen -- you're saying it's a
11 commercial kind of a thing, right?

12 A. Yes, sir.

13 Q. Is loud?

14 A. Sure.

15 Q. And so this had to be louder than that
16 for you to hear it, right? Unless they were right
17 next to you?

18 A. No. And like I'm saying, with it -- it
19 blended in with what was going on up here; it just
20 appeared to me not to be that loud. I didn't
21 think it was that loud. And I'm telling you, I'm
22 always on red. If I would have felt that was a
23 screaming, hollering match I would have paid a
24 little more attention to it. I really -- I
25 believe I would have. And never looked -- I never

1 looked down that way until she bumped me and said,
2 hey, you may want to pay attention to this.

3 Q. When you hear the muttering, which
4 direction is it coming from?

5 A. From my right.

6 Q. And can you tell what row it's coming
7 from?

8 A. Whenever -- and, again --

9 Q. Initially, we're talking about. When you
10 heard the muttering --

11 A. No, that's what I'm saying. When I hear
12 the muttering I know it's coming from my right,
13 which would be on the north side of me. I know
14 it's coming from over there because it's not
15 centered down -- you know what I mean? It just --
16 it came all in off of this way and I really
17 didn't -- you know, and she could been rattle
18 trapping or something whenever she was -- you
19 know, we were talking or whatever at the time
20 and --

21 Q. So you didn't know whether it was coming
22 from your wife?

23 A. No, no, no. I knew -- I knew it wasn't
24 from her. I'm just saying she could have said
25 something in the middle of that -- that muttering

1 that I heard is what I'm saying. I knew
2 specifically that wasn't her. I know what she
3 sounds like.

4 Q. Okay.

5 A. But in -- you know, in that same scenario
6 she could have leaned over and whispered to me and
7 I would have heard what she said. You know, I'm
8 not hard of hearing. But nevertheless, the
9 muttering, if that's the terminology you want to
10 use.

11 Q. Well, you used that?

12 A. Yeah. I'm using muttering or, you know,
13 a low tone, medium tone conversation. And I don't
14 know the details of conversation, I just know that
15 somebody was talking a little louder.

16 Q. Could you tell if it was a male or a
17 female voice at that point?

18 A. No, not at that point.

19 Q. And could you tell if there was more than
20 one voice?

21 A. I only heard one voice, again, the best I
22 recall. The only thing that I heard was just that
23 same tone for the period of time before she said,
24 hey, you may want to pay attention to this. And
25 that's whenever I, you know, tuned in a little bit

1 more to what was going on.

2 Q. And so you heard a single tone, you
3 described, what you just said? You said a tone?

4 A. The tone of that -- that particular tone
5 of voice, you know, whenever -- and you revert
6 back to, you know, you can always hear your mom
7 talking or whatever tone people are using, that as
8 it raises or lowers you notice that tone, you
9 know, that dip in that tone. Whomever was talking
10 and whatever was going on it stayed at that level.
11 And like I said, it wasn't that long before she
12 brought it to my attention that I even picked up
13 on that. And then when she bumped me that's
14 whenever I tuned into, you know, tried to look
15 back down that way to see what was going on to my
16 right.

17 Q. Now when your wife bumped you you were
18 still slouched down in your seat?

19 A. Yes, sir.

20 Q. Is that right?

21 A. Yes, sir.

22 Q. And when she bumped you describe -- how
23 did she do that? What did she do?

24 A. She just reached over and bumped me with
25 her elbow and said, hey, you may want to pay

1 attention to this.

2 Q. When she does that what do you do?

3 A. I immediately sit up because she knows,
4 you know -- whatever was going on was
5 uncomfortable for her. And, again, I don't know
6 what that was, but she obviously whatever she was
7 seeing before I even paid attention to it was
8 obviously enough -- I mean, obviously we all know
9 what I do for a living here -- that it was enough
10 for me to pay attention to what was going on and
11 make me intervene and to what, you know, maybe try
12 to intervene.

13 Q. Now does she nudge you and actually say
14 that to you or is it kind of a nonverbal thing,
15 hey, you know, pay attention?

16 A. Yeah. She nudges me first and I'm like,
17 what? And she says, you may want to pay attention
18 to this, something in that nature and I reached
19 and sat back up in the chair and I looked down
20 that way, but --

21 Q. Okay. Now you're saying -- you're kind
22 of describing you're looking to your right?

23 A. Yes, sir. I'm looking across her.

24 Q. Across your wife?

25 A. Across my wife.

1 Q. And is your wife sitting up or leaning
2 back?

3 A. She's sitting up, the best I remember.

4 Q. And so what is your position in the seat?

5 A. When I sit up, I sit to the edge of my
6 chair to look down that, you know, make it a
7 little more -- a little clearer down that alley
8 way or trying to see what -- what was going on.

9 Q. Okay.

10 A. I mean, again, you know, if I tapped you
11 right now and tell to you look behind you, you're
12 going to have to position yourself. And that's
13 what I did was position myself to try to figure
14 out, all right, what's going on down here? And do
15 I need to go ahead and, you know, take care of --
16 go down there and holler at them and, hey, I'm,
17 you know, Johnny law, or whatever that deal was.
18 And, you know, but that's all comes -- you know,
19 as an incident escalates when you're off duty, you
20 know, you gotta, you know, make sure you take due
21 caution when you're messing around with that
22 stuff. So I wanted to make sure what was going on
23 and it -- it went way too quick.

24 Q. So between the time that you were leaning
25 back and heard that tone, the low conversation,

1 and the time your wife nudges you and you lean up,
2 do you hear anything else coming from the right
3 side? You know, if we break it down from, you
4 lean back --

5 A. Lean back.

6 Q. In between the time lean back and leaning
7 up do you hear anything in the interim?

8 A. As I -- as I've leaned up I seen -- and,
9 again, everything was in a light with the
10 gentleman, Mr. Oulson, I believe it was, was -- I
11 seen him the -- you know, his -- his shadow -- I
12 mean, I don't know who this guy is; never seen him
13 before. I don't know who either one of these
14 people are, so I don't know who I'm staring at.
15 And I heard something to the effect, you mind?
16 I'm just trying to text my fucking daughter.

17 Q. All right. And we'll get there. Let me
18 ask you, when you leaned up, these seats -- and
19 you have a picture of them -- it doesn't look like
20 they're that far apart?

21 A. Well, I mean, there's a -- you know,
22 there's a good little space there in between those
23 to where you can -- I mean, what I'm saying is
24 when you lean up you've got enough room where
25 you're not going to, you know, tear up anything to

1 lean forward, I mean --

2 Q. So what I'm asking you is do you actually
3 lean on the chair that's in front of you?

4 A. No. I just -- I'm saving my bottom on
5 the seat and lean more towards so I can see, you
6 know, down the aisle. I mean --

7 Q. And what you're showing me, you kind of
8 -- you have your elbows on your knees?

9 A. Could have been that way. I mean, I --
10 like I say, this happened all too quickly. So, I
11 mean, when I leaned up I leaned up to pay
12 attention to what it was. Whether I had my hands
13 on my knees, elbows on my knees, you know, I
14 don't -- I don't remember.

15 Q. So when you lean up you look to your
16 right?

17 A. Yes, sir.

18 Q. And why do you look to your right?

19 A. That's basically where she had directed
20 me to and that's where I'd heard the other stuff.
21 So obviously, you know, everything -- whatever is
22 going on is going on that way. So, I mean, I --
23 it's an evaluation process to see.

24 Q. Now at that point in time do you know
25 what's going on on the movie screen?

1 A. No. It all kinda went -- went away.

2 Q. Is there still sound from the movie
3 screen?

4 A. Could have been. I immediately blocked
5 that out.

6 Q. All right. So now you're leaning
7 forward, you're looking to your right; tell me
8 what you see?

9 A. I see a gentleman -- which now I guess is
10 Mr. Oulson -- standing up.

11 Q. All right. Now he's standing up. Can
12 you tell height, weight, that sort of thing?

13 A. I can tell he's -- he's -- let's back up
14 a minute.

15 When he's standing up -- now mind you, we
16 walked in behind Mr. Oulson and them unbeknown's
17 to us. I had no clue who they were; didn't know
18 how all this was going to play out.

19 Later in the incident that's who -- when
20 I visually seen this individual that's who I seen.
21 My assumption would have been that was him down
22 there standing up. But, again, his stature, you
23 know, he seemed to be thinner, tall guy and
24 that's, you know, that's what -- the only thing I
25 seen. And like I'm saying, this -- we're talking

1 about in the blink of eyes, you know, I don't know
2 how much we're able to take in and put out of
3 what's going on as things escalate, but I knew
4 enough to see that there was a thinner gentleman
5 standing up. I mean, that's all I'm --

6 Q. And height wise could you tell?

7 A. No, sir, I couldn't -- I couldn't tell.
8 I mean, like I said, there was a bulb that was --
9 he was basically in that bulb light. I mean, it
10 was a very odd view, but I could see the side of
11 his -- of his person.

12 Q. And when you say "bulb light," you mean a
13 bulb, a light bulb?

14 A. Yeah. These -- these bulbs here that are
15 shining up in the -- you know, they dim them,
16 brighten them but, you know, they still give a
17 little -- they illuminate a little bit out into
18 the crowd.

19 Q. You're showing the ones that are in the
20 ceiling?

21 A. I mean, I'm going off the picture. I
22 mean, when we're talking about -- it appeared it
23 could have been one of these, the wall lights.
24 I'm not sure which light it was that was, you
25 know, kind of illuminating behind him.

1 Q. Do you know if it was the light from the
2 movie screen, perhaps?

3 A. No. This -- this was more of one of the
4 side wall lights that either on the wall or in the
5 ceiling. You know, I was -- you know, I didn't --
6 I didn't count them; hard to see where -- when I
7 came in where they were at.

8 Q. Was the silhouette appear to be taller
9 than six feet tall? It's what you do for a
10 living.

11 A. I mean, but I'm seeing this gentleman,
12 only basically half of him when I'm looking at
13 him. And when I initially see him for the first
14 time is the last time I see this guy. And then
15 so, you know, I'm not going to say he was six
16 foot, you know, five foot five. I don't know
17 that. I mean, I could only see just a portion of
18 his upper torso.

19 Q. And from where to where do you see? What
20 portion of his upper torso, waist up?

21 A. I'd say about from -- I would imagine
22 probably from about here up to shoulders. I mean,
23 I'm focussing more on, you know, on the top
24 portion of him. I guess that's normal for people
25 to, you know, watch and see what people's

1 actions are; if they're pointing their fingers,
2 their, you know, facial features, whatever, you
3 know. So, I mean, I couldn't even -- I couldn't
4 see who he was talking to, or at or, you know,
5 whatever.

6 Q. Okay. And you focussed on, and you're
7 showing me somewhere between the waist and the
8 chest, so the rib area more or less?

9 A. Somewhere around in there. It could have
10 been a little bit lower, a little bit higher. I
11 mean, we're -- but that's what I'm saying. I see
12 the silhouette of his shoulders, just under maybe
13 neath his rib cage, about midriff.

14 Q. And you focus on the upper torso because
15 in your experience, and your training, and your
16 job, you know that danger is more likely to come
17 from the arms or hands they present --

18 MS. SUMNER: I'm going to object to
19 leading.

20 Q. You're allowed to answer that.

21 It will present some form of danger more
22 than likely -- more likely than not?

23 A. No. My thing was, was -- that wasn't
24 I don't think that was what was on my mind. My
25 thing was, was everybody else should be sitting

1 down and I'm trying to evaluate where this noise
2 is coming from. Who's raising hell? And when I
3 looked up, the highest point, again, in the
4 theater would be this gentleman standing up. And
5 when I see that, you know, I mean, I don't want to
6 jump, you know -- put the horse -- you know, the
7 wagon in front of the horse here, but we're
8 talking about seconds. I mean, I don't know how
9 long these gentlemen -- that's someone's else's
10 statement. I have no clue, other than what I've
11 seen on TV and, you know, what people have told
12 me, but I don't know how long these gentlemen were
13 arguing before.

14 And what I'm saying is, when I seen him
15 that's all I seen of him within those -- I'm
16 assured somebody's got a tape somewhere that tells
17 how long in between that, you know, that second
18 encounter, I guess, was to the time that, you
19 know, the whole incident went down. It wasn't
20 long. I don't know the exact minutes, seconds,
21 whatever it is, but I'm telling you, that's all I
22 seen of that individual and there was no other
23 reasoning in me at that point in time to go, okay,
24 he's six foot five, he's got a, you know five-foot
25 wing span, to even worry about. You know, I

1 didn't really think that conversation was that
2 intense to create the end result. I really
3 didn't.

4 Q. Okay. And so could you see any features
5 of the individual or was it just too dark?

6 A. It was just too dark. I really --

7 Q. And so when you lean forward you say you
8 hear some words that you can discern?

9 A. Uh-huh.

10 Q. Is that right?

11 A. Yes, sir.

12 Q. And what words, again, did you hear?

13 A. It was something to the effect of, you
14 mind? I'm just trying to text my fucking
15 daughter.

16 Q. Okay. And is that a direct quote?

17 A. Nope. I've put it my statement.
18 Anything, if it's not -- I'm not quoting that, I'm
19 just saying it's -- somewhere in that area I knew
20 the F bomb came out and within that. And what I'm
21 saying is that it was, if you don't mind, I'm
22 trying to text my F-ing daughter.

23 Q. Now even though you saw a silhouette
24 could you tell in which direction that person was
25 facing?

1 A. Yes. He was facing the back of the
2 theater.

3 Q. Okay.

4 A. Towards the bistro.

5 Q. So he was facing the same row that you
6 were in?

7 A. Correct.

8 Q. Did he appear to be facing the seat
9 directly behind him?

10 A. Again, I couldn't see whom he was talking
11 to. I mean, you've gotta -- gotta figure, those
12 seats have a little bit of a recline and they're
13 recessed back a little bit, you know what I mean?
14 So if I'm looking like this, and that's why I was
15 trying to make you understand that for me to see
16 what was going on I had to lean up. But if you
17 look, like, back like this you're -- you know,
18 you're looking down a row of heads, or a row of
19 seats, whichever, you know what I mean? So I'm
20 hunting in the dark.

21 Q. All right. Literally?

22 A. Literally.

23 Q. So when you're leaned up this silhouette,
24 can you see the profile of the person?

25 A. I can see a profile of the individual.

1 Q. So that's how you know that person's
2 facing the back row?

3 A. That's how I know he's facing the back
4 row.

5 Q. And this individual is -- what's the body
6 position of this individual? In other words,
7 because the seats have a natural recline; you can
8 agree with me on that, right?

9 A. Yes, sir.

10 Q. Kind of -- I mean, you have the pictures
11 in front of you.

12 A. Right. And I see them. And, I mean, I
13 remember those -- those chairs. They do have
14 somewhat of a recline. I mean, that's --

15 Q. Even in the up position?

16 A. I mean, I -- when we're talking about
17 recline, we're talking about when I sat down I can
18 recline back in it. Now, but they're recessed a
19 little bit? Yes, more than likely they are
20 because the seats are folded up; they have to be.

21 Q. Well, here. Let me show you this one.
22 We'll call it Defense Number 1. Let me make sure
23 I don't have a number one.

24 (Defendant's Exhibit 1 was marked for
25 identification.)

1 Q. Okay. This is number one. You recognize
2 the theater, right?

3 A. Yes, sir.

4 Q. Okay. Now you see these chairs that are
5 in the forefront there?

6 A. Uh-huh.

7 Q. You notice that they're sort of a
8 natural -- even appearing there's nobody sitting
9 in them, they're still not exactly in a 90-degree
10 angle?

11 A. Right, correct.

12 Q. So even in their up position there's
13 still a little bit of a recline in them; can we
14 agree on that?

15 A. Sure.

16 Q. Now when you saw this silhouette what
17 was the position of the body? Let's go back to
18 that. We know he's facing the back row, right?

19 A. That's correct.

20 Q. And is he leaning against the chair with
21 his hands?

22 A. He's -- he is propped. And I use the
23 propping deal. And what I seen, my version of it,
24 I never seen him leaned -- excuse me, I'm sorry --
25 leaned -- when we're saying leaning versus

1 propping, I never seen the leaning motion deal.

2 Q. Okay. When you talk about prop, you're
3 putting your hand out. Could you see his hand
4 propped on anything?

5 A. He was in a -- I mean, if you take and
6 turn around in a chair and put your knee in it,
7 that's what I'm saying. When I seen the upper
8 part of his body he was propped.

9 Q. But propped means that you're not exactly
10 straight up and down then, right?

11 A. More than likely not, no.

12 Q. Do you remember how he was; whether he
13 was straight up and down or not?

14 A. Again, he's propped. And I think -- and,
15 again, no disrespect, but I think I've told this
16 to someone else, that I never seen him -- so we
17 can resolve this -- I never seen that man lean
18 over the chair, breach the top of that chair. I
19 never seen that. Like I said, the only thing I
20 seen was obviously -- and when you say did I see
21 anything, yes, I seen a flick of a -- and I seen
22 popcorn fly. Who did that? I have no clue. More
23 than likely whomever was sitting down there would
24 probably give you a better idea of that. I can't
25 say that truthfully. I just seen -- like I'm

1 saying and told everybody else, there was a flick
2 of popcorn; whose hand that was, I have no clue.

3 Q. Now when you're looking down there, you
4 see the silhouette, you describe it as propped,
5 correct?

6 A. Yes, sir.

7 Q. But we can agree you don't see whether
8 that silhouette's hand is on the top of his --
9 what would be his seat, right?

10 A. That would be my assumption and I
11 wouldn't want to assume anything in this
12 situation. But what I'm saying is it's his
13 posturing was that he was -- he was propped and
14 was, you know, obviously the voice, what I'm
15 saying is I'm seeing is more than likely coming
16 from that individual that's standing on top of
17 everybody else.

18 Q. And you described it as raising hell a
19 little earlier?

20 A. Again, I don't know if the correct
21 terminology would be as muttering, but it was a
22 low, mediocre mutter initially and that's all I
23 heard. Because I truly was not listening to these
24 people's conversation. I thought maybe someone
25 was talking amongst a group of people, because I

1 knew that there wasn't -- didn't appear that there
2 was a whole lot of people in there at that time.

3 Q. But when you lean forward looking at the
4 silhouette and you determine that he was raising
5 hell -- in other words -- right? That's what you
6 said?

7 A. I mean, the -- yeah, the conversation was
8 heated. Whatever -- you know, whatever initially
9 started it -- I know what ended it, but whatever
10 started that conversation, to this day, I mean, I
11 truly don't know, and I'm assured somebody sitting
12 at this table does, but I don't.

13 Q. Can we agree you only heard Mr. -- who
14 turns out to be Mr. Oulson then?

15 A. That's all I hear. Again, I'm assuming
16 because he's the highest point that I'm looking at
17 and he's directing whatever he's saying towards
18 someone else who, you know, obviously was
19 Mr. Reeves.

20 Q. Right. Either that or he's the one
21 that's being aggressive and yelling and the other
22 person isn't; that's another possibility?

23 A. There's -- there's a hundred
24 possibilities here I would imagine that --

25 Q. Well, we can agree that at that point you

1 only heard Mr. Oulson, right?

2 A. Again, that's what I'm saying. What I'm
3 saying is prior to her bumping me and saying, hey,
4 you may want to pay attention to this, that could
5 have been a mixed, you know, the mixed martial
6 arts there between the two of them. I don't know
7 that, that's what I'm saying. I don't want to put
8 words in anybody's mouth. All's I know is when
9 she said, you may want to pay attention to this, I
10 sat up, looked down the aisle and I seen this --
11 what appeared to be a thinner gentleman standing
12 up in -- at the chair. And I don't want to say he
13 was standing feet first in the chair. He was not
14 standing up in the chair. He was either kneeling
15 and I couldn't see his knee, or standing just in
16 front of the chair, I have no clue what, you know
17 what his positioning of his body was. So I think,
18 you know, I'm not the right one to answer those
19 questions.

20 Q. I understand. Those seats fold up, don't
21 they?

22 A. The bottom --

23 Q. Yeah.

24 A. The bottom of them fold up a little bit.

25 Q. So really from where you're at you don't

1 know if he was leaning against the seat in a way,
2 you know, where the -- you know how you can do
3 that where the bottom seat, the bottoms fold up?

4 A. Yeah, just like these, they fold up a
5 little bit.

6 Q. Right. So you don't know what was going
7 on there, right?

8 A. No, I don't.

9 Q. And certainly the tone was aggressive
10 enough to keep your attention, right?

11 A. Again, I hate to keep putting the wagon
12 in front of the horse, but that didn't take that
13 long. I mean, I've seen some bad things in my
14 life in my career, but this whole scenario that
15 we're talking about, again, you know, if somebody
16 knows how many seconds, minutes, you know, tenths
17 of seconds it took; it didn't take long. No more
18 than what I had looked up and seen what I seen;
19 all hell broke loose.

20 Q. Okay. So what's the next thing that you
21 see?

22 A. I see the popcorn fly.

23 Q. Could you tell where that comes from?

24 A. No. I mean, you can obviously tell it
25 was popcorn. I couldn't tell what kind of

1 container it was in, whether it was round,
2 circular, square, 12 inches tall, whatever, but I
3 knew I seen popcorn fly. And the next thing I
4 know I see a muzzle blast or I hear a loud bang
5 and a muzzle blast.

6 Q. Now you were talking about flicking the
7 popcorn before?

8 A. Yeah. I mean, it was like -- I seen
9 the -- like that flick of popcorn. And, again, I
10 don't know who did it, whether that was
11 Mr. Reeves, Mr. Oulson flicking popcorn, but
12 that's what I'm saying. I couldn't see the box,
13 but I seen a hand and it was just like there was
14 -- it was popcorn went up. I don't know if that
15 was from hitting the chair, hitting the ground and
16 popcorn flying up, I don't know.

17 Q. So it was -- you saw this silhouette of
18 Mr. Oulson making a flicking motion then towards
19 Mr. Reeves?

20 A. No. No, no. I'm just saying it was more
21 of a -- what I seen was that the right hand flick
22 and that's when -- I was already standing up at
23 this point and when I looked I believe I was
24 standing up, or I may have sat up a little bit
25 more, but I seen that popcorn fly and it was just

1 like instantly, bang. And, I mean, I come on up
2 and went down -- you know, down that way.

3 Q. Couldn't you tell which, I mean --

4 A. No.

5 Q. If one arm's going one -- you know what I
6 mean? You have people facing each other and
7 you're making an arm motion. I'm just trying to
8 understand why you have an arm motion?

9 A. Well, I mean, if you P me off right now,
10 if I throw something down right now and we're
11 sitting in a dark room and ask somebody -- if me
12 and you are sitting, you know, within a couple of
13 feet of somebody, at a moments notice if one of us
14 throws something down or flick -- you know, take
15 this thing here and throw it down, we're going to
16 have two or three different opinions about who did
17 that with, you know, my angle. But I'm saying
18 with the lighting and everything you could still
19 tell body motion, but not a whole lot about
20 features.

21 Q. Okay.

22 A. And that's what I'm saying, I couldn't
23 tell which way that flick came from. And, again,
24 I know sometimes my terminology is not, you know,
25 the muttering, and the flicking, and whatever

1 else.

2 MR. ESCOBAR: I do want to ask him a
3 question here about this because I want to
4 interpret the flicks.

5 EXAMINATION

6 BY MR. ESCOBAR:

7 Q. You are showing your hand coming from the
8 area of your head and in a downward motion?

9 A. No, no, no. No. It's -- flicking can
10 come from anything of a -- from a short distance.

11 Q. Forget about calling it flicking,
12 describe the hand movement, because flicking is an
13 opinion. I want you to describe the movement of
14 the hand that you saw.

15 A. It's a short, brief throw of something is
16 what I consider flicking.

17 Q. Short, brief throw of something?

18 A. Right. Not like an axe swing.

19 Q. What hand did you see showing that throw
20 brief -- that brief throwing of something?

21 A. I honestly couldn't tell you, sir.

22 Q. Couldn't tell which hand it was?

23 A. No.

24 Q. Okay. Could you tell whether it was
25 something in the hand that was making that short,

1 brief throwing motion?

2 A. No. No, sir, I could not tell you.

3 Q. Could you tell whether that short, brief
4 throwing motion was in the direction of the --
5 listen -- you haven't listened to my question.

6 A. I'm listening.

7 Q. That's the biggest violation. Okay?

8 A. I'm listening.

9 Q. Okay. Could you tell whether that short
10 throwing motion was in the direction of the back
11 row?

12 A. No, sir, could not.

13 Q. Could not. Okay.

14 MR. ESCOBAR: Go ahead. I'm sorry.

15 EXAMINATION

16 BY MR. MICHAELS:

17 Q. And so you say you see popcorn?

18 A. Yes, sir.

19 Q. And you could tell it was popcorn from
20 where you were at?

21 A. It was very obviously popcorn.

22 Q. And what happens to the popcorn?

23 A. I would assume it would go on the ground,
24 I mean, after that. I mean, it's -- that's where
25 it would wind up, I mean, if someone threw it, or

1 whatever.

2 Q. You saw it fly in the air, is that what
3 you're saying?

4 A. That's what I'm saying. That's what I'm
5 saying. I didn't know whether it hit the arm of
6 the chair, hit the floor, hit the seat, where it
7 hit, but however that went on I seen popcorn fly
8 in the air, like somebody took a handful of
9 popcorn and throwed it up.

10 EXAMINATION

11 BY MR. ESCOBAR:

12 Q. Let me ask you this question, and this is
13 a -- if you couldn't tell anything about the
14 specific arm motion that you've labeled as a
15 flick, but it's a short throwing motion, then how
16 is it that you could see a corn of popcorn?

17 A. It was wasn't just one corn. I mean, it
18 was a flume -- I mean, it was several pieces of
19 popcorn.

20 Q. And you could actually see the popcorn in
21 the air?

22 A. Uh-huh.

23 Q. Okay.

24 EXAMINATION

25 BY MR. MICHAELS:

1 Q. And what's the next thing that happens?

2 A. Again, I don't hear anymore verbalization
3 and I see -- I hear the bang, muzzle blast, and I
4 see that same light silhouetting that same
5 individual that was standing up and he was in a
6 winged, spanned out and was walking away from me
7 as I'm heading down the aisle.

8 Q. So you're describing what, he's got his
9 -- you're showing me he's got his hands on his
10 chest?

11 A. He's -- yeah. He must have been holding
12 wherever his injury was at.

13 Q. Does he say anything?

14 A. Not that I remember.

15 Q. Did you ever see a woman around that
16 silhouetted figure?

17 A. No, I -- we're talking about his wife or
18 another female, whomever that may be; never seen
19 that individual.

20 Q. Up until now have you seen Mr. Reeves at
21 all from your vantage point?

22 A. No. No, sir.

23 Q. So you don't see where the muzzle
24 flash and the shot comes from, right?

25 A. No, sir.

1 Q. And when it happens can you actually see
2 a gun or it's still too dark in there?

3 A. It's too dark.

4 Q. You see a muzzle flash?

5 A. Yes, sir.

6 Q. And you recognize the sound?

7 A. Oh, yeah.

8 Q. And so then what's the next thing that
9 you do?

10 A. I get up and ease down that way, because
11 I don't know how many more people are sitting on
12 that -- that row. And going back to the reason is
13 as I'm going down through here I'm looking for
14 obviously someone that either is going to shoot
15 again, or has a gun, or that individual may have
16 gotten up and moved along while I'm scanning, I
17 believe, Mr. Oulson. And as I go down through
18 here I'm scanning these people to see what's going
19 on, you know, whenever I get to them. And I
20 notice the one, the older female sitting -- she
21 had her purse pulled in tight to her, that was
22 something that kind of set me that, nah, this
23 isn't her. And about the time that I get to
24 Mr. Reeves I notice either he's in the process of
25 setting the gun down, or had just, you know,

1 picked the gun up, set it down, whatever; it was
2 on his -- his left leg and I reached down in
3 between there and picked it up and the barrel was
4 still, you know, warm. So that ended that.

5 Q. Okay. And let's talk about, when you
6 were leaning forward did you see anybody aside
7 from the silhouetted figure standing up in the
8 row, in your row?

9 A. No, sir.

10 Q. Or the other row? Just that one person?

11 A. I seen just that one person.

12 Q. After the gunshot was there any kind of
13 panic, screaming in the theater?

14 A. You could hear a -- there was people
15 rustling around. I seen people, you know,
16 scattering one way. And, again, my attention was
17 focused on whom this individual was and to do away
18 with what they were doing, and why they've done
19 it. You know, that was my focus.

20 But, yes, I did hear one person and later
21 on literally looked over at her as she screamed
22 for them to help her husband.

23 Q. As you're making your way down the aisle
24 are the people that you're walking past -- you
25 said there was an older couple?

1 A. Yes, sir.

2 Q. Still seated?

3 A. Yes, sir.

4 Q. What about your wife?

5 A. After I got the gun I looked up -- looked
6 back to check on her and she was standing within
7 just, I don't know, maybe from me to her behind
8 me, maybe a little further, and --

9 Q. What about eight feet, six feet?

10 A. Yeah, maybe a little closer. And I --
11 again, I kept, you know, back and forth because I
12 had no clue who this other party was with, that if
13 once these people gathered their mind that, hey,
14 this guy isn't going to make it, now I'm going to
15 have to fight two or three of their friends -- I
16 mean, I'm -- I mean, it was a back and forth
17 scanning. So keeping track of her, she may have
18 walked, you know, back and forth, not -- but I
19 guarantee not too far from me.

20 EXAMINATION

21 BY MR. ESCOBAR:

22 Q. Mr. Hamilton, you got a little emotional
23 when you talked about this female. I saw it in
24 your face, almost tearing up a little bit. Were
25 you emotional to see this woman and that -- and

1 you're tearing up now.

2 A. Not --

3 Q. What was happening? Tell me your
4 emotional feelings concerning that, because it's
5 obviously impacted you.

6 A. After the fact. During that my deal was
7 to make sure this gentleman sitting down,
8 Mr. Reeves, didn't get up and that we -- for
9 whatever reason, he done what he done, that he --
10 we maintained what we had. Yeah, it's been a --
11 it's been a long year and a couple of months so,
12 for my wife especially. But at the time, no,
13 there's nothing -- there was --

14 Q. But you're emotional today about when you
15 even mention Mrs. Reeves. Why is that?

16 MR. MICHAELS: Mrs. Oulson.

17 Q. I mean, Mrs. Oulson.

18 A. Mrs. Oulson, yeah. Everybody in that
19 theater that day lost. Everybody. So when we're
20 talking about human beings here, not animals, you
21 know, if you don't have a heart then, you know, I
22 hate it for you. But, yeah. I mean, my wife has
23 taken this very rough and it's not been a fun year
24 for us.

25 So when I'm talking about her after the

1 fact, I know what she has to deal with. I know
2 what Mr. Reeves' wife has to deal with. All of
3 this. So no matter how you split this, no matter
4 what hair you split, it's not good for anybody.

5 Q. Well --

6 A. So I'm just saying --

7 Q. I'm more concerned now about Mrs. Oulson.
8 I mean, you -- go ahead.

9 A. She was screaming, please, somebody help
10 him.

11 Q. Okay. And so --

12 A. And the only thing I seen her was holding
13 her hands up to her -- her chest. And, again,
14 they had pulled the lighting up a little bit more
15 to where I could see her.

16 Q. Uh-huh.

17 A. So I didn't know that she was even
18 injured. My thing was is she just was hysterical
19 as a result of the incident, and her being there
20 on top of whatever happened. And, again, at the
21 time I didn't even identify her as being, you
22 know, the same two people we walked in. I -- you
23 know what I mean? I don't --

24 Q. So is it fair to assume that not only
25 there that night, once you made those statements,

1 it emotionally hit you pretty hard, but even
2 thereafter it has continued to emotionally affect
3 you?

4 A. And, I mean, I -- no, when you're saying
5 "emotionally," I mean --

6 Q. Only because -- only because I saw you
7 tear up and so that--

8 A. Sure.

9 MS. SUMNER: Why don't we move on because
10 you asked him this question several times.

11 MR. ESCOBAR: No, we're not going to move
12 on with this.

13 BY MR. ESCOBAR:

14 Q. You know, we've been talking about this
15 incident, you know, now for almost an hour and
16 15 minutes and this is the first time that I
17 really see you, you know, tear up when you
18 mentioned Mrs. Oulson and her statement. And so
19 it's important for me to figure out, you know,
20 tell me how it's affected you, why it's affected
21 you. Some of these questions are probably pretty
22 obvious, but I need to ask those questions --

23 A. Okay.

24 Q. -- so that you can kind of give us the --

25 A. I'll give you your answer.

1 Q. Okay.

2 A. Over my 17, 18-year career, whatever that
3 may be, corrections and everything involved, I've
4 always maintained that no matter who you are,
5 we're going to treat you like human beings. So
6 after the fact that I realized that this
7 individual, this lady that's screaming, whatever
8 affiliation she had for that person, it was
9 important enough for her to scream and ask for
10 help; that to me is extremely sad. And then to
11 have my wife stand behind me and listen to -- you
12 ever heard the death rattle before?

13 Q. No.

14 A. You ever got a chance to hear that?

15 Q. No.

16 A. I've heard that numbers of times. That
17 means that individual's not going to make it. And
18 on top of that, yes. After awhile, you know,
19 after you start thinking about those things, what
20 these people lost, sure. If you're not emotional
21 a little bit then you're probably going to need to
22 find you a psychologist somewhere down the road.

23 Q. Okay. And so it was not only her call
24 for help, it was also what you heard in this, you
25 call it the death rattle --

1 A. Sure.

2 Q. -- that emotionally shook you up?

3 A. Sure.

4 Q. And you witnessed that yourself, and it
5 was emotional to you, but you also witnessed your
6 wife. Tell me what you witnessed of your wife's
7 emotional state at that point in time?

8 A. She was -- again, we -- it wasn't
9 hysterics. She was more concerned because they
10 kept calling me the shooter when they're on the
11 phone. And she was screaming, no, it's not him.
12 That's my husband. He's still here. They're
13 telling them that the shooter is gone, he left.

14 Q. Who is -- who is accusing you of being
15 the shooter?

16 A. There's a gentleman standing at the end
17 of the row -- excuse me -- on a cellphone --

18 Q. Your row?

19 A. On -- that's correct. The same row as
20 Mr. Reeves, because I'm standing --

21 Q. Is he standing at the far end?

22 A. He's standing at the far end down here
23 at -- somewhere kind of in the middle row, because
24 I could see him standing there on the phone and he
25 was having a conversation -- which, again, you

1 know, Mr. Reeves continued to, you know, make
2 comments and what have you, and I was trying to,
3 you know, keep him at ease, and then listen to
4 what was going on here. I was paying attention to
5 them doing CPR on this gentleman, Mr. Oulson --

6 Q. Well, let's focus first of all on the
7 gentleman down the road.

8 A. My wife was paying close attention to
9 him.

10 Q. Okay.

11 A. And didn't want -- because I knew what
12 was going to come through that bottom door; didn't
13 want Pasco County Swat Team, whatever it was,
14 coming and mistaking me, or anyone else in there,
15 for -- you know, adrenaline gets high at that
16 point in time. You know, so that was her concern.
17 And she was -- she was upset to make sure I was
18 okay.

19 Q. Did you see that gentleman down the road
20 mentioning you as the shooter?

21 A. He had mentioned that there's a gentleman
22 standing up, and I believe he initially said that
23 he's -- the shooter is gone. My wife said, no,
24 he's not, he's still here. And he said, well,
25 he's standing up. So I guess communication got

1 mixed up and then he recorrected and said, no,
2 there's -- I believe it was -- he must have
3 made -- made everything he did correct because he
4 said there's an off-duty deputy here, or whatever
5 it may have been, but he corrected that problem.

6 Q. Okay. After your wife interceded?

7 A. After my wife corrected him.

8 Q. Corrected him and told him, no, he's my
9 husband, or what did your wife say?

10 A. I don't remember the exact terminology
11 that she used, whether it was, that's my husband,
12 he's a deputy, whatever she used, I mean, again,
13 there's a lot going on.

14 Q. And so -- and that's what -- I'm glad
15 you've described this because you're showing a
16 great deal of emotion going on at this very moment
17 right now. Mr. Reeves is still seated there,
18 correct?

19 A. Sure.

20 MR. ESCOBAR: Go ahead, Dino. I'm sorry.

21 MR. MICHAELS: That's all right.

22 EXAMINATION

23 BY MR. MICHAELS:

24 Q. So when you make your way down the row do
25 you know what seat you're going to? In other

1 words -- okay --

2 A. No, sir.

3 Q. So you're looking around at people to be
4 able to determine if you can see the person with
5 the gun, in other words?

6 A. Yes, sir, that's correct.

7 Q. It's still really dark there, is that
8 fair to say?

9 A. It's dark enough where you would -- you
10 would definitely have to look, you know, to see,
11 and what are you looking for?

12 Q. Right.

13 A. You know what I mean? Truly what's
14 you're looking for. I mean, are we looking for,
15 you know, a weapon as long as your arm or are we
16 looking for something you can stick in your sock?
17 I mean --

18 Q. And are you even going to see a weapon?

19 A. Or am I even going to see a human being
20 that did this? I mean, so that's -- I mean, it's
21 an evaluation of everybody when you, you know, you
22 do something to that effect.

23 Q. So you walk past the older lady that's
24 holding kind of her purse up to her chest and
25 you --

1 A. Right. And I think she postured like
2 that just to let me maybe by, or -- but they were
3 real still, real quiet, and I was kind of caught
4 at awe that they were the only ones that I think
5 were still sitting, and even being that close to
6 all that that went on, I was really surprised.

7 Q. So how many seats away from that lady
8 then is Mr. Reeves?

9 A. I believe only one or two seats, the best
10 I -- the best I recall again.

11 Q. And now when you get to Mr. Reeves what
12 draws your attention to him?

13 A. That there's a small caliber handgun
14 laying on his knee.

15 Q. Okay. You can see it then?

16 A. Sure.

17 Q. There's enough light to see it?

18 A. Oh, I could see it.

19 Q. And what is Mr. Reeves doing; how is he
20 seated?

21 A. He's -- he's leaned back. I mean, he's,
22 you know, with whatever position that chair would
23 allow him to sit. But, I mean, it wasn't -- I
24 don't remember if he was a 45, or a 90 degree, I
25 mean, I don't remember that.

1 Q. Okay. But he was leaning --

2 A. He was sitting back because the first
3 thing he did was pulled his glasses up, or
4 whatever, and I identified myself to him. I said
5 just stay -- you know, stay seated.

6 Q. When you got there where were Mr. Reeves
7 hands at?

8 A. Like I said, the -- what I can remember
9 is his hand was either on the way up or way back,
10 but I stuck my hand in between there. Where his
11 -- his right hand was, I don't -- I don't -- I
12 mean, I truly don't know.

13 Q. And was the gun on his right or left
14 knee?

15 A. I believe it was on his left knee.

16 Q. And you describe his hand moving -- his
17 hand wasn't on the gun, was it?

18 A. It was -- no. No. I mean, it was as if
19 maybe he had just set it down there, is what,
20 again, my take on it was. And I didn't know --
21 again, we didn't know this guy so my thing was
22 just to get it. I didn't care which way he was
23 going with his hands, was to get it out of his
24 deal, you know, out of his hands.

25 Q. Right. And was the barrel facing towards

1 the screen or the other way around towards the
2 back wall?

3 A. I believe if you're sitting in this chair
4 like I am, the gun was -- you know what? I'm not
5 going to answer that, because I really, truly
6 don't recall. The best I -- if I had -- what I'm
7 thinking was the gun was laying on its -- its side
8 with the barrel facing out and that's why I'm
9 saying -- and, again, the reason why I'm saying
10 that, I didn't really care what position it was
11 in, it was just to get it and it was still warm.

12 And that's why, you know -- and, again,
13 you know, I didn't know if I was taking a gun away
14 from a guy that may have been sitting there
15 protecting himself from this person that just shot
16 somebody, but all's I knew is that gun was going
17 to be mine for a little while until I figured out
18 what was going on, but, you know, that
19 particularly -- I happened to get lucky.

20 Q. And how quickly did you move over? Did
21 you run or just --

22 A. No. I mean, I scooted down the aisle,
23 you know. Again, I'm not going to run down there
24 and, you know, put myself and everybody else --

25 Q. Right. So when you get down to

1 Mr. Reeves we can agree he's still seated and the
2 gun is on his left leg?

3 A. Yes, sir.

4 Q. And is it like towards his knee or up
5 higher on the thigh?

6 A. No, it's -- it's closer out. I mean,
7 maybe this far in from the top of his knee.

8 Q. What, up six inches?

9 A. Could have been.

10 Q. Six inches -- between two and six?

11 A. Yeah. I mean, again, that's one of them
12 numbers games. I mean, it was probably mid --
13 midway on his leg in here. If you just normally
14 sat down and sit your hands on your legs --

15 Q. Okay.

16 A. -- they normally go to a normal position
17 any time -- I mean, that's -- wherever his arm
18 span would have been, that's where, you know,
19 that's --

20 Q. In other words, the gun wasn't up around
21 his waist or his crotch, it was out on the leg?

22 A. It was out on the leg.

23 Q. Which made it easier for you to grab?

24 A. Correct.

25 Q. And do you remember which way the trigger

1 guard was? Was it towards the north or the south?

2 A. No. I really -- I truly, like I said,
3 I --

4 Q. Can you remember?

5 A. Well, I mean, obviously the gun wasn't
6 headed north or south, it would have been headed
7 east and west.

8 Q. Right. But I'm talking about the trigger
9 guard in other words. It has to be on one side or
10 the other if it's on the side, right?

11 A. Right. And so, I mean, obviously the
12 trigger guard would have been towards the south
13 side, laying on its side.

14 Q. And you pick up the gun. Now when you
15 get there do you say anything initially when you
16 see the gun on his leg?

17 A. I identify myself to him.

18 Q. And how do you do that?

19 A. If I recall I pulled out my badge and
20 told him I'm law enforcement. And I got -- I
21 grabbed the gun up from him and I told him, I
22 said, just stay seated. Again, I reiterated to
23 him that I was law enforcement and, again, he said
24 something to the effect of, so am I, or so was I.
25 And I -- you know, I wouldn't want you to hold me

1 to any quotes on that, so I really don't --

2 Q. Okay.

3 A. That was the initial contact with him.

4 Q. And when you say you show him your badge,
5 where do you have it?

6 A. I normally carry my badge either on my --
7 either on my belt or in my pocket clipped
8 backwards.

9 Q. Do you remember on that day how you had
10 it?

11 A. No, sir, I don't remember where it was
12 at. It could have been in my -- my pants pocket
13 clipped -- normally clipped backwards so it's not
14 out; everybody can see I'm off duty. It's
15 normally clipped inwards.

16 Q. And so you identify yourself before or
17 after you take the gun?

18 A. I identified myself before and after.

19 Q. And now you have the gun. Do you grab
20 with your right or left hand, do you remember?

21 A. It would have been my left, because when
22 I turned it up I looked at it and dropped the
23 magazine, and put the magazine in my back right
24 pocket.

25 Q. Okay. So tell me about that.

1 Immediately upon picking it up you drop the
2 magazine?

3 A. I checked it and checked the tube, you
4 know -- and, again, this is one of the worst deals
5 is I can't remember whether the gun was jammed or
6 when I brought it back and locked it back it
7 stayed open; I don't remember. All's I knew is I
8 wasn't going to be messing around with a gun
9 inside of a theater where there's still people
10 running around. I dropped the magazine and held
11 it, as it was, the best I could concealed to keep
12 from -- I mean, I didn't know where these deputies
13 were going to come in and I didn't feel like being
14 shot that day. So that was my -- my issues of
15 maintaining what we were doing -- me and
16 Mr. Reeves was doing and making sure, obviously
17 even though now we all kind of -- we all assume
18 that -- I was making sure that nobody came back
19 and pounced on him. You know what I mean? That's
20 -- that was the way I felt, and I still feel that
21 way, you know, so --

22 Q. You felt that --

23 A. I wanted to make sure that no one was
24 going to come back and start a fight with him or
25 bring a gun -- a gun to another gun fight.

1 Q. I see. Mr. Reeves, you're talking about?

2 A. With Mr. Reeves, exactly. You know, we
3 didn't need anymore nonsense, you know.

4 Q. So you're there to try also to protect
5 Mr. Reeves?

6 A. Absolutely.

7 Q. And you dropped the magazine, so you said
8 there was some issue with the slide actually going
9 back --

10 A. Yeah.

11 Q. -- to the normal closed position?

12 A. Exactly. I mean, when you, you know, you
13 pull a little 380 back, you know, sometimes it
14 will pull a lock back without you, you know,
15 actually lifting a lever. There's different
16 mechanisms on some of those. So I didn't know if
17 that gun had jammed, but whenever I tried to rack
18 it further back I couldn't get it, you know, to
19 unbreach. So I said, the heck with it. I'm just
20 dropping the magazine and getting that out so we
21 don't have anymore problems here.

22 Q. So we can agree, certainly you're
23 familiar with firearms?

24 A. Somewhat, yes, sir.

25 Q. Well, you've been using them forever now,

1 right?

2 A. Somewhat.

3 Q. And you're certainly familiar with a 32?
4 This was a 38, right?

5 A. 380.

6 Q. 380. And do you recognize what sort of
7 gun it was?

8 A. Semiautomatic, 380. I didn't -- at the
9 time I didn't bother reading it and --

10 Q. Okay.

11 A. -- you know, I knew that that was gonna
12 be somebody else's job, not mine.

13 Q. So we can agree that you don't know
14 whether the round that was actually found jammed
15 in there was either jammed by, you know, the
16 bullet misfeeding, or whether when you went to
17 close the slide that it got jammed up in there,
18 right?

19 A. Again. You're telling me more
20 information than I know.

21 Q. Okay.

22 A. It could have been a couple -- a couple
23 different scenarios of why that did that.

24 Q. Right. But at that point you just want
25 to get the gun and you're not looking at it?

1 A. I'm just wanting to get the gun and make
2 sure we don't have anymore problems with
3 retaliation.

4 Q. So now you have the gun in your hand and
5 try to conceal it the best you can for when the
6 SWAT team gets there, right?

7 A. Yeah. Well, from anybody else, too,
8 because again, I mean, at the point in time I'm
9 the highest one there and if someone else, you
10 know, comes in and sees me standing there with a
11 gun and that happens to be whomever that was
12 family member, now we've got a brawl in there.
13 You know, so, I mean, I'm trying to basically be
14 as discreet as I can to do, you know, what I'm
15 doing here and then let whatever's going on over
16 here, let these people take care of that. And,
17 so --

18 Q. Now you said when you got there
19 Mr. Reeves was kind of -- you said he was pulling
20 his glasses up?

21 A. I mean -- I mean, I wear glasses but I
22 try not to mess with them. But he was -- he had
23 his fingers in a real weird -- maybe he was
24 pulling them up by the sides, you know, using his
25 thumbs to pull them up, but he definitely had

1 pulled them up.

2 Q. Rick wants to -- what we're going to do
3 is, if you don't mind, we're going to take a
4 photograph so we can understand how you saw
5 Mr. Reeves. We've been doing this for the
6 witnesses.

7 Can you show me how you saw Mr. Reeves,
8 what kind of, you know, hand motions he was making
9 with his grasses, please?

10 A. I mean, he was doing more -- more of this
11 of pulling his glasses -- like I said, he was
12 using whatever portions of his fingers to lift his
13 glasses backwards onto his forehead.

14 Q. All right. So he was leaned back and
15 doing that?

16 A. Correct.

17 Q. And that's when you first got there?

18 A. That was right after I -- I took the gun;
19 me and him already knew what I was and we'd made,
20 you know -- I felt maybe hopefully peace at that
21 time that he wasn't going to, you know, do
22 anymore.

23 MR. ESCOBAR: Corporal, can you do that?

24 I just took the video of you. I'm going to
25 take some still photos of you doing that if

1 you could do that again, please? Thank you.

2 THE WITNESS: (Witness complies.)

3 BY MR. MICHAELS:

4 Q. So now you have the gun. You've kind of
5 introduced yourselves to one another in some
6 fashion, for lack of a better description?

7 A. Yeah. I mean, yes, sir. I mean, if
8 that's the way you want to do it. I mean, it was
9 a, hey, I'm law enforcement, you know, we're gonna
10 -- this is what I'm gonna do and this is what
11 you're gonna do, is basically the way I put it to
12 him.

13 Q. So what do you tell him you're gonna do?

14 A. I told him he's gonna stay seated where
15 he's at. There was small -- I mean, no
16 conversation. When we're talking about a
17 sentence, if you want to write a sentence out,
18 there was -- it was small -- he's like, I need to
19 get up and leave. I'm like, no, you're not.
20 You're going to sit right here. I said, because
21 if you get up, I said, and these guys, I said,
22 they're fixing to come in -- and my assumption
23 was, that these guys were going to come in down
24 the bottom and make their way through here; I
25 said, you're going to get me killed. I said,

1 you're not going to do that today.

2 Q. Did he express -- I mean, again, those
3 aren't exact words or quotes, right?

4 A. No. No. Well, I mean, me telling him
5 you're going to stay seated and you're not going
6 to get me shot today, yes, sir, that's probably
7 the closest to anything I've said in this whole
8 conversation, because I was dead serious about
9 that. We wasn't gonna have that conversation
10 anymore.

11 Q. Now when he said he wanted to leave did
12 he describe why?

13 A. I mean, there was a couple of different
14 incidents where he said he wanted to leave and I
15 told him no. And I believe one instance was that
16 he needed to go outside. He said, I'll just go
17 out -- I want to go outside. I need to get out of
18 here. No.

19 Q. Did he tell you that the reason why he
20 wanted to do that?

21 A. I don't remember. I mean, I remember --
22 I can't recall his reasoning. I mean, he just
23 kept -- you know, he was -- he'd sit up and then
24 he'd -- you know, he'd sit back. And, I mean, I'm
25 assured that was just all out of what was going

1 on. I mean, I don't -- I mean, I don't know what
2 was going on in that gentleman's mind that day
3 but, I mean, I'm sure he didn't want to be where
4 he was at any longer and didn't want me
5 interfering with that. So whatever reason why he
6 wanted to get up, I have no clue. I didn't --

7 Q. Did he ever try to get up or get out of
8 there?

9 A. Aggressively or are you just saying just
10 overall, like if I told you, will you stand up for
11 me, get up?

12 Q. Yeah, at any point?

13 A. Sure.

14 Q. Did he get out of his chair?

15 A. Sure, there was several times.

16 Q. When did he try to do that?

17 A. Initially whenever I first made contact
18 with him I stuck my hands in the center of his
19 chest and told him, you're going to need to sit
20 right there until we get this resolved and figure
21 out, you know, what's going on.

22 And the gentleman with the phone, I mean,
23 he came out of nowhere, whatever, and said
24 something about the suspect, and Mr. Reeves says,
25 why -- why am I -- let's list me as a victim, not

1 the fricken suspect or the F-ing suspect, or
2 something of that nature. He made it perfectly
3 clear, why are we already pointing me out as the
4 suspect? I need to be looked at as the victim
5 right now, and let's don't worry about any --
6 anything else until we get what's happened to me
7 figured out.

8 Q. Did Mr. Reeves ever say that, you know,
9 he wanted to leave or that he wanted to go outside
10 the theater and wait?

11 A. He said he just wanted to get out of
12 where he was at. And basically I took it, like I
13 said, I mean, you could mold those two together,
14 leave, go outside, whatever that may mean, meaning
15 leave the entire area, leave the theater? I don't
16 know what he was talking about, honestly, with
17 you. I wasn't concerned about his --

18 Q. Well, can we agree that it's possible
19 that his concern was the same as your concern? In
20 other words, we've got these SWAT guys coming in,
21 later on you find out that he's a 30-year veteran
22 and the originator of the SWAT team in Tampa,
23 right?

24 A. Uh-huh.

25 Q. So he understands adrenaline and all that

1 so, you know, can we agree that what he's saying
2 is just as consistent with that?

3 A. And I think -- I think that if once I
4 told him my scenario behind that, he wasn't going
5 to stand up, he wasn't getting up because he was
6 going to get killed; I would have felt that he
7 would have made some type of conversation with me,
8 you know, hey listen here, I'm, you know, whatever
9 I -- this is what I've done. We need -- we'll go
10 and you can do whatever you need to me to restrain
11 me while we go outside. I would have felt there
12 had been a, you know, a conversation. But like I
13 said, there was no conversation and whatever
14 meaning he had, I can't tell you, you know.

15 Q. Okay, that's fair enough. And we can
16 agree that you're kind of at that point still -- I
17 mean, it's not a static situation, it's fluid
18 because the cops haven't busted in the door yet?

19 A. Right. I mean, his son walks up to me,
20 and which I find out, which -- his son tells me,
21 he walks up with blood all over him and I'm like,
22 you need to stay right where you're at. You know,
23 I told him, I'm a deputy. And he goes, so am I.
24 And we just kind of starred at each other for a
25 second and he goes, that's my dad. And, I mean,

1 it was the oddest situation out of the whole thing
2 of, he's just making sure. He said, is he okay?
3 I said, yeah, he's fine. And he turned around and
4 I guess, he said, I need to go wash this off and
5 I'll be back to get my mom.

6 Q. And so any other comments that Mr. Reeves
7 made between the time where you get the gun and
8 the time his son shows up, hear him say anything
9 as all?

10 A. He asked me, he says, do you see -- do
11 you see where he hit me at? And I said, I don't
12 see anything on you Mister, and I did not. I did
13 not see any marks, any -- which, you know,
14 obviously bruising is not going to come directly
15 unless you really, truly get, you know, smacked in
16 the nose and the eyes and stuff are starting --
17 but I didn't see any redness in his face. I
18 didn't see any scars, scratches, whatever else
19 that he was pointing out to me.

20 But, again, as you took the photos that's
21 what he -- he had initially said, you know, he hit
22 me. And I'm like, Mr. Reeves -- I don't -- well,
23 I didn't call him Mr. Reeves. You can scratch
24 that. I said, sir, I don't see where you've been
25 hit. You know, my concern was was, all right, if

1 this guy's been hit then when they get here maybe
2 we need to get this guy some attention too. I
3 know that's hard for people to think about but, I
4 mean, that's our job.

5 But other than that he -- I just -- to be
6 honest with you, sir, I don't remember. Again, it
7 was just small blurts between he and I and I
8 really didn't want to talk to him at that point in
9 time, I really didn't.

10 Q. Because you have other stuff going on and
11 you didn't know what --

12 A. Yeah. Again, my -- my thinking was to
13 protect the best I can of what I have, and one of
14 them, the most important one was behind me.

15 Q. Your wife?

16 A. Exactly.

17 Q. Now you looked around the theater when
18 you got the gun. Did you look around Mr. Reeves
19 area for any, you know, any other guns, weapons,
20 et cetera, et cetera?

21 A. I mean, it -- I mean, I'm scanning
22 everybody. I'm making sure somebody doesn't walk
23 up there and stick me in the back with a pocket
24 knife because I've got a gun in my hand. But I
25 think what you're referring to is he attempted to

1 reach down and pick up one time. And he didn't
2 say anything to me, he just leaned forward, and
3 there was a -- I guess it was a cellphone. I
4 couldn't tell you whether it was Samsung, you
5 know, 5C, what it was, but there was a cellphone.
6 I can't tell you what color it was, because where
7 I'm standing over top of him and, again, I said,
8 you're not touching that. But he was -- he kept
9 wanting to get that cellphone. I said, you're not
10 gonna touch that until we figure out whose that is
11 and then, you know, if it's yours at some point in
12 time I'm sure somebody is gonna hand it back to
13 you.

14 Q. So you could tell it was a cellphone from
15 where you were standing?

16 A. Yes, sir, it was a cellphone.

17 Q. Was the screen illuminated or were you
18 just looking at the shape?

19 A. No, I'm just looking down at the shape.
20 I mean, again, it was -- it was a cellphone. And
21 if you took a picture of it and showed it to me,
22 like attorneys do; here, is this the actual -- I
23 couldn't tell you which -- you know, if it might
24 have been in a florescent case of sorts, pink,
25 yellow, green or something, yes, sir, I could tell

1 you what that phone looked like.

2 Q. But is it a Smart Phone, that kind of a
3 rectangular phone, do you remember?

4 A. Again, sir, I -- you know, the only thing
5 I'm saying is I recognize that as being a
6 cellphone of sorts and, you know, probably if I
7 laid down and thought about that particular thing
8 I might be able to. But again, I'm not going to
9 run off assumptions, and as we started out you
10 like the 100 percent truth, I'm telling you the
11 100 percent truth. I really couldn't tell you
12 what that cellphone looked -- you know, the size,
13 dimension, thickness, or any of it was.

14 Q. Now when you got to Mr. Reeves did you
15 ask him, do you have any other weapons on you?

16 A. No, sir, I didn't. I -- you know, and,
17 again, normal people only carry one weapon and I
18 was assured that, you know, that that was the one
19 he used, that was the preference, and we're done
20 at the end of the day, hopefully. I wasn't -- I
21 felt that him staying where he was at was in my
22 best interest and not to be following around with
23 this guy, patting him down or, you know, roughing
24 him up because I didn't know what ordeal he had
25 been through, I just knew what that other one had

1 got.

2 Q. Okay. And when you say you don't see any
3 injuries to your his face, you didn't use like a
4 flashlight or your phone to look at his face, you
5 just took a quick look --

6 A. No.

7 Q. -- right?

8 A. No, sir.

9 Q. To make sure that he wasn't like bleeding
10 or something?

11 A. Right. And, I mean, whenever he leans
12 back, I mean, I could see his face. And like I
13 said, if -- if she -- neither one of these females
14 have nails, but if someone were to smack you, you
15 know, give a pretty good pop up the side the head
16 or the face, you'd have some type of marking.
17 Again, I'm not a medic, I'm not a doctor, I'm just
18 telling you I've seen people that's been smacked
19 up side the head and I did not see any signs of
20 that. Whether it was there, whether it was not, I
21 didn't see it.

22 Q. Okay. But certainly you didn't have the
23 benefit of light?

24 A. Sure.

25 Q. Like the forensic photographer did later

1 on in the other theater?

2 A. Yeah. If, you know, somebody took
3 photography later on or, you know, maybe somebody
4 took a flashlight and stuck it right in his ear
5 or, you know, his face or wherever he was
6 complaining about, yeah, you might have been able
7 to see that.

8 Q. Okay. And so now you're there, you have
9 the person on the phone. They're calling, I guess
10 -- does it sound like they're speaking directly to
11 the police saying the shooter's still here, 911?

12 A. Again, there was other -- my wife tried
13 to call 911 and couldn't get through. And, I
14 mean, now that I learned later on, I guess one of
15 the people that was doing CPR was also on 911.
16 But, again, that's who I would have assumed that
17 this guy was giving information to, was someone on
18 911. Yes, sir.

19 Q. And this whole time your attention is
20 focused where, Mr. Reeves? Are you still looking
21 around?

22 A. I'm -- I'm scanning everything. I mean,
23 I'm looking -- I'm looking at everybody and
24 anybody -- anything that was moving, anything that
25 moved, and basically I stayed propped with my feet

1 and moved my upper body, you know, kind of like a
2 turret and I stayed doing that just to make sure
3 that no one -- you know, I mean, I was -- I was
4 making sure nobody was going to slip up on me, my
5 wife, or this gentleman, you know, that was
6 sitting in the seat at the time.

7 Q. So this whole time you have the gun in
8 your hand?

9 A. Yes, sir. I've got it cupped.

10 Q. And could you see at this point
11 Mr. Oulson being worked on or no, from where
12 you're at?

13 A. Yes. Again, this guy every time I look
14 at him he seemed to be in the light somewhere, and
15 he was face up --

16 Q. Mr. Oulson you're talking about?

17 A. Yes, sir. He was face up and I started
18 hearing that rattling and when I looked over I
19 could see his face, I could see that his eyes were
20 not open, and I looked over at Mr. Reeves and I
21 said that's not good. And I said, you probably
22 know what that is. And he goes, oh, my god, what
23 did I do? And I turned around to my wife, it's
24 like, what is it? What is it? And I told her,
25 you know, it's not good. Just back up. I said,

1 just go away. And I guess that was rude of me to
2 tell her, just go away, but I'm -- you know -- you
3 know, I knew that this gentleman -- what was
4 happening there. There is a medical term for that
5 particular sound. We call it the death rattle, I
6 mean, and that's what I'll refer to it as. But
7 that's what I heard out of that gentleman, so --
8 Mr. Oulson.

9 Q. Okay. And, again, you get emotional
10 talking about that?

11 A. Yeah. I mean, I --

12 Q. And you actually, you could see his face
13 at that point you're saying --

14 A. Sure.

15 Q. -- Mr. Oulson's face?

16 A. Yes, sir.

17 Q. And could you see Mrs. Oulson at that
18 point?

19 A. Again, that was a brief period of time.
20 I don't know where she went, where she came from,
21 but I know from where I was standing, I'm looking
22 down at Mr. Oulson and I -- she continued for
23 quite some time on her knees begging for someone
24 to help him, which they were doing that. They
25 were trying to help him, whomever those people

1 were, they were in the efforts of doing that. And
2 so I felt that whomever that was they looked like
3 they knew what they were doing, I mean, to me.
4 And, again, I'm not a doctor, I'm not a physician,
5 I just know what CPR and progress looks like. So
6 I, again, I maintained my attention more on just
7 anything and everything outside of what these
8 people were doing. You know, and I -- and, again,
9 I was the highest point of anybody in that theater
10 so I felt that I had enough visual to see
11 everybody in there that was walking around or
12 walked in. But most people, I don't know where
13 they went. They went off.

14 Q. And you had that brief conversation with
15 Mr. Reeves. Again, is that a direct quote of what
16 he said?

17 A. Of Mr. Reeves?

18 Q. Reeves, uh-huh, when he told --

19 A. Oh, my god, what did I do? Is that a
20 direct quote?

21 Q. Yes, sir.

22 A. I'm not gonna direct quote anything, but
23 I'm telling you it's inside that, oh, my god, what
24 did I do? It could have been, oh, my god, what
25 did I do? Or, oh, my god -- I mean, I'm having to

1 stick with that. I just -- I don't know how else
2 to rephrase that. That's -- you know what I'm
3 saying? But, what did I do? Could have took the,
4 oh, my god, off. But in my mind if you stuck me
5 on a lie detector, oh, my god, what did I do?

6 And, again, he used that same hand
7 gesture and leaned back and held his -- his head
8 just for a, you know, minor second. And he
9 got agitated -- he got a little agitated with me.
10 And, again, right after he did that he wanted to
11 get up. And I said, don't you think you've caused
12 enough problems today? Why don't you do us both a
13 favor and sit there. And he got agitated with me.

14 Q. What did he say?

15 A. I don't remember exactly what -- what he
16 said, but I could just tell by his demeanor, he --
17 the best I can recollect is that he was agitated
18 when I made that comment.

19 Q. Could he have been frustrated?

20 A. Sure. I mean, if I was in his situation
21 I'da been a little frustrated at, you know, maybe
22 myself, maybe if I didn't feel I was wrong. I
23 mean, I don't -- again, I don't know what's in
24 that man's head. I -- you know, I never seen him
25 before, so I don't know nothing about the

1 gentleman.

2 Q. All right. And does he say anything at
3 all after that to you?

4 A. No, sir. I -- truly I'm really thinking
5 here, you know. And if he did say something to me
6 and I wasn't listening to me -- to him, he may
7 have said something else. I don't know. I
8 can't --

9 Q. Now before the police arrive do you
10 hear -- and think carefully about this -- do you
11 hear Mr. Reeves say anything at all to anyone
12 else?

13 A. Yes.

14 Q. What do you hear?

15 A. When his wife was sitting next to him --

16 Q. Now which point are we talking about now?

17 A. We're -- I'm -- his wife sat there for a
18 brief period of time after I had retrieved the gun
19 from him and whenever she turned around and told
20 him, that was no cause to shoot that man. And he
21 immediately turned around in his chair and told
22 her, don't you say another word.

23 She gets up, and I know this is horrible
24 but the reason why I remember about where she went
25 was because I seen the top part of her underwear

1 hanging out of her pants and that's what kind of
2 made me -- that she was moving, and then I looked
3 off and then she turns around and she sits one
4 chair away from him and she props and gestures
5 like she's pissed off at him. And I thought that
6 that was kind of odd. I'm thinking, man, you
7 know, something's wrong here because if that was
8 my wife I would have been making sure that she's
9 okay, or I'm sure visa versa. That was the, you
10 know, truly the oddest -- oddest part about it to
11 me.

12 Q. And you say this because you've been
13 attacked in a dark movie theater before by a
14 younger man?

15 A. No, no, no, no, no. I'm just --

16 Q. With your wife next to you?

17 A. No. I'm saying that when she made her --
18 her move away from him was odd to me. That's what
19 I'm saying and that's why I felt kind of -- I was
20 like, you know, something's not right here.

21 Q. Well, you have to admit that isn't a
22 situation you've been in?

23 A. No. No, I mean, I've -- I mean, I've
24 been attacked in law enforcement before but not in
25 that particular, you know, scenario. No, I can't

1 answer for why they did what they did; why they
2 said what they did. Again, I don't know these
3 people. I don't know whether their relationship's
4 good, bad or indifferent and I really -- that's
5 not even my problem.

6 Q. And we can agree that this was a
7 stressful situation?

8 A. Sure, absolutely.

9 Q. In fact you said that you kind of spoke
10 to your wife in a way that you normally wouldn't?

11 A. I told her to go away.

12 Q. Okay.

13 A. Right.

14 Q. So you actually said something like that
15 yourself?

16 A. Sure.

17 Q. For her own good and safety?

18 A. Absolutely.

19 Q. Because you want to watch out for her?

20 A. Correct.

21 Q. Now does the -- the interchange you just
22 talked about, does that happen before or after the
23 conversation regarding, this is no good, and all
24 of that, you know, you recognize the sound kind of
25 thing?

1 A. She was gone before, I guess, the son --
2 and I'm -- I do not remember when she left, but
3 she left. Because his son, again, I'm assuming
4 that's his son because I don't know that
5 individual too. That's what this gentleman told
6 me, and that, he came back and got his mamma and
7 then they got out of there. Now he never
8 intervened with me and never made anymore
9 conversation so, I mean -- and that was that.
10 That -- that happened not shortly after I done --
11 I grabbed the gun from him. The other -- her --
12 when I grabbed the gun is whenever she made the
13 comment about, hey, that was no cause to shoot
14 that -- you know, shoot that man; then that's when
15 she got up and moved. Her leaving the theater
16 happened later.

17 Q. Okay.

18 A. And --

19 Q. So I get the proper sequence of events,
20 because that's what I was trying to get at before.
21 You go and get the gun?

22 A. Yes, sir.

23 Q. When you get the gun Mrs. Reeves is still
24 seated next to Mr. Reeves?

25 A. Correct.

1 Q. And while you're holding the gun at some
2 point you said Mr. Reeves tilts his head back?

3 A. Right, he tilts his head back.

4 Q. And tilts his glasses back?

5 A. Correct.

6 Q. When he does that is his wife still
7 there?

8 A. Yes, sir.

9 Q. Has there been that conversation you just
10 talked about?

11 A. Not yet, no.

12 Q. Okay. So at what point does that happen?

13 A. Right shortly thereafter within that
14 sequence. She turns over to him and says, you
15 know, that was no cause to shoot that man. And
16 when he turns to her and points his finger, you
17 know, in that scolding mode and she gets up and
18 moves down one chair. And, again, she -- you
19 know, she props, you know, like she's truly -- and
20 just stares back at him. So, I mean --

21 Q. Did he yell at her?

22 A. She said it at him and it was in a stern,
23 you know -- you know, you not need say anything
24 else. Or, don't you say another word. You know,
25 it was -- it was direct and -- and making her

1 understand that, I don't want you getting anymore
2 involved than what you are in this. You need to
3 basically, you know, hush.

4 Q. Was is it more stern than how you
5 addressed your own wife?

6 A. No.

7 Q. About the same?

8 A. When me telling my wife?

9 Q. To get back?

10 A. Oh, it was more stern. Yeah. When I
11 told my wife she needed to back up, this was out
12 of concern with her. I said, you need to back up
13 and just go away for right now. I didn't want her
14 listening to that.

15 Q. No, I understand. But you kind of
16 motioned your wife back?

17 A. Yeah. As I'm turning around, again
18 scanning, I told her, you know, you need to get on
19 back, you know, however I did that. I mean, I
20 talk with -- I should be Italian. I talk with my
21 hands all the time.

22 Q. Okay. But the idea was --

23 MR. ESCOBAR: Or Cuban.

24 A. Either one.

25 Q. The idea was you wanted -- you wanted to

1 get her out of there so you let her know in no
2 uncertain terms?

3 A. Right. I just wanted her back up off the
4 situation.

5 Q. I understand. And so Mr. Reeves was kind
6 of doing something similar to his wife, basically
7 telling her to get out of there and not get
8 involved; is that right?

9 A. Yeah. He didn't want -- he didn't want
10 her making anymore, you know, incriminating
11 comments around other people to where maybe
12 someone else heard her opinion coming out of her
13 mouth at that time. That was my take. And that's
14 why I said I felt that it was extremely odd for
15 her to say that and to move away. But, I mean,
16 when you're putting your take in on it, yeah. A
17 stressful situation people do all kinds of things.
18 I don't -- you know, I don't know.

19 Q. Well, at this point we can agree that the
20 SWAT team hasn't arrived yet?

21 A. Not yet. Yeah, we never got a SWAT team.
22 We got a group of deputies.

23 Q. I know, but you still didn't know who was
24 coming through the doors?

25 A. No, I had no clue.

1 Q. And you didn't know if they were going to
2 come in through blasting with you standing up or
3 not?

4 A. Right.

5 Q. So another reason telling Ms. Reeves to
6 go and sit away would be to get her out of kind of
7 the epicenter of where the focus would be?

8 MS. SUMNER: I'm going to object. You're
9 misinterpreting or misquoting what the
10 statement was. There was never, go and sit
11 away. That was not what he said.

12 BY MR. MICHAELS:

13 Q. You can answer that.

14 A. Are you talking about me telling my wife?

15 Q. No, Mr. Reeves telling his wife.

16 A. He never told her to move.

17 Q. You said he pointed his finger.

18 A. He pointed his finger and just basically
19 told her not to say anything else. He didn't tell
20 her to get up and move, she done that on her own.
21 You know, if he'd a told her, you know, get the
22 hell out of here or get away from me, this is not
23 good for you or, you know, run as fast as you
24 can -- no. That wasn't -- that wasn't the way
25 that was done, and I'll stick to my guns. He

1 turned around and told her, don't say anything
2 else. He didn't tell her to move, just basically
3 shut your mouth.

4 Q. Do you remember 100 percent of what he
5 said to her?

6 A. Again, when we're -- when we're playing
7 with the the's, and I's, and those, and ins, and
8 outs, it was within that realm of basically, hush
9 your mouth and don't say another word. Or shut up
10 and don't say another word. It's basically
11 telling her, you don't need to open your mouth no
12 more. I don't need you in this any longer. So
13 whatever context that may have been, or whatever,
14 you know, how word, by word, by word, I can't say,
15 but he scolded her. If we had a, you know, a
16 recording on it, yeah, I could tell you, yeah,
17 that's what she said, but it was a -- it was a
18 stern scold.

19 Q. Okay. And like we were talking about, it
20 sounds like a movie, the color purple earlier,
21 because you brought it up.

22 A. Uh-huh.

23 Q. She wearing a purple blouse, or something
24 like that, somebody might see it as a different
25 color; basically we're getting your interpretation

1 of what you saw and heard, right?

2 A. My interpretation was, yes, he was mad at
3 her comment.

4 Q. Okay. But that's your interpretation?

5 A. That's -- exactly.

6 Q. Because certainly you don't know these
7 people?

8 A. No, I don't.

9 Q. You've never met them before?

10 A. No, sir.

11 Q. You don't know how they talk to each
12 other?

13 A. No, I don't.

14 Q. And so now at some point did the police
15 come in; is that the next step we're at or did I
16 miss something in between?

17 A. No, I think we basically got it down. I
18 mean, I knew that the first responder is going to
19 be there. We've already -- I mean, this is well
20 -- been well known. We're -- I know more than
21 likely a SWAT team, unless they just had a full --
22 I don't know nothing about Pasco County SO. But I
23 knew this was more than likely going to be road
24 deputies that were going to engage immediately.
25 So that was my concern of whether we had a six

1 month deputy that was going to come in there with,
2 you know, an AR 15, with the hammer clipped down
3 ready to rock and roll; that was my concern.

4 So when they came in they walked up the
5 front -- in front of where he's -- Mr. Reeves is
6 at and put him in handcuffs. They bent him over
7 the rail, got handcuffs on him and as they're
8 walking out -- I couldn't tell you the sergeant's
9 name. The only reason I identified him as the
10 sergeant is he had sergeant stripes on. I said,
11 here is the gun and -- the magazine and the gun --
12 excuse me, I'm sorry -- and the gun. And he said,
13 thank you, and he went on about his way. And then
14 obviously everything else, the statement forms
15 come out.

16 Q. And I forgot to ask you something
17 earlier. You were on duty, right?

18 A. Yes, sir.

19 Q. And do you carry your gun off duty?

20 A. Normally -- yes, I normally always carry.

21 Q. All right.

22 A. No, no, no, no, I always carry a gun on
23 me.

24 Q. Did you have your gun on you that day?

25 A. Yes, sir.

1 Q. And when you went into the theater did
2 you see that sign that said, no guns allowed, and
3 all of that?

4 A. Right, correct.

5 Q. And is there a reason why you can carry
6 your gun in there that you know of?

7 A. Because I'm authorized through the
8 sheriff's office to carry one as a law enforcement
9 officer.

10 Q. All right. And when you approach
11 Mr. Reeves did you draw your weapon between?

12 A. No, never had a weapon.

13 Q. Why not?

14 A. Because it was in my wife's purse sitting
15 between me and her.

16 Q. Okay. Is there a reason why you didn't
17 have it on you?

18 A. Because I was sitting down and the
19 way the chairs are formed, it was a Glock
20 40-caliber 22 and it was -- it's very large and
21 the way I carried it in my back, I told her, I
22 said, set your purse here and we'll put that in
23 there and when we get ready to leave I'll put it
24 back on me.

25 Q. Okay. And does she have a license to

1 carry a concealed firearm?

2 A. No.

3 Q. So let's go back.

4 Now the police come in. Do you see when
5 they're actually coming up the aisle?

6 A. Sure.

7 Q. Do you get a visual on that?

8 A. Uh-huh.

9 Q. And tell me at that point are the lights
10 in the theater high or low?

11 A. I believe they had turned them up a
12 little bit.

13 Q. Is there anything going on on the screen?

14 A. No. I think -- I think the screen was
15 black. I mean, I don't know at what point they
16 turned that off.

17 Q. Is it fair to say you blocked that
18 portion out?

19 A. Yeah. I don't remember anything going on
20 on that screen shortly after they -- the gentleman
21 come down with the phone. I don't remember
22 anything still playing.

23 Q. And so you see the -- you see where the
24 deputies enter the theater from; do they come in
25 the emergency door? Where do they come in?

1 A. Yeah. Come in the -- they come on this
2 side over here down at the bottom through the
3 emergency door.

4 Q. Towards the -- where the screen is?

5 A. Well, the door's going to be down here in
6 the bottom. I mean, if you had a wider --

7 Q. Right.

8 A. So, yes. They came in that way, come up
9 though there and walked down the same aisle.

10 Q. The same aisle you did to go up?

11 A. Yeah. They walked down that aisle that I
12 was standing on with Mr. Reeves, and they came --
13 because I'm kind of waving them and I'm sure there
14 was other people pointing. I don't know exactly
15 what. The -- I know the one deputy said when he
16 seen me standing there he knew -- he, I guess,
17 felt that I was the deputy that they had been
18 speaking on about the -- on the radio about.

19 Q. Okay.

20 A. So --

21 Q. How do you know they knew you were a
22 deputy on the radio?

23 A. I guess someone had told them that I was
24 a deputy, an off-duty deputy. I don't know who
25 did that.

1 Q. And so when they come up the aisle how
2 many police make it to the row that you're in with
3 Mr. Reeves?

4 A. I believe there was a sergeant and two
5 other deputies, as I recall.

6 Q. Not at this point -- a sergeant and two
7 other deputies?

8 A. Yes, sir.

9 Q. And they had long rifles --

10 A. They had AR 15s.

11 Q. -- handguns -- what's that?

12 A. ARs.

13 Q. All of them?

14 A. I believe they all had ARs, yeah.

15 Q. And they come up the aisle and make it to
16 the back row. Is there anybody between the aisle
17 on the seats that you're at with Mr. Reeves down
18 that row?

19 A. I -- I don't know. I couldn't tell you.

20 Q. So what happens when they get to your
21 row?

22 A. They basically -- because, I mean, I'm
23 standing over here and I said, this is your, you
24 know, your suspect. And they told him to get up
25 and they got him up, helped him get up and leaned

1 him over the guardrail and put him in a set of
2 handcuffs.

3 Q. Did Mr. Reeves resist at all?

4 A. Not that I seen, no, sir.

5 Q. Did they have to order him to stand up?

6 A. They asked him to -- they asked him to
7 stand up. You know, I mean, that's normal.

8 Q. Okay. And so did he comply?

9 A. Yeah. I don't know at what point they
10 had to assist him up or, you know, if he got up on
11 his own. So I don't know. That was all a -- I
12 think a matter of mutual happenings there, him
13 getting up; them getting him up.

14 Q. I mean, it wasn't one of those deals you
15 tell somebody to get up and they just sit there?

16 A. No. Yeah, he got up.

17 Q. And so you kind of make a motion, a
18 bending over motion. Are they bending Mr. Reeves
19 over the seat?

20 A. No. They're bending him over something.
21 Bending over -- yeah, I believe it was over the
22 front part of one of the seats or something on
23 that row to get -- you know, because, I mean
24 there's not a whole lot of room there for three
25 deputies and guns and everything else to -- and, I

1 mean, they don't know. They don't know if this
2 guy's going to, you know, go off in just a second.
3 Their thing is to get him in handcuffs and get him
4 secured.

5 Q. And do you see which one of them
6 handcuffs him?

7 A. No.

8 Q. Because you said you saw somebody with
9 the sergeant stripes.

10 A. I don't recall who actually put handcuffs
11 on him.

12 Q. And as they're handcuffing Mr. Reeves
13 where are you situated?

14 A. I'm standing on this side. I'm on -- I'm
15 standing on the south side of them, still right
16 where I was at. I just backed up a little bit.
17 When they were done and the other deputies walked
18 off with him I said, hey, I got -- I got the gun.
19 And I just handed him the gun and he said, thanks,
20 and he went on about his business.

21 Q. Okay. Did you alert them about the phone
22 on the floor?

23 A. Yes. I told them there was a cellphone
24 on the floor.

25 Q. And who did you tell that?

1 A. I just told them in general. I said,
2 hey, there's a cellphone here too. And, in fact,
3 I told -- there was a -- whatever female that came
4 in the door that was handing out statement forms,
5 I don't know her name, never seen her before
6 either. I said, you know, again, I'm just telling
7 you; the other guys were busy, there was a
8 cellphone there on the floor.

9 Q. Okay. And do you remember if she was a
10 corporal? You of all people should notice those
11 things.

12 A. No. She was a small female. I don't
13 know her rank, or whatever.

14 Q. So after they take Mr. Reeves away what
15 do you do? You get -- now you've given the gun
16 over to the sergeant you say, right?

17 A. Right.

18 Q. And the clip. What's the next thing you
19 do?

20 A. I basically just stand by and wait and
21 see what's coming next, because I know there's
22 going to be law enforcement everywhere and
23 statement forms handed out, and this and that and
24 the other.

25 Q. So you wait in the theater?

1 A. Yes.

2 Q. Do you just sit down in your seats; are
3 you looking around; what are you doing?

4 A. No. I basically stand there just kind of
5 regathering exactly what in the world just went
6 on. You know, again, kind of concerned with what
7 -- everybody's welfare.

8 So eventually this female comes in and
9 starts handing out statement forms. We got a few
10 pens and I come down further in there and
11 basically went and filled out a statement form and
12 handed that to them.

13 Q. Now do you see them take Mr. Oulson out,
14 the emergency medical people?

15 A. No. I -- no. I didn't pay anymore
16 attention to that, because I think they -- they
17 basically whisked him out of there shortly after.
18 I really didn't.

19 Q. Did you see Mrs. Reeves leave the
20 theater?

21 A. No. No, I mean, that's what I'm saying.
22 I assume her son come back and got her. I don't
23 know which direction she went, how she got out,
24 but I'm assuming that she got out of there. I
25 don't know where she went to.

1 Q. Now as you're waiting in the theater does
2 anybody -- any police personnel make an
3 announcement, I want everybody to stay here, we're
4 going to get statements, anything like that?

5 A. Yeah. I think it was just an overall --
6 I mean, as people -- I mean, people were starting
7 to gather up where they came from. I mean, again,
8 you know, it was kind of chaotic. But, I mean,
9 whenever people -- she started saying something
10 about, you know, there's forms, and there was
11 other deputies there handing out statement forms,
12 as well, that I seen, you know, trying to get pens
13 to gather, you know, for everybody before, you
14 know. And, yeah, there was something to the
15 effect for, you know, don't leave until, you know,
16 you get with one of us so we can get your
17 information, so --

18 Q. And did the deputies have the individuals
19 that were in the theater sit in a certain section
20 of the theater, or gather in a certain area?

21 A. Yeah. We all kind of -- I mean, I can't
22 speak for everybody else. I got down here at the
23 bottom and I wrote -- tried to do the best I could
24 to write my statement on a, you know, the piece
25 where I could, you know, try to keep from punching

1 holes through. I mean, it was -- wasn't the best.
2 Then I think I went up at some point in time and
3 found a piece to write, where I could write on. I
4 mean, I don't really recall where, you know, we
5 actually finalized the statement at, but I wrote
6 it in that theater.

7 Q. Now how were the forms handed out? In
8 other words, did the police officers just go
9 around to everybody and hand out a form and a pen
10 or did she have a pile and say, come get one of
11 these and fill it out?

12 A. She just handed me one. Again, I don't
13 know what she done with everybody else. She
14 handed me a statement form and I believe my wife
15 had a pen in her purse that she used, as best I
16 recall.

17 Q. Did the police officer instruct people,
18 don't talk to anybody about what they saw or any
19 of that stuff?

20 A. She never said anything to me.

21 Q. Did you hear her saying that to any of
22 the civilians in there?

23 A. No, sir, I didn't.

24 Q. What about, could you hear people talking
25 about what they had witnessed and what they saw in

1 the theater there?

2 A. I mean, I -- they moved -- they moved
3 people out of there. I mean, it wasn't long. I
4 was basically standing there by myself, I mean,
5 the wife and I, but they moved everybody else out
6 because somebody had came in -- and, again, you
7 know, it was some of the brass said that one of
8 their captains wanted to see me, or somebody else.
9 And they said, just stand by here. We need -- you
10 know, the captain wants to see you, or something.
11 And it wasn't long after that we walked out of
12 there with the detective and what I would assume,
13 there was people sitting everywhere.

14 Now I don't know whether they came out of
15 that particular theater, they come out of another
16 theater, but there were people sitting all around
17 inside that place, and I have no clue.

18 Q. And just so I understand, in theater 10
19 where the movie was, right?

20 A. Right.

21 Q. Basically you're alone with your form
22 because everybody has been ushered out?

23 A. I had already handed them my form, the
24 best I recall. I handed them the pen so they
25 could get other people filling out. And where

1 they filled theirs out, I don't know. I know
2 there was people filling them out in certain spots
3 that were in the theater, but after awhile, you
4 know, it cleared out. They cleared everybody out
5 of there.

6 Q. So you did see people filling out forms
7 in theater 10?

8 A. Yes. Yeah.

9 Q. And then after awhile they cleared those
10 people out?

11 A. Correct. Whether they finished their
12 statements, didn't finish them, I have no clue. I
13 couldn't tell you that.

14 Q. And you finish your statement and who do
15 you give it to?

16 A. I want to say I gave it back to the
17 female.

18 Q. Who handed them out in the first place?

19 A. That's correct.

20 Q. And you get word that a captain or some
21 brass wants to talk to you?

22 A. Yeah. Somebody from the administration
23 wants to speak with me.

24 Q. And who tells you that?

25 A. I believe it was the detective.

1 Q. When do you find that out?

2 A. Best I recall I'm still -- still in the
3 theater. I mean, because I wasn't going to leave
4 until somebody told me I could, you know, leave.
5 So basically I was camping out until somebody
6 said, okay, you can be out of here.

7 Q. And where are you camping out in the
8 theater?

9 A. I'm standing down there in that same
10 lower spot away from where, you know, where we're
11 initially are at, where we're filling out the
12 statement form. Because where this deputy came
13 from, I imagine everybody came in that door. I
14 couldn't tell you where they came from.

15 Q. Now when you say the lower part, so if
16 you're looking at the screen are you to the left
17 or to the right?

18 A. I'm down here at this -- this corner on
19 the south end -- south side of the theater, down
20 towards the exit. There's two exit doors; I
21 believe there's one down in the bottom. We were
22 closer down there.

23 Q. Right. So the south end if you're
24 looking at the screen is going to be the left
25 side?

1 A. Yes, sir.

2 Q. And so you're in that area. Are there
3 other people in that area filing out forms and --

4 A. There's other people there. I mean, I
5 really wasn't paying much attention to what they
6 were doing.

7 Q. Do you hear them talking at all?

8 A. No. I mean, there's talk going on but I
9 really -- I wasn't worried about what they were
10 doing at that point in time, I was worried about
11 what I was doing and getting out of there. I was
12 ready to go -- go away from the place.

13 Q. Does anybody ask you what happened, any
14 civilians?

15 A. There was a guy come up and ask me, are
16 you a deputy? And I said, yes, sir, I am. And he
17 said, well, thank you. And it was some long
18 haired guy and he walked -- and that was after
19 they turned the lights on, and that was like -- I
20 mean -- and the only reason I paid attention to
21 him was as he walked by I'm making sure he's
22 keeping walking, you know, he's continuing his
23 course of travel.

24 Q. Now do you have your gun back yet? Are
25 you armed again?

1 A. Do I have my gun back?

2 Q. Yeah.

3 A. No, no.

4 Q. Okay. Your wife still has it in her
5 purse?

6 A. It's still sitting back there, yeah.

7 Q. Back in the row where it was?

8 A. Oh, no. When we were -- you're talking
9 about after -- at the point where I was signing
10 the statement? Yes, I've got my gun back.

11 Q. All right. And so what, you get it out
12 of your wife's purse?

13 A. No. I take her purse so it's in my
14 possession --

15 Q. Okay.

16 A. -- and we walk -- we walk around with the
17 purse. But, no, we never left the purse.

18 Q. I understand. So you're walking around
19 with the purse with the gun in it?

20 A. Correct.

21 Q. In the theater?

22 A. Correct.

23 Q. I got you. And so now you fill the form
24 our; you hear that some brass wants to talk to
25 you; what's the next thing that happens?

1 A. We go out and do this interview.

2 Q. And you said a detective told you that
3 somebody from the -- some brass or somebody from
4 command staff; is that right?

5 A. That's right. My assumption was it
6 was -- he had said it was a lieutenant, or a
7 captain, or something to that effect. Again, I
8 really wasn't concerned with any of that. I mean,
9 I -- when he said that somebody wants to see you,
10 captain or whatever -- when he walked out he said,
11 I believe he's out here. And, again, I'm looking
12 at this young gentleman. I don't know who Sheriff
13 Nocco is; never heard of the guy. And I said, is
14 this who you need me to talk to? And he reached
15 out and said, appreciate you being here. Thank
16 you. And he said, I'll talk to you later.

17 And I said, is that the guy you need me
18 to talk to? And he goes, no, that's the sheriff.
19 And I said, oh, okay. I didn't know that.

20 Q. Now who brought you out there?

21 A. I believe it was a detective.

22 Q. Do you know who it was?

23 A. I guess a lead detective on this. I
24 can't remember the guy's name.

25 Q. If I tell you a name, Proctor, does that

1 sound familiar or no?

2 A. Yes, that sounds familiar.

3 Q. Is it the same detective that took your
4 statement, or recorded statement?

5 A. Yes. Yes.

6 Q. That's the detective that led you out --

7 A. Correct.

8 Q. -- and said that somebody wants to talk
9 to you?

10 A. Correct.

11 Q. So now you meet Sheriff Nocco, right?

12 A. Correct.

13 Q. And he said he'll talk to you later; is
14 that right?

15 A. Right.

16 Q. And he thanks you?

17 A. Right.

18 Q. And then what's the -- who's the next
19 person you talk to?

20 A. I call my captain -- my captain -- and
21 tell him, hey, I just wound up getting myself into
22 a situation up here. Do you need to be up here or
23 do you not? And I speak with him briefly and tell
24 him that, you know, this is an incident that went
25 on up here. And I said me and my wife go sit in

1 the car and when he shows up, my captain, I get
2 back out of the car and Nocco says, do you want to
3 hang around and make any statements to the press
4 or anything? I said, no, sir, I want to get my
5 wife in my car and I want to go home. And that
6 was that.

7 Q. Okay. Were you ever interviewed by
8 Detective Proctor or any other detective?

9 A. Yes. We was interviewed in a -- in a --
10 I guess it was a -- I don't know, where kids play,
11 I guess, during the movie, what appeared to be a
12 child's room. We done an interview in there.

13 Q. Do you ever meet that member of the
14 command staff that you were supposed to meet?

15 A. It was -- I guess they were talking about
16 the sheriff. And, I mean, again, I was thinking
17 that this was, you know, one of their admin that
18 had made it there. I wasn't expecting the sheriff
19 to be there, you know. And honestly, that guy --
20 he doesn't wear anything that would show that he's
21 the sheriff, you know, his clusters or anything.
22 Because they all wear BDUs, so -- so, yes, I had
23 met, I guess, who they wanted me to come see.

24 Q. And then so at what point then do you go
25 talk to Detective Proctor?

1 A. Right after he said, I'll talk to you
2 later. He said, you probably got some other stuff
3 to do. And that's when I went and talked to the
4 detective.

5 Q. And tell me about that interview. How
6 does the detective set it up? What does he say to
7 you?

8 A. He tells me that, you know, that we're
9 going to do a recorded interview, you know, audio.
10 Obviously he doesn't have any video there so he's
11 going to do an audio recording and he asked us a
12 series of questions.

13 Q. And did he have your written statement at
14 that point, do you know?

15 A. I -- I don't know whether he had my
16 written statement or not. I mean, he possibly
17 did.

18 Q. But you don't know?

19 A. No, I don't know.

20 Q. And he didn't ask you any questions
21 pertaining to what you wrote, in other words to
22 expand or explain anything?

23 A. I couldn't tell you, I mean, what the
24 series of questions that he had asked me. You
25 know, he basically asked me what went on and I

1 told him the basics of what had happened.

2 Q. Now when you go into that room, who else
3 is in that room? You, the detective, who else?

4 A. Just me, him and my wife.

5 Q. Okay. Your wife was in there. Was she
6 upset at the time?

7 A. My wife upset at the time?

8 Q. Yeah. Was she crying or anything?

9 A. No. I mean, not that I can recall if she
10 was crying.

11 Q. Well, what about you, were you crying or
12 emotional?

13 A. No. I mean, I'm still kinda star locked.
14 I mean, I -- it's all just one of those things
15 that kinda I'm not -- I'm not believing what just
16 happened in that theater. So, I -- you know.

17 Q. Does the detective say anything to you
18 before he turns on the recorder? In other words,
19 you know, you're familiar with these pre-interview
20 kind of things before you turn on a recording,
21 right? You know what that is, right? You talk to
22 somebody a little bit, you say, hey, who's going
23 to win the Super Bowl this year? I'd really like
24 to get a statement from you, blah, blah, blah.
25 I'm going to record it. And then you turn on the

1 recording and you say today's date, this is the
2 time, and do the recording.

3 A. Right.

4 Q. Did he do anything before he turned on
5 the recording in terms of talking to you?

6 A. He just -- he -- I can't remember exactly
7 what his conversation was with me. He just said,
8 hey, listen I know you understand, I believe, what
9 we're going to do. I'm fixing -- he's just
10 letting me know he's fixing to record me and
11 record me on the -- on there, so -- and then he
12 started in with his series of questions.

13 Q. Okay. And we can agree that you answered
14 his questions as accurately as humanly possible?

15 A. Yes, sir. I mean --

16 Q. And especially because it just happened,
17 as well, right?

18 A. The best I could for whatever way he
19 asked the question.

20 Q. Okay.

21 A. I'm assured.

22 Q. And do you remember how long that
23 interview was?

24 A. No, I don't.

25 Q. Was it long like this?

1 A. Oh, no. No, this is extreme. No, it
2 wasn't an interview like that. I mean, it was
3 a --

4 MR. ESCOBAR: Extreme.

5 A. How long have we been sitting here? It's
6 4:00.

7 No, I mean, it wasn't -- you know, I
8 mean, interviews can -- they range, they vary.
9 So, I mean, I don't -- I don't really grasp, you
10 know, the time frame that he, you know, clicked it
11 on and clicked it off. I mean, it -- you know, at
12 the time everything seemed to be a long period of
13 time. I mean, I had my mind set on Sumpter
14 County, not Pasco.

15 Q. Going home?

16 A. Yes.

17 Q. And the recording it appears to be a
18 little over six minutes. Does that sound right to
19 you or was it longer than that?

20 A. I don't know.

21 Q. You don't know?

22 A. No.

23 Q. So what happens after you give your
24 recorded statement?

25 A. We -- my wife and I get up and go out to

1 the car, watch the helicopters fly around until my
2 captain gets there. And he says, do you need
3 anything? And I said, nope, all's I want to do is
4 go home. I talked to Sheriff Nocco and Sheriff
5 Nocco, again, asked if I wanted to talk to
6 anybody, you know, press or whatever, you know,
7 trying to be hospitable. Do you want something to
8 eat? Are you-all hungry? You know, do you need
9 anything? Do you need anything from me? And I
10 said, no. I just want to get my wife in my car
11 and go home.

EXAMINATION

BY MR. ESCOBAR:

14 Q. Let me ask you a question before we get
15 too far. Your wife was in the room with you when
16 you were interviewed by Detective Proctor.

17 A. Yes, sir, the best I can remember she
18 was -- she was in there with me.

19 Q. Okay. Do you know why?

20 A. I'm assured -- my feeling was that he
21 didn't want to create that separation between the
22 two of us at that point in time, after what had
23 just went on. But to answer that, I can't answer
24 that for him.

25 Q. Do you normally interview individuals

1 together in a recorded statement, especially two
2 individuals that are alleged eye witnesses?

3 A. Are you asking about me in my
4 professional career?

5 Q. Yeah.

6 A. No. I normally don't interview two
7 people in there.

8 Q. Why?

9 A. Stories may be conflicting, corroborated.
10 I mean, so, no, normally --

11 Q. Contamination?

12 A. Could be.

13 Q. You've been, I'm sure, trained in what
14 contamination is, right?

15 A. Sure.

16 Q. It's a big problem if witnesses
17 contaminate each other, right?

18 A. Could be, yeah.

19 Q. Okay. Go ahead.

20 EXAMINATION

21 BY MR. MICHAELS:

22 Q. Why did your captain have to respond to
23 Pasco?

24 A. Our policy is even if we get a ticket
25 we're to -- our new policy now, and I'm sure this

1 incident, was to call and make sure. And I wasn't
2 going to let my agency not know that I was
3 involved in such a situation. And when I started
4 seeing helicopters flying around I'm like, I need
5 to get ahold of somebody. And Captain Hofecker
6 I've known for a long time; just to let him know,
7 hey, this is what -- I didn't do anything wrong.
8 I'm just telling you, if you want to come down
9 here you can. And he said, absolutely, I'll be
10 there in just a few minutes. And he come on down.

11 Q. Okay. Especially because you don't want
12 them to see it on the news?

13 A. Right. And after the fact that you
14 represented us there and you didn't let us know
15 you're involved; you're going to be in some type
16 of litigation, you know. Whatever they do as
17 administrators, I wanted to make them know where
18 I'd been and what I'd done.

19 Q. Now, did you speak to the press at all?

20 A. No.

21 Q. You didn't that day?

22 A. No.

23 Q. What about after that?

24 A. Yes. Are you talking about at any point
25 if time? Yes.

1 Q. When's the first time you talked to the
2 press?

3 A. The -- I want to say it was the first day
4 that Sheriff's Nocco come down and gave me a
5 plaque and they asked me. And I -- I just briefly
6 went over with them that, you know, I felt bad,
7 and I can't remember the exact -- but they put it
8 all in the papers. There was two or three
9 different papers there. I just basically told
10 them, hey, listen, you know, I didn't feel like
11 whatever they were assuming, I was a hero, or
12 whatever it was, I didn't feel that way. And that
13 I felt, you know, sorry for all the parties
14 involved, the best I can recall.

15 Q. And what do you mean you feel sorry for
16 all the parties?

17 A. I feel sorry for everybody. Everybody
18 that was in that -- in that movie theater that
19 day. I truly do. You know, whatever
20 repercussions that comes from that, I really truly
21 feel bad for everybody there.

22 Q. Did you get any special accommodation --
23 accommodation through work?

24 A. Not from my place as of yet. I've got
25 one from Sheriff Nocco.

1 Q. The plaque?

2 A. The plaque.

3 Q. Did they give you any money?

4 A. No.

5 Q. Anything else, any kind of --

6 A. He gave me a -- it's a coin that's of no
7 monetary value. It just has their sheriff's
8 office stamped on it. We -- we -- I've got
9 another one at the house that when the tornadoes
10 came through The Villages they gave me one for
11 doing the -- being there at The Villages, did for
12 out of thanks for helping all those people that
13 got -- went homeless. But, no, no money.

14 Q. Like those commemorative military coins
15 like Marines hand out?

16 A. Yeah. I don't know what to tell you.
17 It's stamped by a company and it says, here, you
18 know, you can put anything you want on them.

19 Q. And aside from that have you spoken to
20 the media at all?

21 A. Outside of the -- that, I've got a --
22 they were giving out -- it was basically an
23 overall award for valor, and that -- I mean, that
24 went to numbers of people. And there was one
25 individual there that asked me, and I said, yeah,

1 it's just an ongoing case and, you know, we'll see
2 what's -- what's going on. And I said, I don't
3 know -- and I didn't. I didn't know what was
4 going on with the case. And to be honest with you
5 I still try not to mess with it.

6 Q. Were there any -- do you have a standard
7 operating policy or procedure at the sheriff's
8 office for off-duty officers carrying their
9 weapon, or carrying a firearm?

10 A. Yeah. We are told -- we have -- we write
11 that even when we're in county we sign for that we
12 have -- our sheriff wants us to carry that and
13 some source of identification.

14 Q. Did you have any repercussions from the
15 department for not having your firearm on you
16 instead of in your wife's purse?

17 A. No.

18 Q. Okay. Did they question you or ask you
19 about that at all?

20 A. Uh-unh.

21 Q. Is that, no?

22 A. No. No, sir, I'm sorry.

23 Q. So that never came up?

24 A. No. No, sir.

25 Q. Why do you carry your statement and other

1 paperwork regarding this case in your visor of
2 your vehicle? You said you do it of your -- it's
3 of your patrol car?

4 A. Uh-huh.

5 Q. Is that, yes?

6 A. Yes, sir.

7 Q. Why do you do that?

8 A. Why do I do that?

9 Q. Yep.

10 A. It was -- it was I believe the first time
11 that I got the copies I was in my patrol car. I
12 keep stuff in my -- one certain spot in my visor.
13 My uncle's death read out, one of our deputy's
14 got -- wife's got hit by a train; I still carry
15 that with her. So anything that's important I
16 keep up there. I have an envelope that has my
17 code numbers on it. I keep cards, you know, in
18 the realm of that, so it's just a spot that I
19 picked to put my stuff in my patrol vehicle.

20 Q. Okay. But some of those items seem to be
21 of a personal emotional nature. Your uncle's
22 death certificate?

23 A. No, it's not a death certificate. It's
24 just a saying on a card that says, you know, the
25 date that he had passed away and it was something

1 -- I keep everything. My wife thinks I'm --

2 Q. One of those funeral home cards?

3 A. It's something that the family had
4 written up, yes, sir. My uncle was very close to
5 me.

6 Q. Now do you have -- when you were with
7 Brooksville did you have any internal affairs
8 complaints?

9 MS. SUMNER: I'm going to object on the
10 relevance.

11 Q. You can answer.

12 A. I don't remember -- no, I didn't have any
13 -- as far as are you talking about uses of force
14 or --

15 Q. Any kind of internal affairs?

16 A. I think I got written up one time for
17 violation of policy, or something I did, but
18 that's all I can remember.

19 Q. And what about with Sumpter County?

20 A. No, sir, I've never been written up.

21 Q. Have you ever been arrested?

22 A. Yes, sir.

23 Q. And when was that?

24 A. Back in the early -- late 80s or early
25 90s.

1 Q. And what was that about?

2 MS. SUMNER: I'm going to object to
3 relevance.

4 Q. You can answer.

5 A. I can or do I have to?

6 Q. You have to.

7 MS. SUMNER: He doesn't have to answer
8 it.

9 MR. ESCOBAR: Well, it's not privileged.

10 MS. SUMNER: He doesn't have to answer
11 it. It's not relevant. You can ask him if
12 he's been convicted of a felony.

13 MR. ESCOBAR: No, you're wrong. You're
14 wrong, Stacey. If you want to certify the
15 question, we'll certify it and let the judge
16 give the --

17 MS. SUMNER: Do you want to answer it?

18 THE WITNESS: Sure. Never convicted. I
19 was arrested for criminal mischief, attempted
20 burglary, what else was it? There was a
21 couple of things there they tried to arrest me
22 for. No conviction. Said I tried to break
23 the front door out of a Cumberland Farms in
24 Brooksville. The same agency that I worked
25 for later on is the one that arrested me.

1 They were -- the officer at the time that
2 arrested me was told to make the arrest and
3 later on wrote me a letter and said that the
4 arrest was not lawful, and by Florida State
5 Statutes. There was two of them; that in no
6 way, form or fashion are lawful. And I was
7 too young and too stupid to figure that out.

8 And I got an attorney just to get me
9 where I pay my stuff and do what I needed to
10 do. And I've been -- I've never had anything
11 any even close to that since then.

12 BY MR. MICHAELS:

13 Q. So did you enter a plea to any charge?

14 A. They -- I believe the way the paper, it
15 was remanded to another court and dropped and
16 abandoned. So whatever they done there, there
17 was -- like I said, there was no convictions.

18 Q. But you don't remember entering a plea?

19 A. No, sir. I -- I don't remember that at
20 all, what I done. The attorney handled all that
21 and the only thing I know remembering was I paid
22 dearly out of my pocket for that incident.

23 MR. MICHAELS: Do you have anything,

24 Rick?

25 MR. ESCOBAR: How old were you?

1 THE WITNESS: My late 20s.

2 MR. ESCOBAR: Late 20s?

3 THE WITNESS: Or mid 20s. I don't
4 remember. I'd have to look all that up and --

5 MR. ESCOBAR: I don't think I have any
6 questions.

7 MS. SUMNER: You have an opportunity to
8 read this when it's transcribed.

9 THE WITNESS: Read.

10 MS. SUMNER: Okay. Off the record you'll
11 give her your phone number.

12 (The deposition concluded at 4:16 p.m.)

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CERTIFICATE OF OATH

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

I, the undersigned authority, certify that
CORPORAL ALAN HAMILTON personally appeared before me
and was duly sworn.

WITNESS my hand and official seal this
date: April 30, 2015.



BETH A. MALONE
Notary Public
State of Florida
My Commission Expires 9/03/15
Commission No. EE-123546

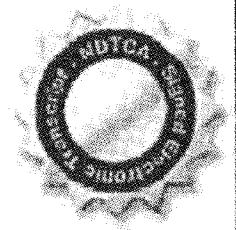
1 CERTIFICATE OF REPORTER

2
3 STATE OF FLORIDA

4 COUNTY OF HILLSBOROUGH

5
6 I, BETH A. MALONE, Court Reporter, certify
7 that I was authorized to and did stenographically
8 report the foregoing deposition; that a review of the
9 transcript was requested, and that the transcript is
10 a true record of the testimony given by the witness.
1112 I further certify that I am not a relative,
13 employee, attorney, or counsel of any of the parties,
14 nor am I a relative or employee of any of the
15 parties' attorney or counsel connected with the
16 action, nor am I financially interested in the
17 action.
18

19 Dated: April 30, 2015..

20
21 [REDACTED]
22
23
24 BETH A. MALONE
25 Court Reporter

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Exhibit E:
Testimony of
Alan Hamilton
at SYG
Immunity
Hearing on
March 1, 2017

1 ALLEN HAMILTON,
2 Thereupon, the witness herein, being first duly
3 sworn, was examined and testified as follows:
4 DIRECT EXAMINATION
5 BY MR. GARCIA:
6 Q. Mr. Hamilton, good afternoon, sir.
7 A. Good afternoon.
8 Q. Mr. Hamilton, I'm going to ask that you
9 speak loudly and clearly into that microphone so
10 that everyone can hear you, please.
11 A. Okay.
12 Q. If you would, please, can you state your
13 name?
14 A. Allen Lee Hamilton, Senior.
15 Q. And your profession?
16 A. I'm a sergeant with the Sumter County
17 Sheriff's Department.
18 Q. And how long employed with the Sumter
19 County Sheriff's Department?
20 A. Fourteen-and-a-half years.
21 Q. What are your duties with the Sumter
22 County Sheriff's office?
23 A. I'm a road patrol supervisor.
24 Q. And if you would, please, can you share
25 with us your education and training as far as your

1 law enforcement experience?

2 A. I have an Associate's in criminology and a
3 Bachelor's in occupational safety.

4 Q. Okay. Are you married, sir?

5 A. Yes, sir.

6 Q. To whom?

7 A. Angela Hamilton.

8 Q. And how long have you been married, sir?

9 A. Seven years.

10 Q. Sergeant Hamilton, directing your
11 attention to January 13th of 2014, do you recall
12 that date?

13 A. Yes, sir.

14 Q. Did you and your wife plan on having a
15 date?

16 A. Yes, sir.

17 Q. Were you going to go to the Cobb Movie
18 Theater?

19 A. Yes, sir.

20 Q. Had you picked out a movie?

21 A. Not initially. But we just kind of agreed
22 on it -- you know, when we got here, we just kind of
23 agreed on it.

24 Q. Okay. Did you agree on the Lone Survivor?

25 A. Absolutely. Yes, sir.

- 1 Q. What time did you arrive at the Cobb
- 2 Theater?
- 3 A. Just before -- which would be 13:00, 1:00.
- 4 Q. All right. And do you remember what time
- 5 you purchased your tickets?
- 6 A. Around 12:45, best I recall.
- 7 Q. Okay. And do you remember what time the
- 8 movie was going to start?
- 9 A. Just a little after 1:00, I believe.
- 10 Q. All right. And when you entered the movie
- 11 theater, did you go to the concession stand?
- 12 A. Yes, sir. I did.
- 13 Q. Did you purchase any items?
- 14 A. Yes, sir.
- 15 Q. And if you would, would you share with us
- 16 what you purchased?
- 17 A. I purchased the water, some nachos and
- 18 popcorn.
- 19 Q. Okay. And let me ask you this, Sergeant
- 20 Hamilton. Prior to January 13th, 2014, did you know
- 21 Mr. Reeves?
- 22 A. No, sir.
- 23 Q. Did you know his wife, Vivian Reeves?
- 24 A. No, sir.
- 25 Q. Did you know Chad Oulsen or Nicole Oulsen?

1 A. No, sir.

2 Q. Never met them before, right?

3 A. No, sir.

4 Q. Had you ever seen them before?

5 A. No, sir.

6 Q. Never?

7 A. Never.

8 Q. All right. You purchased the bottle of
9 water and the bag of popcorn. You enter the movie
10 theater?

11 A. Yes, sir.

12 Q. Can you tell us where you were sitting?
13 Where did you select your seats?

14 A. Initially we were going to sit to the top
15 left-hand side. We moved a little bit closer in
16 from where we initially had decided at the very top.
17 If we went any higher, we would have been in the
18 bistro.

19 Q. All right. So were you in Row A then, the
20 back row up against the wall, prior to getting to
21 the bistro?

22 A. Yes, sir. That's correct.

23 Q. And when you entered the movie theater,
24 were the previews playing yet?

25 A. No, sir.

1 Q. What were the lighting conditions in
2 there?
3 A. They were low.
4 Q. Okay. Could you see, though?
5 A. Yes, sir.
6 Q. Now, could you see five seats away from
7 you?
8 A. Yes, sir.
9 Q. Ten seats away?
10 A. Yes, sir.
11 Q. Could you hear conversations?
12 A. Yes, sir.
13 Q. Could you see people walking in?
14 A. Yes, sir.
15 Q. Walking out?
16 A. Yes, sir.
17 Q. Could you see people maybe taking a drink
18 from their soda?
19 A. Yes, sir.
20 Q. Eating popcorn?
21 A. Yes, sir.
22 Q. So it was dim, but you could still see,
23 right?
24 A. Right.
25 Q. Now, when the previews came on were they

1 loud?

2 A. Yeah, somewhat. I mean, for, you know, a
3 theater. But, I mean, it wasn't as loud as what the
4 movie would have been.

5 Q. Okay. Could you hear conversations while
6 the previews were going on?

7 A. Yes, sir.

8 Q. And do you know what row Mr. and
9 Mrs. Reeves were in?

10 A. They were sitting in the same row to my
11 right.

12 Q. Okay. So it would be the back row up
13 against the wall, Row A?

14 A. Yes, sir.

15 Q. And are you aware, were there any other
16 patrons between you and Mr. and Mrs. Reeves?

17 A. Yes, sir. There was an older couple, an
18 older white male and female.

19 Q. Sitting in between y'all?

20 A. Yes, sir.

21 Q. All right. Did you see Mr. and Mr.
22 Oulsen?

23 A. No.

24 Q. While the previews are playing, did
25 something draw your attention to kind of the center

1 of the movie theater?

2 A. My wife, she tapped me on the shoulder and
3 say, hey, you may want to pay attention to this.

4 Q. Okay.

5 A. So, you know, I leaned up and I could
6 hear, you know, a lower tone. You know, initially
7 before I leaned up, and I could hear a lower-toned
8 conversation, just a little bit lower than what
9 the -- you know, what the previews were.

10 Q. Right. So you would -- is it fair to say,
11 you said you were on the same row as Mr. Reeves,
12 right?

13 A. Yes, sir.

14 Q. Back row?

15 A. Yes, sir.

16 Q. Were you sitting next to the aisle or
17 where exactly were you and where was your wife?

18 A. I believe we were a couple seats in from
19 the aisle.

20 Q. Okay. And would she be the first one?

21 A. No.

22 Q. It would have been you?

23 A. It would have been me.

24 Q. Okay. So as -- and so you're sitting in
25 that back row, right? You're sitting -- your wife

1 is to your right?

2 A. Yes, sir.

3 Q. And you said you leaned, correct?

4 A. Yes, sir.

5 Q. Did you lean this way towards your right
6 looking --

7 A. Yes, sir.

8 Q. All right. And when you looked in that
9 direction, did you see someone --

10 A. Yes, sir.

11 Q. -- or hear someone?

12 A. I could see and hear what now I know is
13 Mr. Oulsen.

14 Q. Okay. Did you hear what Mr. Oulsen was
15 saying?

16 A. He said something to the effect about, I
17 was just trying to text my, and he used the F word
18 in there at some point, do you mind.

19 Q. Okay. And it's okay to say it. So, I
20 mean, just so we're clear. He said, I was texting
21 my --

22 A. Fucking daughter. Do you mind.

23 Q. Do you mind. Can you demonstrate for
24 Judge Barthle how and what position he was in when
25 you heard this statement?

1 A. Yes, sir.

2 MR. GARCIA: Judge, may he step down for
3 demonstrational purposes, please?

4 THE COURT: Certainly.

5 BY MR. GARCIA:

6 Q. Sergeant Hamilton, if you would please,
7 I'm going to give the chair to you and I want you to
8 demonstrate for the Judge what you observed back on
9 January 13th of 2014.

10 A. Mr --

11 Q. Make-believe that that's, you know, a
12 theater chair, so place it however you need to.

13 A. Keep in mind, those chairs can either be,
14 you know, this way or they can be this way. I
15 can't -- I couldn't tell that from where I was at.

16 Q. Okay.

17 A. But if you're utilizing the chair -- let
18 me move it before I fall on my face. Utilizing the
19 chair, he was bent at the hips. And if I'm kneeling
20 it, he was bent this way.

21 Q. Okay.

22 A. Kind of propped up, you know, in the chair
23 or, you know, if he was standing up -- I mean, you
24 know, I could make a couple assumptions the way he
25 was. But he was propped up, basically, in the chair

1 bent at the hips.

2 Q. Did you ever see his body come into this
3 section?

4 A. No, sir.

5 Q. You never saw that?

6 A. I never seen him breach the chair.

7 Q. Okay. If you can retake your seat. So as
8 you're observing Mr. Oulsen in this position, and I
9 think you had indicated he had just said, I was
10 texting my fucking daughter; do you mind. What
11 happens?

12 A. I see a -- and as I used as a flick of
13 popcorn or a burst of popcorn, and then I see the
14 muzzle blast and I hear a gunshot.

15 Q. Was it almost instantaneously?

16 A. It's all one big, big ball. Yes, sir.

17 Q. Did -- after you heard the bang and the
18 flash, did Mr. Oulsen say anything?

19 A. I can't -- I don't -- it was something to
20 the effect -- like I said, I'm not verbatim. I
21 can't believe he shot me, something to that effect.

22 Q. Okay. Was he doing any gestures when he
23 made that comment?

24 A. He had his hands up on his chest and like,
25 again, I said, I could see people and the outline of

1 his person, you know, what I seen was, you know, it
2 was like this.

3 Q. Okay. In the position that he was in
4 when -- you indicated that he was leaning. After he
5 stood up, could you tell, or did he appear to you,
6 to be a lot taller than --

7 A. Yes, sir.

8 Q. Did you draw any conclusions from that?

9 A. That he was a pretty tall individual. You
10 know, that he was, you know, at least over six-foot.

11 Q. Okay. Could you tell if this popcorn had
12 hit Mr. Reeves?

13 A. No, sir.

14 Q. Could you see the gun in Mr. Reeves'
15 hands?

16 A. No, sir.

17 Q. Now, you indicate you saw a flicking
18 motion, right, in the popcorn?

19 A. Yes, sir.

20 Q. Did you ever see Mr. Oulsen throw a cell
21 phone?

22 A. No, sir.

23 Q. Did you ever see Mr. Oulsen throw a punch?

24 A. No, sir.

25 Q. Did you ever see Mr. Oulsen climb over the

1 chair and try and get at Mr. Reeves?

2 A. I did not see that. No, sir.

3 Q. It didn't happen, did it?

4 MR. ESCOBAR: Objection. That's leading.

5 Direct examination --

6 THE COURT: It's leading. Rephrase.

7 BY MR. GARCIA:

8 Q. Did it happen?

9 A. I didn't see it.

10 Q. Okay. As a law enforcement officer, what
11 did you do having just observed this?

12 A. I got up and as, you know, the aisles were
13 pretty close, you know, you can't run down. And I'm
14 not 110 pounds. I'm scooting down trying to make
15 sure where this came from, because I'm not sure who
16 or, you know, what. You know, like I said, it was a
17 very quick thing between the -- you know, whatever
18 would have been an argument, to the popcorn flying,
19 to the shot. And I moved down towards the area of
20 where -- you know, what I felt was, you know, the
21 area that was going to be the shooter or wherever
22 that shot came from.

23 Q. Okay. So you walked down row A, or that
24 aisle, right?

25 A. Correct.

1 Q. Did you come to a person who later became
2 known to you as Mr. Reeves?

3 A. Yes, sir.

4 Q. Did you observe Mr. Reeves?

5 A. Yes, sir.

6 Q. Did you observe a firearm?

7 A. Yes, sir.

8 Q. Where was the firearm?

9 A. On his left knee.

10 Q. Okay. And upon observing that, what did
11 you do?

12 A. I identified myself as a deputy to him.
13 And just to make sure he wasn't going to -- again, I
14 don't know him, don't know what he's capable of. I
15 put my hand at his chest and reached down and
16 grabbed the firearm.

17 Q. Did you show him your badge?

18 A. Yes, sir.

19 Q. Show him your credentials?

20 A. Yes, sir -- no. I didn't show him my
21 credentials. I showed him my badge.

22 Q. You just showed him your badge?

23 A. Right. Correct.

24 Q. Did you pick up the firearm?

25 A. (Nods head.)

1 Q. Did you touch the barrel of the firearm?

2 A. Yes, sir.

3 Q. Was it warm?

4 A. Yes, sir.

5 Q. What did that indicate to you?

6 A. That weapon had just been fired.

7 Q. Did you take the magazine out of the
8 firearm?

9 A. Yes, I did.

10 Q. Did you clear the chamber?

11 A. I attempted to clear the chamber.

12 Q. Sergeant Hamilton, you were off duty that
13 day, right?

14 A. Yes. That's correct.

15 Q. Were you carrying your off-duty weapon or
16 your firearm with you?

17 A. I had it with me, but not on me whenever I
18 confronted Mr. Reeves.

19 Q. Okay. Do you have any trouble seeing
20 Mr. Reeves at this point?

21 A. No, sir.

22 Q. When you walked up to him, were his
23 glasses askew or cockeyed or tilted in any way?

24 A. No, sir.

25 Q. Did you give Mr. Reeves any instructions

1 as you're standing there with him?

2 A. Yes, sir. I told him to stay seated and
3 that, you know, we're going to make sure nobody else
4 gets shot and nobody else gets killed, because I
5 knew that law enforcement or somebody was going to
6 call them and they were going to be coming in there
7 and, you know, try to make sure -- you know,
8 apprehend whoever had done that. So I just didn't
9 want to see him or anybody else get hurt.

10 Q. You were concerned for your safety and
11 his, right?

12 A. Absolutely.

13 Q. Did Mr. Reeves make any statements to you?

14 A. He initially had said he had been hit with
15 something and for me to inspect him and to look at
16 him.

17 Q. Did you do that?

18 A. Yes, sir. I did.

19 Q. Did you observe any injuries on
20 Mr. Reeves?

21 A. No, sir. I didn't see anything on him at
22 the time.

23 Q. Did he have any cuts?

24 A. No, sir.

25 Q. Any bruises?

1 A. No, sir.

2 Q. Was he bleeding?

3 A. No, sir.

4 Q. Nothing?

5 A. I didn't see any of that. No, sir.

6 Q. Did Mr. Reeves tell you he needed to
7 leave?

8 A. Yes, sir. At one point he said, I need to
9 leave. And again, I reiterated that he needed to
10 stay where he was at until we figured out what was
11 going on.

12 Q. Did Mr. Reeves say anything to you about
13 what had just occurred?

14 A. He said he couldn't believe what he had
15 done.

16 Q. Sergeant Hamilton, were you going to stay
17 with Mr. Reeves until law enforcement arrived --

18 A. Yes, sir.

19 Q. -- in the movie theater?

20 A. Yes, sir.

21 Q. What was -- what happened to Mr. Oulsen
22 after he was shot?

23 A. I lost sight of Mr. Oulsen initially
24 and -- because I was more concentrated on, you know,
25 where this shot came from. And then later on, you

1 know, they had pulled the lights up a little bit and
2 I seen Mr. Oulsen's face. He was laying on his back
3 and I could tell that there was other people -- I
4 don't know who they were -- were attempting to give
5 him CPR.

6 Q. Did you hear gurgling sounds coming from
7 Mr. Oulsen?

8 A. Yes, sir. I did.

9 Q. And what did you refer those sounds as?

10 A. As I said -- there's a medical term for
11 it. I haven't looked it up. But we, in law
12 enforcement, call it the death rattle. It's
13 basically the last minutes of your life or seconds,
14 whatever that may be.

15 And again, you know, I'm not -- that's
16 normally what we call it and what we hear. We know
17 that, basically, that individual is no longer going
18 to make it.

19 Q. It's not good?

20 A. It's not good.

21 Q. In your career as a law enforcement
22 officer have you heard this death rattle before?

23 A. Yes, sir. I have.

24 Q. On how many occasions?

25 A. Too many.

1 Q. After having heard this, did you make any
2 statements or comments to Mr. Reeves?

3 A. Yes, sir. I did. I turned to him and
4 told him, I said, that's -- that doesn't sound good.
5 And I told him, I said, you know what that is.

6 Q. Did he respond to you?

7 A. Yes, sir. He leaned back and he said, I
8 can't believe what I've done.

9 Q. Well, that wasn't exactly what he said,
10 right?

11 A. No.

12 MR. ESCOBAR: Objection, Your Honor,
13 leading.

14 THE COURT: Sustained as to leading.
15 Rephrase.

16 BY MR. GARCIA:

17 Q. What were his -- what were Mr. Reeves'
18 exact words?

19 A. He said, I can't believe what I just
20 fucking done.

21 Q. As you are standing there, did you hear a
22 conversation between Mr. and Mrs. Reeves?

23 A. Yes, I did. Yes, sir.

24 Q. Did you hear Mrs. Reeves make a statement
25 to Mr. Reeves?

1 A. Yes, sir.

2 Q. What was that statement?

3 A. That was no cause to shoot that man.

4 Q. Did Mr. Reeves respond?

5 A. Yes, sir. He responded. He turned
6 quickly to her, she was to his right, pointed his
7 finger at her and told her to shut her mouth and not
8 say another word.

9 Q. Well --

10 A. Basically, not to say another fucking
11 word.

12 Q. Mr. Hamilton, would you tell the Court his
13 exact words, please?

14 A. He pointed his finger at her and told her
15 to shut her mouth and not to say another fucking
16 word.

17 Q. Okay. What did Mrs. Reeves do?

18 A. She got up out of her chair, moved one or
19 two seats down from him and turned. And she -- the
20 way she postured, she crossed her legs and crossed
21 her arms and just stared back at him.

22 Q. Did Mr. and Mrs. Reeves have any further
23 conversations after that?

24 A. No, sir. Not that I know of.

25 Q. Did you have any conversations with

1 Mr. Reeves, any further conversations?

2 A. No, sir. If it was, it was brief. Just
3 about, you know, I didn't know if it was going to be
4 Pasco County SWAT or, you know, if they had a
5 certain team or whatever. Just a -- you know, we're
6 going to maintain what we've got. And that was -- I
7 briefly kept reiterating that to him.

8 Q. Basically, don't do anything crazy, right?
9 I don't want to get shot and I don't want you to get
10 shot, right?

11 A. Correct.

12 Q. Sergeant Hamilton, do you know how long it
13 took for the Pasco County Sheriff's office to
14 arrive?

15 A. No, sir. I can't put a time frame on it.
16 At the time, it seemed like forever.

17 Q. Seemed like an eternity?

18 A. Yes, sir.

19 Q. Did you come in contact with a sergeant
20 from the Pasco County Sheriff's office who later
21 became known to you as Sergeant Rhymer?

22 A. Yes, sir.

23 Q. Did he, along with two other deputies,
24 arrest Mr. Reeves?

25 A. Yes, sir.

1 Q. Did you see that?

2 A. Yes, sir. They placed him in handcuffs.

3 Q. Was Mr. Reeves sitting in his chair the
4 whole entire time that you were next to him?

5 A. Yes, sir.

6 Q. Did you observe anything at Mr. Reeves'
7 feet?

8 A. It was a cell phone.

9 Q. Notice anything else?

10 A. The debris, popcorn debris. I mean, there
11 was --

12 Q. Did Mr. Reeves at any time try and pick up
13 those items that were on the floor?

14 A. He tried to pick up the cell phone. I
15 don't know why, but I told him not to touch
16 anything, to leave everything where it was at.

17 Q. So you never allowed him to touch any of
18 those items?

19 A. No, sir.

20 Q. After Mr. Reeves was taken out by Sergeant
21 Rhymer and two other deputies, what did you and your
22 wife do?

23 A. I just maintained where I was at and then,
24 you know, some deputies started flowing in, or
25 detectives, whatever they were, and requested we,

1 you know, stay where we were at until they get
2 things situated and start filling out some statement
3 forms.

4 Q. Okay. You've been in law enforcement many
5 years now, right?

6 A. Yes, sir.

7 Q. Do you know what witness contamination is?

8 A. Yes, sir.

9 Q. While you were waiting for law enforcement
10 to arrive, did you see or hear anyone talking about
11 this case?

12 A. No, sir. I didn't hear or see any of
13 that. I was doing what I was supposed to be doing.

14 Q. Did you observe anybody that appeared to
15 be talking about the case?

16 A. Again, I was doing my thing of what they
17 requested us to do. I wasn't paying attention to
18 anybody else. I was trying to maintain and take
19 care of my wife.

20 Q. Sergeant Hamilton, was your wife pretty
21 upset?

22 A. Yes, sir. Very much.

23 Q. Crying?

24 A. Yes, sir.

25 Q. Traumatic experience for you and her?

1 A. Absolutely.

2 Q. Did you fill out a written statement in
3 this case?

4 A. Yes, sir. I did.

5 Q. Okay. And in that written statement did
6 you document or memorialize every single thing that
7 happened on that day, January 13th, 2014?

8 A. No, sir. Preliminarily, I wrote down a
9 short synopsis of, you know, what -- you know, what
10 had occurred just to kind of get a basis for it and
11 so I could, you know, move along.

12 Q. Okay. Did you come in contact with a
13 detective who later became known to you as Detective
14 Proctor?

15 A. Yes, sir. I did.

16 Q. Did he conduct a taped interview of you?

17 A. Yes, sir. He did.

18 Q. Do you have any idea how long that taped
19 interview was?

20 A. It was short, five or six minutes, I
21 believe, is what I've seen.

22 Q. Okay. And in that interview did you give
23 him a detailed account of everything that happened
24 in that movie theater?

25 A. No, sir. I didn't.

1 Q. Why not?

2 A. My belief is what we were doing was to
3 establish -- and, again, this is not my case.

4 Q. Right.

5 A. I just happened to be in the wrong place,
6 wrong time. Was to establish a probable cause, give
7 a preliminary statement of what went on, and then
8 the agency could, you know, expound on that at a
9 later date, you know, whatever they needed, whatever
10 the evidence brought forth that they needed to ask
11 questions about.

12 Q. So you thought they would come back and do
13 a lengthy, detailed interview, right?

14 A. That's what I thought.

15 Q. Recording, videotape, the whole works?

16 A. Yes, sir.

17 Q. Have you worked homicide cases before in
18 Sumter County?

19 A. Yes, sir.

20 Q. Is that normal for a detective to take
21 basically of -- or conduct a very short interview?

22 MR. ESCOBAR: Objection, Your Honor.

23 We're talking about a completely different
24 county and the policies of the Pasco County
25 Sheriff's office and the policies of this

1 particular office. There's no proper predicate
2 for that opinion.

3 MR. GARCIA: Judge, he's a law enforcement
4 officer. He can testify to what the protocol
5 is and what --

6 THE COURT: I'm going to overrule. He can
7 testify as to what he does. I get it. He's
8 Sumter County. He certainly -- you're not
9 asking him what Pasco County does?

10 MR. GARCIA: No.

11 THE COURT: All right. I'll overrule.

12 THE WITNESS: Well, let me put it this
13 way. I've worked for two different agencies
14 and it's normal to get a, especially in those
15 situations, if there's some type of trauma or
16 an event that people are not going to be as
17 clear at first, we give them a statement form,
18 give them some type -- it's a preliminary
19 statement that just gives the basic facts of
20 what -- just boils down to what happened.

21 Then we, if we feel necessary of what the
22 evidence, we have different things going as we
23 do interviews. We pull them back in and do an
24 audio and video interview with them and expound
25 on what they said from the initial time, so

1 giving us more information on specifics.

2 MR. GARCIA: May I have a moment, Judge?

3 THE COURT: You may.

4 MR. GARCIA: Judge, I would pass the
5 witness. Thank you.

6 THE COURT: Cross?

7 MR. ESCOBAR: Your Honor, if we could just
8 have second to set up?

9 THE COURT: You may.

10 MR. ESCOBAR: Your Honor, just so that we
11 can start. We have stipulated to the
12 introduction of Item 2-AP. And it looks like
13 the date and time was 01/24/14 or 1455 hours.

14 May I have that marked as an exhibit that
15 had been introduced into evidence, Madam Clerk?
16 It's the interview of Sergeant Hamilton.

17 THE COURT: Any objection?

18 MR. MARTIN: Well, right now we don't know
19 what he's going to do with it, so he's just
20 having it marked.

21 MR. ESCOBAR: At some point in time I'm
22 going to play it.

23 THE COURT: Well, if it's going to be
24 marked, it's coming in.

25 MR. MARTIN: Well, I think before -- it's

1 not my witness. I shouldn't be talking.

2 MR. GARCIA: Judge, may it please the
3 Court? I mean, it's going to depend. I don't
4 think the whole interview is going to come in.

5 MR. ESCOBAR: Judge --

6 MR. GARCIA: If he plans on -- or try to
7 impeach him, he may play certain portions of
8 it.

9 MR. ESCOBAR: Judge, Mr. Martin and I had
10 agreed, both on Mr. Reeves and all the other
11 witnesses that had taped statements, that we
12 would able to use those taped statements freely
13 in cross-examination. That's why we had the
14 stipulation for the introduction of those
15 particular CDs.

16 MR. MARTIN: If there's inconsistencies.
17 Now I'm addressing the stipulation. The
18 stipulation was, in the event that -- and we're
19 apples and oranges a little bit.

20 With Mr. Reeves, we're talking about a
21 defendant's statement where, potentially, if
22 I'm using it against him, then the rules are
23 different.

24 When we're talking about an inconsistent
25 statement, the agreement was that we wouldn't

1 have to authenticate it. I gave him a
2 transcript. If there's something inconsistent
3 and he wants to use the transcript.

4 But I never agreed he was just going to
5 play the whole thing. I mean, he can use it.
6 If there's inconsistencies, he knows where they
7 are and he can show the Court where there's
8 inconsistencies, then we're not going to object
9 to any type of authenticity or what was said,
10 but he still has to lay the predicate.

11 MR. ESCOBAR: Judge, I will tell you that
12 you don't have to impeach a witness. This was
13 his interview. He was there. He's subject to
14 both direct and cross-examinations. It's not
15 hearsay. It's part of the process that took
16 place in the investigation.

17 I can have him play the entire tape and
18 listen to it and question him about every
19 single statement that he made in that tape, and
20 that's going to be my position.

21 The Court will have to rule. But this is
22 not a hearsay statement. This is a statement
23 where actually he gave a statement to Detective
24 Proctor and he's going to be able to talk about
25 every single thing he said in that statement.

1 You don't have to bring as a form of
2 impeachment at this point in time.

3 MR. GARCIA: Judge, it's an out-of-court
4 statement that's being offered for the truth of
5 the matter asserted. It's clearly hearsay.

6 Just because somebody's audiotaped doesn't
7 mean you can play it in court. That's no
8 different than me having a State witness and I
9 go, Judge, Mrs. Smith gave us a taped
10 interview. I want to play it for you and the
11 members of this jury. You can't do that.

12 MR. ESCOBAR: Judge, it is not hearsay.

13 THE COURT: Why is it not hearsay?

14 MR. ESCOBAR: Because you have a witness
15 that's able to be directed and cross-examined.

16 The whole purpose of hearsay, and the
17 reason that hearsay is not allowed in, is
18 because you have a lack of a confrontation.

19 Here, the prosecution has a confrontation.
20 The Defense has a confrontation. It's a piece
21 of evidence. It is not hearsay, by any stretch
22 of the imagination.

23 THE COURT: To me, it's similar to
24 bringing in a police report --

25 MR. ESCOBAR: No.

1 THE COURT: -- when you've got the officer
2 sitting right here who testifies live as to
3 what is going on. You don't --

4 MR. ESCOBAR: The only reason that it's
5 not allowed, Your Honor, in certain
6 circumstances is if it's self-serving.

7 Here, this is not a self-serving type of
8 document. It is an interview by a detective
9 over an alleged witness. And he's here subject
10 to cross-examination and subject to direct
11 examination.

12 It's actually their witness. They've
13 seen -- they have listened to this tape. It's
14 not something that they haven't seen, touched
15 and heard.

16 MR. GARCIA: Judge, I would invite the
17 Court to look at the definition of hearsay.
18 And you're going to see that it's an
19 out-of-court statement being offered for the
20 truth of the matter asserted, which that's
21 exactly what Mr. Escobar is doing. And it's
22 not admissible, Judge.

23 THE COURT: Hearsay is a statement other
24 than one made by the declarant while testifying
25 at the trial or hearing offered in evidence to

1 prove the truth of the matter asserted.

2 A statement is not hearsay if the
3 declarant testifies at the trial or hearing and
4 is subject to cross-examination concerning the
5 statement and the statement is A, inconsistent;
6 or B, consistent with the declarant's
7 testimony, isn't offered to rebut an expressed
8 or implied charge against the declarant of
9 improper influence, motive or recent
10 fabrication; C, one of identification of a
11 person made after perceiving the person.

12 MR. ESCOBAR: Exactly.

13 THE COURT: Which one is it?

14 MR. ESCOBAR: B.

15 THE COURT: What --

16 MR. ESCOBAR: At this point in time I can
17 use it for A and B. I can use it as an
18 inconsistent statement --

19 THE COURT: He hasn't -- well, you've got
20 to point it out.

21 MR. ESCOBAR: Judge, we're going to use it
22 for both purposes. It's not --

23 THE COURT: Well, hold on.

24 MR. ESCOBAR: Okay.

25 THE COURT: Inconsistent statement. What

1 statement are you alleging is inconsistent?

2 MR. ESCOBAR: Well, we're going to be --
3 at some point in time he's going to make a
4 statement and I can use it if this is
5 inconsistent with it.

6 THE COURT: No. That's not the way it
7 works. You don't play that and then ask him
8 questions --

9 MR. ESCOBAR: No. No.

10 THE COURT: -- and see if it's
11 inconsistent.

12 MR. ESCOBAR: No. No. A, absolutely. On
13 A I have to have the inconsistent statement
14 before I play it; but not for B.

15 THE COURT: B has to be consistent --

16 MR. ESCOBAR: That's correct.

17 THE COURT: -- and is offered to rebut --

18 MR. ESCOBAR: That's correct.

19 THE COURT: -- an expressed or implied
20 charge against the declarant of improper
21 influence, motive or recent fabrication.

22 MR. ESCOBAR: And that's the prosecutor's
23 opinion. When he's saying, hey, listen, you
24 know, the only thing I did in that particular
25 statement is I only gave him a little glimpse

1 of what I knew. It wasn't the whole thing that
2 I gave him. It was just a little glimpse of
3 what I knew, because I expected at some point
4 in time that a detective was going to come and
5 interview me and get a more thorough statement.

6 MR. GARCIA: Well, then how does that go
7 to impeach him, Judge.

8 MR. ESCOBAR: It goes to impeach him on
9 his bias, on his bias. That's perfectly --

10 THE COURT: No. No. That's not --

11 MR. GARCIA: What bias?

12 THE COURT: -- where --

13 MR. ESCOBAR: Judge, listen, I can make my
14 argument. That's my argument. If the Court
15 feels that that argument is not correct, then
16 the Court can make its ruling. We've got a
17 good record on it. We've got the tape here.

18 But I certainly am going to, at certain
19 times, try to introduce that statement and the
20 Court can rule as the Court feels is
21 appropriate. I'll respect whatever the Court
22 decides to do on this matter.

23 THE COURT: If it's --

24 MR. ESCOBAR: We've got a record.

25 THE COURT: If it's inconsistent, just as

1 Mr. Garcia indicated at the beginning of this
2 argument, it can be offered for impeachment.
3 And if it's -- I'm just -- you haven't even
4 asked him a single question yet and you're --
5 you're --

6 MR. ESCOBAR: Judge, I wasn't going to
7 play it right now.

8 THE COURT: Hang on.

9 MR. ESCOBAR: I just told you.

10 THE COURT: All right. All right.

11 MR. ESCOBAR: When he asked, what are you
12 going to do with it, I told the Court I'm going
13 to play it.

14 THE COURT: Right.

15 MR. ESCOBAR: But I'm not going to play it
16 right now.

17 THE COURT: But it's offered to rebut an
18 expressed or implied charge against the
19 declarant of improper influence, motive or
20 recent fabrication.

21 MR. ESCOBAR: Motive. What he just
22 testified to was, you know, a lot of things
23 aren't going to be in this particular tape
24 because, you know, I only give them a little
25 bit because I expect at some point in time that

1 someone -- some detective is going to come back
2 later and is going to now give me the
3 opportunity to give him the entire stuff.

4 That is to show his bad motive. That tape

5
6 THE COURT: How is that a bad motive?

7 MR. ESCOBAR: Because the detective is
8 asking him, tell me everything you know.

9 MR. GARCIA: Judge, Detective Proctor did
10 not say, tell me everything you know.
11 Detective Proctor says, tell me what happened.
12 He didn't say, tell me everything you know.

13 THE COURT: This is -- on scene this took
14 place?

15 MR. ESCOBAR: On scene. On scene.
16 Anything else you can tell me, anything else
17 that you can tell me. I've got the transcript
18 right here. Anything else that you can tell
19 me. That's what Detective Proctor is telling
20 this particular witness.

21 THE COURT: All right. Here -- this --
22 I'm beginning to think that this is the same as
23 I kept saying yesterday, what you think is
24 inconsistent often is not what I think is
25 inconsistent. I'm thinking this is -- we're

1 going to go along those lines somehow.

2 I'm going to sustain the objection at this
3 point. But you weren't going to play it right
4 now anyways.

5 MR. ESCOBAR: I wasn't going to play it
6 right now. I was just giving the Court a heads
7 up, just like they asked, how are you going to
8 use it. I gave the Court the heads up.

9 THE COURT: All right. Then we'll come to
10 it when the time comes. Oh, well, that's the
11 second part of this.

12 MR. ESCOBAR: They have stipulated to the
13 admissibility of that particular, for certain
14 purposes that are going to be allowed or
15 disallowed by the Court.

16 THE COURT: All right. Well, it's going
17 to be proffered anyways, I'm guessing.

18 MR. ESCOBAR: It will be.

19 THE COURT: So we'll go ahead and mark it.

20 Third possibility -- do you have an
21 objection to it coming in during your case in
22 chief, if you will?

23 MR. ESCOBAR: Judge, we had stipulated
24 that it could be used within our case in chief.
25 Either. In other words, he used it and he was

1 going to use it with Mr. Reeves. And so we had
2 this to facilitate the whole process.

3 MR. MARTIN: What the stipulation was
4 that, it in the event that it became relevant,
5 for some legal reason, then we would not object
6 to either using the transcript, if that was
7 more convenient, like I did with Mr. Reeves, or
8 play it.

9 But when I played it for Mr. Reeves, that
10 was being offered for a totally different
11 purpose. Now we're having it for the
12 inconsistent part, and he's got to lay the
13 predicate.

14 THE COURT: All right. I get that.

15 MR. MARTIN: Okay.

16 THE COURT: But my only question now is,
17 typically I don't -- I don't care when a piece
18 of item of evidence comes in. But typically
19 there's an objection from one side or the other
20 if it's not being introduced during their case
21 in chief.

22 MR. MARTIN: Well --

23 THE COURT: Do you have an objection to it
24 being entered at this point?

25 MR. MARTIN: No. Because it really

1 doesn't matter anymore --

2 THE COURT: All right. That's --

3 MR. MARTIN: -- because you don't lose an
4 opening and close, like several years ago.
5 That was the big deal.

6 THE COURT: That's what I figured.

7 MR. WOODLIFF: Right.

8 THE COURT: I don't care, but --

9 MR. MARTIN: That rule's changed.

10 THE COURT: -- if there's an objection, I
11 have to address it and I'm not going to let it
12 come in without having it addressed.

13 MR. MARTIN: If you let them use it, then
14 it needs to come in, right?

15 THE COURT: All right. It will be
16 admitted with the reservations that I've
17 indicated.

18 MR. MARTIN: Well, right now it's just
19 marked for identification.

20 THE COURT: Right. Well --

21 MR. MARTIN: Until he plans to use it.

22 THE COURT: When it's not -- then she's
23 not marking it. If it's marked by your
24 identification, that's fine. But when she
25 marks it, it comes in and she holds it.

1 MR. MARTIN: Well, I don't know what she's
2 done yet. But right now I thought it was just
3 marked for identification.

4 THE COURT: Well, she doesn't mark it for
5 identification, you do.

6 MR. ESCOBAR: Judge, we're asking at this
7 point in time, pursuant to our stipulation --
8 because it's got to be proffered anyway -- that
9 we have it introduced into evidence.

10 THE COURT: All right. So it will be --

11 THE CLERK: Defendant's 49.

12 THE COURT: -- Defendant's 49. You're
13 offering it. It will be with your number.

14 MR. ESCOBAR: Thank you, Your Honor.

15 (Whereupon, Defense Exhibit Number 39 was admitted.)

16 MR. ESCOBAR: Thank you, Madam Clerk.

17 CROSS-EXAMINATION

18 BY MR. ESCOBAR:

19 Q. Good afternoon, Sergeant Hamilton.

20 A. Good afternoon, sir.

21 Q. Sergeant, you started your law enforcement
22 career at the detention facility at -- was it
23 Brooksville?

24 A. Brooksville. Yes, sir.

25 Q. How long were you in that capacity?

1 A. A little over four years, I believe.
 2 Q. Okay. And then you moved where?
 3 A. To the Brooksville Police Department.
 4 Q. Okay. And how long were you there?
 5 A. Just short of five years, I believe.
 6 Q. And then you went to Sumter?
 7 A. Yes, sir.
 8 Q. Now, you talked a little bit on direct
 9 examination concerning your education. You received
 10 an Associate's of Science degree?
 11 A. Yes, sir.
 12 Q. And where was that from?
 13 A. Columbia Southern University.
 14 Q. Okay. And was that an online education or
 15 was that attending classes?
 16 A. No, sir. Online.
 17 Q. Okay. And then you also got a Bachelor's
 18 of Art; is that correct?
 19 A. Yes, sir.
 20 Q. From what institution?
 21 A. Columbia Southern.
 22 Q. Okay. And where is Columbia Southern?
 23 A. It's in Alabama.
 24 Q. Okay. And so your Bachelors of Art was
 25 also an online, not attending actual courses in

1 person?

2 A. That's correct.

3 Q. Okay. Now, when you started with Sumter,
4 you started as a patrol deputy for about a year and
5 a half?

6 A. That's correct.

7 Q. And then you moved to a school resource
8 officer for another four or five years?

9 A. Yes, sir.

10 Q. And then you had some time with the
11 property detective division, correct?

12 A. That's correct. Yes, sir.

13 Q. And then your position was that you were
14 drowning, so you decided that you wanted to go back
15 to patrol?

16 A. That's correct.

17 Q. Okay. And when this particular event
18 happened, you were a corporal with Sumter County; is
19 that correct?

20 A. The event we're talking about here, right?

21 Q. The shooting incident. Yes.

22 A. Yes. I was a corporal.

23 Q. Okay. Now, before we get started your
24 position is that you don't think that anybody can be
25 100 percent sure of anything?

1 A. Not all the time.

2 Q. Well, no, you're saying -- your position
3 is that no one can be 100 percent sure of anything?

4 A. A hundred percent sure of anything?

5 Q. Yeah.

6 A. I'm 100 percent sure I'm sitting here.

7 Q. Okay. Well, have you ever had that
8 feeling that you can't be 100 percent sure of
9 anything?

10 MR. GARCIA: Judge, I'm going to object as
11 to relevancy. Have you ever had that feeling
12 that you can't be 100 percent sure.

13 BY MR. ESCOBAR:

14 Q. Yeah, has that been your position ever
15 before as a law enforcement?

16 THE COURT: Hold on. There's an objection
17 on the table.

18 Argument?

19 MR. ESCOBAR: It's very relevant. That's
20 his stance. His stance is that he doesn't
21 believe that he can ever -- that anyone can be
22 100 percent sure.

23 THE COURT: I'll overrule for now.

24 BY MR. ESCOBAR:

25 Q. Is that correct?

1 A. 100 percent sure, a 100 percent of the
2 time, no.

3 Q. And you believe that certain individuals
4 are influenced by their experiences?

5 A. Influenced by their experiences?

6 Q. Yeah. Influenced by their experiences.
7 In other words, people's experiences or perceptions
8 can color what they see as 100 percent?

9 A. I'm not tracking on that.

10 Q. Okay. Page 18, Lines --

11 MR. GARCIA: Is this his deposition, Mr.
12 Escobar?

13 MR. ESCOBAR: It is. It's his deposition.
14 The deposition that I took of him. And the
15 date of that, Mr. Garcia, is March 20th of
16 2015.

17 MR. GARCIA: Yes, sir. You said Page 18?

18 MR. ESCOBAR: Page 18, Lines 17 through
19 22.

20 BY MR. ESCOBAR:

21 Q. Do you remember the following questions --
22 well, first of all, do you remember the deposition I
23 took of you --

24 A. Yes. Absolutely.

25 Q. -- is that correct?

1 A. Yes, sir.

2 Q. And you remember by being sworn to tell
3 the truth and nothing but the truth in that
4 deposition?

5 A. That's correct. Yes, sir.

6 Q. And you remember me asking the following
7 questions. Okay. So can we agree that people's
8 experiences or their perceptions can color what they
9 see as 100 percent. Answer: Sure. I mean, you
10 know, I'm glad you didn't do this depo with me and
11 my wife. It would have took us four hours to do
12 this.

13 MR. GARCIA: Objection as to relevancy,
14 Judge. What does that have to do with this
15 hearing?

16 MR. ESCOBAR: He said, sure. Absolutely.
17 That perceptions and his expectations, okay,
18 can influence what he believes. That was his
19 answer.

20 THE COURT: All right.

21 MR. GARCIA: No.

22 MR. ESCOBAR: He changed --

23 THE COURT: Hold on. Hold on.

24 MR. GARCIA: No. Judge, he's asking him a
25 question. He's the one posing the question.

1 You can't take it out of context. He asked the
2 question.

3 MR. ESCOBAR: Judge, I'm even going to go
4 further so the Court can see --

5 THE COURT: Wait a minute.

6 MR. ESCOBAR: -- that that's what it was.

7 THE COURT: Wait a minute. Stop. One at
8 a time, first of all. And I think I've been
9 over this procedure a couple of times.

10 If you're using it as an inconsistent
11 statement --

12 MR. ESCOBAR: Uh-huh.

13 THE COURT: -- then it better be
14 inconsistent.

15 MR. ESCOBAR: Well --

16 THE COURT: And Mr. Garcia, is it
17 inconsistent?

18 MR. GARCIA: Judge, just so the Court is
19 aware. Mr. Escobar or Mr. Michaels poses this
20 question. Okay. So we can agree then that
21 people's experience or their perceptions can
22 color what they see as 100 percent.

23 MR. ESCOBAR: And he says sure.

24 MR. GARCIA: And his answer is, sure. I
25 mean -- I mean, we -- I'm glad you didn't do

1 this depo with me and my wife. It would have
2 took us four hours to do this.

3 So in what context? You know, he asks
4 that question. But in what context? I don't
5 see how this is impeachment. What does this go
6 to?

7 MR. ESCOBAR: I asked him that same
8 question and he said, no. And so now I ask him
9 that same question and, sure, under oath.

10 MR. GARCIA: Judge, the problem is this --
11 is it's on a collateral matter. What does it
12 go to?

13 THE COURT: Where are you going with this?

14 MR. ESCOBAR: Judge, because everything
15 here is going to be concerning his perception.
16 This whole thing is his perception. He was in
17 the theater.

18 THE COURT: All right. I'm going to allow
19 it. Overruled.

20 BY MR. ESCOBAR:

21 Q. Now, when you went into that theater you
22 wanted to sit at the highest level, right --

23 A. Yes, sir.

24 Q. -- as part of what you do?

25 A. Yes, sir.

1 Q. Why is it that you do that?

2 A. I always take the higher ground. It gives
3 you a better vantage point of anything. And that's
4 just -- that's the law enforcement in you. That's
5 nothing else.

6 Q. Okay. And so you did that as part of what
7 you do in your daily life?

8 A. Yes, sir.

9 Q. You take the high ground?

10 A. Yes, sir.

11 Q. Okay. And so you believe that you sat in
12 row A?

13 A. Yes, sir.

14 Q. That's what you testified on direct; is
15 that correct?

16 A. Yes, sir.

17 Q. And you believe that you were five to six
18 chairs from Mr. Reeves?

19 A. Somewhere in that area. Yes, sir.

20 Q. Well, could it have been seven?

21 A. I believe it was five or six -- six seats
22 in there.

23 Q. Okay. Well, could it have been seven?

24 A. No.

25 Q. And it couldn't have been eight?

1 A. No.

2 Q. Well, let's try to examine that, if we can
3 a little bit.

4 A. Okay.

5 Q. You're seated looking at the screen,
6 correct?

7 A. Yes, sir.

8 Q. And your wife's to your right?

9 A. Yes, sir.

10 Q. So let's make your seat number one. Okay?

11 A. Okay.

12 Q. And as we go to the right, we'll figure
13 out how many seats. Seat number two was your wife?

14 A. That's correct.

15 Q. So now you're right next to your wife to
16 the left. And we're going to count how many seats
17 between you and Mr. Reeves. We've only got one now,
18 because this is your wife.

19 And so if you're looking to the screen
20 there are three to four empty seats between your
21 wife and an older couple. So if we add four --
22 three or four. So your wife being one --

23 MR. GARCIA: Judge, I'm going to object.

24 Is this a question or what?

25 MR. ESCOBAR: Yes. I'm going to ask him a

1 question.

2 BY MR. ESCOBAR:

3 Q. Your wife being one, and your statement,
4 you agree, three to four between your wife and the
5 older couple, correct?

6 A. Could be. Yes, sir.

7 Q. So now that's five. We'll keep a running
8 total here if we can. Okay?

9 A. (Nods head.)

10 Q. Now. There's an older couple. Couple,
11 meaning two seats, correct?

12 A. That's correct.

13 Q. So let's add those two. So we add five
14 and two. Now seven, correct?

15 A. Yes, sir.

16 Q. And you indicated that this older couple,
17 they were in their 60s maybe, correct?

18 A. Yes, sir.

19 Q. And then there is one to two seats between
20 the older couple and Mr. Reeves. So two seats. So
21 now we've got five, seven -- nine seats between you
22 and Mr. Reeves. So what is it, five or nine?
23 Because you just said a few seconds ago it couldn't
24 be more than five.

25 A. It could have been -- it could have been

1 in that area. I mean, you didn't give me the
2 benefit of the doubt. You took one seat away from
3 me because you said it could be one or two. So I
4 don't know.

5 Q. I'm trying to get your testimony and see
6 if, in fact, it's either five or nine or telling me,
7 Rick, I have no idea how many seats.

8 A. It could be within that realm. I mean, a
9 lot was going on that day.

10 Q. Now, you believe you got to the theater
11 actually at 1:30, isn't that not correct?

12 A. That's correct.

13 Q. 1:30?

14 A. 1:30.

15 Q. Okay. And then you got there shortly
16 before the movie started. In fact, the previews
17 were playing, correct?

18 A. There was no previews playing when I got
19 there.

20 Q. Was the movie playing?

21 A. No. There was no movie playing.

22 MR. GARCIA: Judge, I'm going to object.
23 The testimony was he arrived at 12:45.

24 MR. ESCOBAR: Judge, that was on direct.
25 He says now at 1:30, and I've got him here in

1 the deposition at 1:30. And so he agreed with
2 me, 1:30.

3 He may not like that statement, but that's
4 what he said and that's what's in my depo.

5 MR. GARCIA: But in what context, though,
6 Judge? He may be saying he arrived -- he got
7 into the movie theater.

8 MR. ESCOBAR: Judge, whether he got into
9 the actual Theater 10, or whether he got into
10 the Cobb Theater, I'll take both of those.

11 THE COURT: What's the objection?

12 MR. GARCIA: I'll withdraw it for now,
13 Judge.

14 THE COURT: Thank you.

15 BY MR. ESCOBAR:

16 Q. When you sat down, the previews were
17 already playing, correct? You know what previews
18 are, trailers? Sitcoms, I think you called it.
19 Sitcoms.

20 A. No. They were not already playing. They
21 came on after I sat down.

22 Q. Well, how much after?

23 A. I don't know.

24 Q. Now, you wear glasses?

25 A. Yes, sir.

1 Q. You didn't have your glasses on that
2 matinee movie, did you?

3 A. I probably had contacts at the time.

4 Q. Okay. You probably had contacts or you
5 just weren't wearing anything?

6 A. No. I would have had contacts in.

7 Q. Okay. And so the way you wear contacts
8 is, you wear one contact of a particular kind and
9 another contact of another particular kind, right?

10 A. Right. I'm farsighted.

11 Q. And so do you know what correction you
12 have -- which eye are you farsighted in?

13 A. I don't know.

14 Q. But you wear different strength of
15 contacts, one on one eye, right, to see up close;
16 the other eye to see distance?

17 A. Not to see distance, no. It corrects the
18 other one and pulls it into allowing me to see up
19 close.

20 Q. Well, I realize that one of those contacts
21 allows you to see up close. But if you put another
22 contact in your eye, what does that do?

23 A. That allows me to see correctly what I --

24 Q. Distance?

25 A. Distance and up close.

1 Q. Now, your position is, is it not, that
2 during the previews that they drop down the lighting
3 and that day it was, quote, very low?

4 A. Very low. Yes, sir.

5 Q. And, in fact, your position also is that
6 what they were playing on the screen was loud, and
7 the reason that people like to go to the theater is
8 because they can listen to that loud stuff?

9 A. That's correct.

10 Q. And you certainly, when you go into the
11 theater, you turn your phone off because it
12 distracts people?

13 A. That's correct.

14 Q. And when you're seated in the chair to the
15 theater, you're not seated upright, you're kind of
16 lounging back?

17 A. That's correct.

18 Q. Is that correct?

19 A. Yes, sir.

20 Q. And your wife's here to your right?

21 A. Uh-huh.

22 Q. And it was your wife that nudged you; is
23 that correct?

24 A. Yes, sir.

25 Q. To get your attention because you were

1 focusing on the previews?

2 A. That's correct.

3 Q. And it was about that time that you even
4 independently heard loud conversation, correct?

5 A. Right.

6 Q. And that conversation that you heard was
7 kind of blending with the noise from the previews,
8 correct?

9 A. I believe I used the word, muttered.

10 Q. Okay. But you know one thing, someone was
11 talking even louder than the previews, one person.

12 A. Not louder than the previews.

13 MR. ESCOBAR: Page 45, Mr. Garcia,
14 starting on Line 12 all the way through 25. So
15 we can have a doctrine of completeness.

16 BY MR. ESCOBAR:

17 Q. You say --

18 THE COURT: Hang on. Let him read it. If
19 it's not inconsistent, then that's not how we
20 proceed.

21 MR. ESCOBAR: Okay.

22 MR. GARCIA: Judge, I'm going to object.
23 This is consistent with what he testified to.

24 MR. ESCOBAR: Judge, he said it was not
25 louder.

1 THE COURT: May I see it, please?

2 MR. ESCOBAR: Sure.

3 THE COURT: Sustained.

4 MR. ESCOBAR: Judge --

5 MR. GARCIA: I'm sorry. Sustained?

6 THE COURT: Sustained.

7 MR. ESCOBAR: Judge, just so that we can
8 proffer this for the record. He initially said
9 that it was not louder. And on Page 45, we'll
10 put this in the record, at some point on -- I'm
11 on Page 45, Lines --

12 THE COURT: Nowhere in there that I just
13 read does it say, he said it was louder than
14 the previews. That was your question.

15 MR. ESCOBAR: Judge, he's talking about
16 the muttering. This --

17 THE COURT: Muttering. Someone said
18 something a little louder than just muttering,
19 not louder than the previews. That's what I
20 just read.

21 MR. ESCOBAR: Judge, it --

22 THE COURT: Go ahead.

23 MR. ESCOBAR: This section is talking
24 about the previews. But I won't --

25 THE COURT: Go ahead and read it into the

1 record.

2 MR. ESCOBAR: Well, I'm going to --

3 THE COURT: Or proffer.

4 MR. ESCOBAR: I'm going to give a page
5 number so that we can -- we'll put it in the
6 record.

7 Page 45 of his deposition taken on
8 May 20th, 2015, Lines 12 through 25.

9 BY MR. ESCOBAR:

10 Q. Now, once your wife nudges you, you look
11 to your right; is that correct?

12 A. Yes, sir.

13 Q. And is your wife sitting up, as well?

14 A. No, sir.

15 Q. She's leaned back?

16 A. She's sitting basically like I am, enough
17 for me to see around her.

18 Q. And as you looked there you're seeing --
19 the only thing you see was one person standing up,
20 correct?

21 A. That's correct.

22 Q. And what you're really seeing is that
23 person's shadow, correct?

24 A. I'm seeing a human being standing up.
25 Yes, sir.

1 Q. But in a shadow form?

2 A. Right. Not like you're standing there
3 that I see all of you.

4 Q. You're seeing a shadow?

5 A. Right. Silhouette.

6 Q. And you realize that that's a pretty tall
7 guy, right?

8 A. Not at the time. No.

9 Q. You didn't realize he was tall?

10 A. (Shakes head.)

11 Q. But you saw that he was standing?

12 A. He was -- yes, sir.

13 Q. In fact, your position is that you had a
14 very odd view. You could only see the side of this
15 person?

16 A. That's correct.

17 Q. Basically, you're only seeing half of him
18 from the waist up?

19 A. Yes, sir.

20 Q. Really only to the waist, from the waist
21 to the shoulders?

22 A. Yeah.

23 Q. And you certainly didn't see who he was
24 loud to, correct?

25 A. No, sir.

1 Q. Certainly you did not hear Mr. Reeves
2 saying anything, correct?

3 A. No, sir.

4 Q. You were trying to evaluate what was going
5 on over there, right? It was kind of odd to you?

6 A. Yes, sir.

7 Q. You wanted to find out, quote, who was
8 raising hell?

9 A. That's correct.

10 Q. You don't know how long -- before your
11 first observation of Mr. Oulsen, you don't know how
12 long Mr. Oulsen was speaking loudly to the people
13 behind him, correct?

14 A. No, sir.

15 Q. You don't know what was being said before
16 you even looked over at that darkened silhouette of
17 Mr. Oulsen, correct?

18 A. No, sir.

19 Q. You weren't paying attention to any of
20 that until your wife nudged you?

21 A. That's correct.

22 Q. So you have no idea whether Mr. Oulsen was
23 trying to come over his chair before you even put
24 eyes on him, correct?

25 A. That's correct.

1 Q. You couldn't see any facial features of
2 Mr. Oulsen, could you?

3 A. No, sir.

4 Q. Because it was too dark.

5 A. That's correct. The light was lower.

6 Q. Now, you mentioned on direct examination
7 that Mr. Oulsen was saying in a very loud voice, I'm
8 texting my fucking daughter?

9 A. Yes, sir.

10 Q. You certainly don't know if those were the
11 exact words that were being used, correct?

12 A. It was on that -- in that term. Yes, sir.

13 Q. Well, what does, in that term, mean?

14 A. It was something to that effect.

15 Q. Something to that effect. Well, let's try
16 to explore that a little bit. What does something
17 to that effect mean? You certainly heard the word,
18 pardon me, fuck?

19 A. Yes, sir.

20 Q. That is without question?

21 A. That's correct.

22 Q. You knew the F bomb had come out, correct?

23 A. That's correct.

24 Q. And when that F bomb came out, he was
25 facing that back row; was he not?

1 A. Yes, sir.

2 Q. You were literally hunting in the dark;
3 were you not?

4 A. At that point, no.

5 MR. GARCIA: Judge, I'm going to object.
6 First of all, object to the form of the
7 question, hunting in the dark. What is that
8 referring to? How is that relevant? In what
9 context?

10 THE COURT: Sustained.

11 MR. GARCIA: I mean, I could go on and on
12 and on. You're hunting in the dark?

13 THE COURT: Sustained. Rephrase.

14 BY MR. ESCOBAR:

15 Q. You were doing the best you could trying
16 to see what little you could see?

17 A. Right.

18 Q. Now, the first thing that you see, even
19 before the F bomb, the first thing that you see, you
20 see Mr. Oulsen when he stands up and he is leaning
21 over the back of his seat. Mr. Oulsen, correct,
22 leaning over the back of his seat?

23 A. No, sir.

24 Q. 2-5-14, the bond hearing that took place
25 very early on in this case, Page 344, Lines 23

1 through 25 and Page 345, Lines 1.

2 BY MR. ESCOBAR:

3 Q. Do you remember the following questions
4 and answers --

5 THE COURT: Hang on a minute.

6 MR. GARCIA: Judge, he's going Page 344.
7 I mean, he's got to give me a chance to get
8 there.

9 MR. ESCOBAR: I'll let him get there. My
10 apologies.

11 MR. GARCIA: Page 344 --

12 MR. ESCOBAR: Lines 23 through 25, Page
13 345, Lines 1.

14 MR. GARCIA: Judge, I'm going to object.
15 This is taken out of context. If you go
16 further on in the bond hearing, I have Sergeant
17 Hamilton step down and demonstrate for the
18 sitting judge, Judge Siracusa, and he
19 demonstrated exactly what he demonstrated here
20 today.

21 MR. ESCOBAR: Judge, I'm going to go
22 through that whole line of questioning.

23 MR. GARCIA: He never says that he was
24 leaning over. And he gives a demonstration,
25 Judge.

1 Mr. Escobar takes bits and pieces of what,
2 you know, he wants and then he leaves the other
3 stuff out.

4 MR. ESCOBAR: No. Judge, that's not
5 correct. His -- the question and the answer is
6 right there. It ends on Page 1 of 345. And
7 then we actually talk starting about the issue
8 of propping, and that's going to come next.

9 MR. GARCIA: Judge, I would assume if you
10 ask Mr. Escobar further on in that bond
11 hearing, Sergeant Hamilton stepped down and
12 literally demonstrated for the Court how Mr.
13 Oulsen was back on January 13th of 2014. And
14 he never says that he was leaning over the
15 chair.

16 MR. ESCOBAR: Judge, he says it under oath
17 in this particular document. Do you want to
18 read it? I can show it to you.

19 THE COURT: Let me see it.

20 MR. ESCOBAR: 344, starting on Line 23.
21 345, that's the additional answer, and then we
22 go into what propping is.

23 THE COURT: And it appears the question, I
24 guess by you said, he's leaning significantly
25 over his seat. And he doesn't say yes. He

1 said, he's propped.

2 MR. ESCOBAR: Judge, here, it's my
3 question. Okay. And so the first thing that
4 you hear and see is Mr. Oulsen when he stands
5 up and he is leaning over the back of his seat,
6 Mr. Oulsen does.

7 THE COURT: Right. He's shown that
8 already.

9 MR. ESCOBAR: And he says, correct. Yes,
10 sir.

11 THE COURT: Right. He already showed
12 what -- exactly what Mr. Garcia said --

13 MR. ESCOBAR: He just said that he wasn't
14 leaning over his seat.

15 MR. GARCIA: Judge, I would invite the
16 Court's attention to Page 351, Line 7. He was
17 leaning over into Mr. Reeves' face, correct.
18 Answer: No, sir. And then there's a
19 demonstration. He was in a propped position.

20 Like I said, you cannot take these
21 transcripts out of context. You can't take the
22 bits and pieces that help you and leave the
23 other stuff out.

24 THE COURT: It's not a significant
25 inconsistency. I'm going to sustain the

1 objection.

2 BY MR. ESCOBAR:

3 Q. Now, propped, that's what you said on
4 direct, right?

5 A. Yes, sir.

6 Q. Well, if you didn't see from the waist
7 down, what was he propping on?

8 A. I don't know.

9 Q. Well, but if you say he's propped, what is
10 he propped on, if you can't see from the waist down?

11 A. He could have had his hand out at a lower
12 spot. He could have had just his knee. I mean --

13 Q. What would -- if --

14 A. -- I found out later on he's a tall guy, I
15 mean.

16 Q. But if you don't see that --

17 MR. GARCIA: Judge, I'm going to object.
18 It's asked and answered. He just gave an
19 explanation. Mr. Escobar doesn't like it so he
20 wants to keep asking him.

21 MR. ESCOBAR: No, Judge. I like his
22 answer because he can't tell us what he's
23 propped on.

24 BY MR. ESCOBAR:

25 Q. What's he propped on?

1 A. I don't know. I'm just telling you he was
2 propped.

3 THE COURT: Sustained. Move on.

4 BY MR. ESCOBAR:

5 Q. Certainly at that point in time you could
6 see Mr. Oulsen was a tall gentleman?

7 MR. GARCIA: At what point in time, Judge?
8 I'm going to object.

9 BY MR. ESCOBAR:

10 Q. At that point in time when -- at that
11 point in time when he's propped. When he's propped.

12 A. When he's propped?

13 Q. Yeah.

14 A. No. I don't see that he's a tall
15 gentleman at that time.

16 Q. Page 345, Lines 8 right -- two sentences
17 after he's propped. 345, Lines 8 all the way
18 through 25.

19 MR. GARCIA: I'm going to object. You've
20 got to put it in context.

21 THE COURT: Who says he was tall when he
22 was propped? Is it the question -- the way the
23 question was asked.

24 MR. GARCIA: No, Judge. The question
25 is --

1 MR. ESCOBAR: Judge, I --

2 MR. GARCIA: -- as you can see Mr. Oulsen
3 there, he's a tall gentleman, correct. Yes,
4 sir. At what point in time -- at what point in
5 time. That's what you have to reference.

6 THE COURT: He's already said earlier,
7 yes, at some point he saw he was a tall
8 gentleman.

9 MR. ESCOBAR: No, Judge. This is at this
10 point. If I can just -- I'll give you the
11 sentences.

12 THE COURT: What's the relevance?

13 MR. ESCOBAR: The relevance is he's making
14 an assumption at this point in time that he's
15 propped and he can't even see what he's propped
16 on.

17 But what he can tell is, he can tell that
18 it's a tall gentleman. And what that tells you
19 is that he's not propped at all.

20 THE COURT: Let me see. Let me see that.
21 Let me see where he says he could tell he was
22 tall when he was propped.

23 MR. ESCOBAR: It starts here, right here
24 from 2.

25 THE COURT: It says, you could see Mr.

1 Oulsen there. He's a tall gentleman. It
2 doesn't say he's a tall gentleman when he's
3 propped.

4 MR. ESCOBAR: Judge, the first three
5 sentences are about being propped. He says, he
6 was propped. And I go into, you could see that
7 he was a tall gentleman.

8 THE COURT: Finish the questioning. You
9 may expound. It is not impeachment. Ask him
10 the question. And he's already said he doesn't
11 know what he was propped on, so move on from
12 there.

13 BY MR. ESCOBAR:

14 Q. Was he a tall gentleman?

15 A. I found out later on, yes, sir, he was a
16 tall gentleman.

17 Q. So later on is when you found that out.
18 How did you find that out later on, since this
19 gentleman was on the floor when you got to
20 Mr. Reeves?

21 A. When -- after he was shot, he stood up
22 from that propped position and then his body
23 elevated from there, and that let me know that he
24 was a tall individual due to the size of the chairs.

25 Q. That's when you first determined that he

1 was tall?

2 A. Yes, sir.

3 Q. Now, you're still seeing initially when
4 he's, quote, propped, the silhouette that we talked
5 about before?

6 A. Yes, sir.

7 THE COURT: Hold on a minute, Mr. Escobar.
8 Is there a problem?

9 MRS. SUMNER: No, Your Honor.

10 THE COURT: Go ahead.

11 BY MR. ESCOBAR:

12 Q. When you heard the F bombs, did you expect
13 to hear that in a theater?

14 A. No, sir.

15 Q. Just the loudness alarmed you?

16 A. The tone and the word itself. Yes, sir.

17 Q. And again, you only were hearing Mr.
18 Oulsen, correct?

19 A. That's correct. Yes, sir.

20 Q. You never saw, at that moment, Mr. Oulsen
21 with a phone in hand, did you?

22 A. No, sir.

23 Q. You didn't even see Mr. Oulsen's hand
24 reaching into Mr. Reeves' person, correct?

25 A. No, sir.

- 1 Q. Why couldn't you see that?
- 2 A. I don't know. I mean, maybe it didn't
- 3 happen.
- 4 Q. You didn't see it once, you didn't see it
- 5 twice?
- 6 A. I didn't see it.
- 7 Q. Everything happened pretty quickly?
- 8 A. Yes, sir.
- 9 Q. Did you see the muzzle flash?
- 10 A. Yes, sir.
- 11 Q. But you didn't see the gun?
- 12 A. No, sir.
- 13 Q. Why was that?
- 14 A. It's a black gun.
- 15 Q. Because of the darkness?
- 16 A. Darkness, small gun.
- 17 Q. Now, you got up from your seat, correct?
- 18 A. Yes, sir.
- 19 Q. And even before getting up from your seat,
- 20 you never saw Mrs. Oulsen, did you?
- 21 A. No, sir.
- 22 Q. And you still hadn't seen Mr. Reeves?
- 23 A. No, sir.
- 24 Q. Because it was dark.
- 25 A. He was sitting down.

1 Q. No. Because it was dark.

2 A. No. Because he was sitting down.

3 Q. Just because he was sitting down?

4 A. I couldn't see him. I couldn't see the
5 rest of the people in that row because they were
6 sitting down.

7 Q. What about Mrs. Oulsen?

8 A. Mrs. Oulsen? No.

9 Q. Because it was dark?

10 A. No.

11 MR. GARCIA: Judge, I'm going to object.
12 Asked and answered. He's already answered the
13 question three times.

14 THE COURT: Move on.

15 BY MR. ESCOBAR:

16 Q. Now, you go over to Mr. Reeves, correct?

17 A. Yes, sir.

18 Q. And when you get there Mr. Reeves is
19 seated?

20 A. That's correct.

21 Q. Correct?

22 A. Yes, sir.

23 Q. And the firearm is on his left knee?

24 A. That's correct.

25 Q. His hands are away from the firearm?

1 A. His hands were either retreating or going
2 forward. And I believe I said that I wasn't paying
3 attention to that. But they were not up here.

4 Q. No. I know. But they certainly weren't
5 on the gun?

6 A. No.

7 Q. And I believe you, yourself, indicated
8 that you very quickly, once you were able to get the
9 gun, you wanted to put that gun out of sight?

10 A. That's correct.

11 Q. Because you didn't want someone seeing you
12 there in plain clothes, correct --

13 A. That's right.

14 Q. -- with a gun in your hand --

15 A. Yes.

16 Q. -- in a dark theater?

17 A. That's correct.

18 Q. That's not a good situation?

19 A. No, sir.

20 Q. They may misconstrue you as being someone
21 that's being aggressive?

22 A. That's correct.

23 Q. And that's even before police come in,
24 talking about general population there.

25 A. Yes, sir.

1 Q. You've certainly been trained on those
2 issues; have you not?

3 A. On --

4 Q. Making sure that, hey, if you're in a
5 place and you've got a gun, put that gun away so
6 nobody realizes that you're -- or mistakes that
7 you're a threat?

8 A. I've had no training on hiding guns to
9 keep people from knowing what I am.

10 Q. Just common sense?

11 A. Just common sense.

12 Q. Okay. Now, you never told Proctor, did
13 you, that Mr. Reeves wanted to leave?

14 A. I don't recall whether I did or did not.

15 Q. You remember Mr. Reeves saying he wanted
16 to get up?

17 A. That's correct.

18 Q. As Mr. Reeves was seated there, did you
19 see him put his hands to his head?

20 A. Yes, sir.

21 Q. Would you describe to the Court what you
22 saw?

23 A. He -- when I approached him, and me and
24 him understood that, you know, I was law a
25 enforcement officer, I'm there to, you know, make

1 sure we keep everything under control from there, he
2 reached back and pushed his glasses up over his brow
3 and asked me if I -- he was hit. Did I see
4 anything. And he said he had something in his eye.
5 And I believe I said, well -- because he had his
6 finger here, and I said, well, that's your finger in
7 your eye.

8 Q. He had his right finger in his eye?

9 A. He had a finger in his eye. I don't know
10 which finger it was.

11 Q. Well, what eye?

12 A. It would have been his right eye.

13 Q. His right eye?

14 A. Or left eye. Excuse me.

15 Q. How long did it take you to get from your
16 position -- you were seated when the gun went off?

17 A. Yes.

18 Q. And so since we have a camera, we have the
19 benefit of having some timestamps, right?

20 A. That's right.

21 Q. Now, you didn't know that there was a
22 camera in that theater that day at all?

23 A. No, sir.

24 Q. Even when you gave your statement, you had
25 no idea?

1 A. Not a clue.

2 Q. And so you had to get up from a seated
3 position, correct?

4 A. Yes, sir.

5 Q. And you had to get up and then you had to
6 make your way to Mr. Reeves. So do you know how
7 long it took you to finally get to Mr. Reeves?

8 A. No, sir. I don't.

9 Q. And you don't know what Mr. Reeves was
10 doing from the time that you decided to get up, to
11 the time that you reached him?

12 A. No, sir.

13 Q. You certainly didn't think that Mr. Reeves
14 wanted to flee?

15 MR. GARCIA: Objection, calls for
16 speculation. He has no idea what was in his
17 mind.

18 MR. ESCOBAR: I think he just answered no,
19 with his head, at least.

20 MR. GARCIA: I'm objecting. It calls for
21 speculation, Judge, whether he answered or not.

22 THE COURT: Sustained.

23 BY MR. ESCOBAR:

24 Q. One thing's for sure, the minute that you
25 got there -- and when I'm saying you got there,

1 we're talking about, you got there to Mr. Reeves.
2 One thing's for sure is that you looked down in
3 between his legs, you saw that phone?

4 A. I don't know if it's that phone or it was
5 a cell phone.

6 Q. It was a cell phone?

7 A. (Nods head.)

8 Q. Dark in color?

9 A. I don't know if it was -- it's dark in
10 that area. It was in between his seat and my feet,
11 so I can't tell you if that's the actual phone.

12 Q. So because of the darkness that we had in
13 that theater, and you were standing right next to
14 Mr. Reeves and you were looking down and you just
15 you couldn't tell what color it was?

16 A. No, sir. I mean, since you're pulling
17 that out of an evidence bag, I would assume that
18 that's --

19 Q. Well, we certainly can't assume in these
20 cases. You just didn't know what the color was?

21 A. Right. Exactly.

22 Q. Now, when you introduced yourself to
23 Mr. Reeves, he likewise indicated to you, hey, I
24 know, I'm a former law enforcement officer, right?

25 A. Yes, sir.

1 Q. And you certainly did not have to handcuff
2 him there, correct?

3 A. No, sir.

4 Q. He sat there quietly?

5 A. Yes, sir.

6 Q. And he asked you, told you, he had been
7 hit, correct?

8 A. Yes, sir.

9 Q. And so certainly, if you couldn't see a
10 cell phone a mere few feet from your person, because
11 of the lighting, right?

12 A. That's correct.

13 Q. Could you tell the Court what lighting, if
14 anything, you used when you were trying to examine
15 whether Mr. Reeves was injured in any way?

16 A. Well, there was a pretty significant
17 difference between the floor and me standing within,
18 you know, this proximity of Mr. Reeves. I mean --

19 Q. So -- so from here --

20 MR. GARCIA: Judge, I'm going to object.

21 MR. ESCOBAR: I'm asking him a question.

22 MR. GARCIA: Mr. Escobar is not even
23 letting him answer the question. He interrupts
24 him when he goes to answer and then he wants to
25 ask him another question. I'd ask him to at

1 least extend the courtesy of the witness to let
2 him finish his answer.

3 THE COURT: Let him finish.

4 THE WITNESS: A little bit of difference
5 in the lighting, quite a bit of difference from
6 down there, in the dark, underneath the seat,
7 in the seating area. His legs were shadowing,
8 my body's shadowing that. So where the light
9 is up here is significantly better than what it
10 is on the floor.

11 BY MR. ESCOBAR:

12 Q. So what did you do -- what did you do in
13 checking Mr. Reeves? What did you do, did you use a
14 flashlight?

15 A. No, sir.

16 Q. Okay. Well, tell me physically what you
17 did in order to check whether -- did you get down
18 real close to him and look at his head?

19 MR. GARCIA: Judge, I'm going to object to
20 Mr. Escobar being a foot away from the witness.
21 I don't know if he's trying to intimidate him.

22 MR. ESCOBAR: Oh, my God.

23 MR. GARCIA: I'd ask him to move back to
24 the podium.

25 MR. ESCOBAR: I'm talking very low.

1 BY MR. ESCOBAR:

2 Q. Did you get real close to him?

3 A. No, sir. I didn't even -- I wasn't
4 looking for, you know, whether he had, you know, a
5 needle-size -- I'm looking for any significant
6 injury, bruises, gashes. He's got a red mark inside
7 of his eye that -- you know what I mean?

8 Q. Yeah. You're looking for something
9 significant.

10 A. Right. And I'm not seeing any of that.

11 Q. Okay. Now, again, you were concerned --
12 one of your concerns right there was, hey, listen,
13 at some point in time officers are going to be
14 coming through that door and they're going to be
15 coming maybe guns blazing and that can be a pretty
16 dangerous situation.

17 A. There was a number of things on my mind,
18 yes, sir, during that period of time that would have
19 affected me and him.

20 Q. But that would have been one?

21 A. That's one.

22 Q. And you remember Mr. Reeves' son coming up
23 and chatting with you, as well?

24 A. Yes, sir.

25 Q. Now, while you were there, you really

1 didn't want to talk to Mr. Reeves, did you?

2 A. Which one?

3 Q. Not the son. I'm talking about --

4 A. Mr. Reeves?

5 Q. Yes.

6 A. Not really. No, sir.

7 Q. Now, you indicated that there was a
8 conversation that you heard between Mr. Reeves and
9 his wife?

10 A. That's correct.

11 Q. And you said here in direct examination
12 that Mr. Reeves said something to the effect of,
13 shut your fucking mouth? Or was it, shut your
14 fucking mouth? Was it something to the effect of,
15 shut your fucking mouth, or was it, shut your
16 fucking mouth?

17 A. It was, shut your fucking mouth.

18 Q. It was, shut your fucking mouth. So it
19 wasn't, there was no cause to shoot the man. Don't
20 say another word. That wasn't it?

21 A. No. You asked me what he said. That's
22 not what he said. That's what his wife said.

23 Q. Okay. Well, I'm worried right now about
24 the, shut your fucking mouth. Who said that?

25 A. Mr. Reeves did.

1 Q. Okay. Well, did Mr. Reeves say, shut your
2 fucking mouth or did he say, don't say another word?

3 A. He said, shut your --

4 MR. GARCIA: Objection. He's asked and
5 answered that already.

6 THE COURT: Which -- are those exclusive
7 of one another or --

8 MR. ESCOBAR: They're different.

9 MR. GARCIA: No, Judge. It's the whole
10 same phrase. He testifies he said, shut your
11 fucking mouth and don't say another word.

12 THE WITNESS: (Nods head.)

13 BY MR. ESCOBAR:

14 Q. So it's both, shut your fucking mouth and
15 don't say another word?

16 A. No, sir. He said, shut your fucking mouth
17 and don't say another word, and he had his finger,
18 his index finger pointed at her.

19 Q. Now, you've been a police officer for how
20 long?

21 A. For 20 years.

22 Q. Okay. And you certainly realize the
23 importance when a police officer is going to
24 interview you --

25 A. Uh-huh.

1 Q. -- with a recorded statement?

2 A. That's correct.

3 Q. The whole purpose of the recording is to
4 memorialize your recollection as close as possible
5 to the event?

6 A. That's correct.

7 Q. And you certainly, being a police officer,
8 recognize that certainly someone saying, shut your
9 fucking mouth is pretty important?

10 A. That's correct.

11 Q. The fact is a crime, tampering with a
12 witness, right?

13 A. That's correct.

14 Q. And so if you're going to be interviewed
15 by a detective, you want to be 100 percent truthful,
16 right?

17 A. That's correct.

18 Q. Especially if that is going to be
19 recorded, and if the detective was trying to find
20 everything that he can about the case, is asking you
21 tell me everything you know?

22 A. Right.

23 Q. And you remember Detective Proctor telling
24 you just that?

25 A. I don't recall him telling me everything,

1 you know.

2 Q. Well, did he tell you at the end of your
3 statement, anything else you can tell me?

4 A. I can read it off that now and tell you,
5 okay, that's probably what he said. But I'm just
6 telling you, I don't recall him making that comment
7 at that time.

8 Q. Well, would you like to hear it on tape?

9 A. No. I don't need to hear it. I'm sure I
10 said it or he said. I mean, it's on there. I mean,
11 I'm not going to deny or --

12 Q. So when he told you that, was this just
13 insignificant enough that you just, I'm just not
14 going to tell him about it?

15 A. No, sir. That's not it at all.

16 Q. Well, there's another document that's very
17 important. And this is even before you get to
18 Detective Proctor, correct? It's called a voluntary
19 statement form.

20 A. Uh-huh.

21 Q. I'm going to show you what's been marked
22 as Defendant's Exhibit Number 215.

23 MR. MARTIN: I've got it.

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

25 THE COURT: You may.

1 BY MR. ESCOBAR:

2 Q. I'm going to ask you if you recognize that
3 document?

4 A. Yes, sir. I do.

5 Q. Now, when you wrote that document, how
6 long had you been in law enforcement?

7 A. About 17 years.

8 Q. You're a corporal at that time?

9 A. That's correct.

10 Q. And you realize that the purpose of that
11 document is that you're trying to give certainly
12 truthful information, right?

13 A. That's correct.

14 Q. And you're trying to give important
15 information --

16 A. That's correct.

17 Q. -- concerning what you know about the
18 incident?

19 A. That's correct.

20 Q. And certainly what you know about the
21 person that's being accused of shooting, right?

22 A. That's correct.

23 Q. And now you've just admitted also that,
24 hey, the statement, shut your fucking mouth, is
25 pretty important?

1 A. That's correct.

2 Q. In fact, you've admitted today it is a
3 crime?

4 A. That's correct.

5 Q. But you never put it in that statement,
6 did you?

7 A. No, sir. I can explain that, if you want.

8 Q. Please.

9 A. Okay. We, meaning me and my wife, had
10 just got through with a pretty significant incident.
11 We were given pens and a piece of paper and asked to
12 fill out a statement on the carpet. So when we're
13 doing that, I'm taking, I'm going to give them
14 everything that I know right now and sign it so that
15 we have some account of this and that was it. And
16 what I said earlier is preliminary. This gets the
17 detective or whomever's going to work the case the
18 evidence enough to establish probable cause to
19 arrest whomever the shooter was --

20 Q. Okay. So --

21 A. -- so --

22 Q. -- this was done on carpet?

23 A. Uh-huh.

24 Q. It's pretty neat writing, correct?

25 A. (Nods head.) Yeah.

1 Q. If I was to -- if I was to put this down
2 here on carpet --

3 MR. GARCIA: Judge, I'm going to object to
4 the relevancy of Mr. Escobar putting it down on
5 carpet. He's already testified he wrote it on
6 the carpet.

7 BY MR. ESCOBAR:

8 Q. So you and your wife were on the floor on
9 the carpet writing this down?

10 A. We had been on the carpet. We had been on
11 a railing. Wherever we could find. There was
12 numbers of people in there trying to fill out
13 statement forms.

14 Q. So are you blaming on the carpet that you
15 just didn't put it down?

16 A. No.

17 MR. GARCIA: Objection, Judge,
18 argumentative.

19 THE COURT: Sustained. Move on.

20 BY MR. ESCOBAR:

21 Q. You just have no reason?

22 THE COURT: Or rephrase.

23 BY MR. ESCOBAR:

24 Q. You have no reason for not putting it
25 down?

1 A. I don't think that's my --

2 MR. GARCIA: Objection, Judge. He's
3 already answered that.

4 THE COURT: I heard him answer that. He
5 said, let me explain. So I think that was the
6 answer. Let's move on, please. Sustained.

7 BY MR. ESCOBAR:

8 Q. Now, you just told me that you and your
9 wife were very emotional about this case, correct?

10 A. Yes, sir.

11 Q. You're emotional there at the scene?

12 A. No. I don't believe so.

13 Q. So you weren't?

14 A. No. Not at the time.

15 Q. So did you get emotional after you left
16 the scene?

17 A. I have my mixed feelings that I was trying
18 to hold it together for my wife, because she was
19 extremely upset. She doesn't -- you know, what she
20 does for a living she's not, you know, around that
21 particular type of stuff. So, yeah, it -- it's
22 taken a toll on her.

23 Q. Okay. But I'm saying at the scene y'all
24 weren't emotional, is what you were telling the
25 Court?

1 A. She was. I wasn't.

2 Q. You weren't. Now, do you remember there
3 at the scene, when you were there right beside
4 Mr. Reeves, you telling your wife to back off?

5 A. Yes, sir.

6 Q. And you believe at that point in time you
7 were rude?

8 A. From what I was hearing and what I was
9 seeing, if I had to be rude with her to let her know
10 that she didn't need to be on my back, to protect my
11 back, yes, sir. That's what -- there's a whole
12 different context there.

13 Q. Well, do you agree that it was a stressful
14 situation for everyone?

15 A. Absolutely.

16 Q. And you're the kind of person that talks
17 with your hands, as well?

18 A. Yes, sir.

19 Q. And you agree that at that point in time
20 still the law enforcement officer had not come
21 through the front door?

22 A. That's correct.

23 Q. And so you were worried about that?

24 MR. GARCIA: Objection. Asked and
25 answered. That was asked 10 questions ago.

1 THE COURT: I'll overrule. I'm sure
2 you're getting to a point that you haven't
3 already asked.

4 BY MR. ESCOBAR:

5 Q. Officers come in?

6 A. Yes, sir.

7 Q. Mr. Reeves is very cooperative?

8 A. Yes, sir.

9 Q. And before they took Mr. Reeves away, were
10 you a little confused about what had just happened?

11 A. About them handcuffing him and taking him
12 away?

13 Q. No. The whole process. You coming up to
14 Mr. Reeves, seeing the gun on his knee, his verbal
15 interaction with you and his verbal interaction with
16 his wife?

17 A. I don't think I was confused. I don't
18 think you can use confused.

19 Q. Well, were you sure about what was being
20 exchanged between all the parties, as far as verbal,
21 or were you just kind of saying, well, I kind of
22 had, you know, an idea of what was being exchanged
23 but I can't tell you verbatim of what was being
24 exchanged?

25 A. I didn't have any thought process like

1 that.

2 Q. Were you 100 percent sure of what
3 Mr. Reeves told his wife?

4 A. Yes, sir.

5 Q. Page 116, Lines 4 through 18 --

6 MR. ESCOBAR: Judge, would you like to see
7 it?

8 THE COURT: Let the prosecutor have a
9 chance to read it first.

10 Is there an objection?

11 MR. GARCIA: Yes, Judge. It's consistent
12 with what he's already previously testified to.

13 MR. ESCOBAR: Judge, I want you to read
14 it.

15 THE COURT: Let me see it.

16 MR. ESCOBAR: Page 116, Lines 4 through
17 18.

18 THE COURT: I'll overrule at this time.

19 BY MR. ESCOBAR:

20 Q. Now, Detective, we're talking about
21 obviously that conversation that you allegedly
22 overheard of Mr. Reeves telling his wife, shut the
23 fuck up. Do you remember the deposition that I took
24 of you on --

25 MR. GARCIA: March 20th, 2015.

1 BY MR. ESCOBAR:

2 Q. -- March 20th, 2015?

3 A. Yes, sir.

4 Q. Do you remember being placed under oath?

5 A. Yes, sir.

6 Q. Do you remember me asking you the
7 following questions and you making the following
8 answers? Question: Do you remember 100 percent of
9 what he said to her. Answer: Again, we were --
10 when we are playing with the "the's" and the I's and
11 the "those" and "ins and outs", it was within the
12 realm of basically, hush your mouth, don't say
13 another word or shut up, don't say another word.
14 It's basically telling her, you don't need to open
15 your mouth no more. I don't need you in this any
16 longer. So whatever context that may have been, or
17 whatever, you know, how word, by word, by word, I
18 can't say, but he scolded her. If we had a, you
19 know, a recording on it, yeah, I could tell you,
20 yeah, that's what she said. But it was -- it was a
21 stern scold.

22 You said that under oath, right?

23 A. That's correct.

24 Q. And this was closer in time to the event
25 than today?

1 A. That's correct.

2 Q. And you're telling me the truth when we
3 took this deposition, correct?

4 A. That's correct.

5 Q. Now, you were armed that day yourself,
6 correct?

7 A. I had a weapon with me, not on me.

8 Q. Meaning that, when you went over to
9 Mr. Reeves, you didn't have a weapon on you?

10 A. Yes, sir.

11 Q. That was in your wife's purse back at the
12 scene?

13 A. Yes, sir.

14 Q. And does she have a concealed weapons
15 permit?

16 A. No, sir.

17 Q. And so you went in that day with a
18 firearm, despite the fact that --

19 MR. GARCIA: Objection as to relevancy,
20 Judge.

21 MR. ESCOBAR: They brought it out during
22 Mrs. Reeves about the little signs that say,
23 don't bring your weapons in.

24 THE COURT: I'll overrule.

25 BY MR. ESCOBAR:

1 Q. You brought your weapon in, despite the
2 fact that there were these little signs that
3 supposedly say, can't bring a weapon in to the Cobb
4 Theater?

5 A. That's right.

6 Q. Now, one of the things that happened
7 immediately, immediately when the officers came to
8 arrest Mr. Reeves, is that you told the officers,
9 hey, I want to let you know, there's a cell phone
10 right here between his legs, correct?

11 A. That's correct.

12 Q. Because you realized that that was a
13 potential piece of evidence?

14 A. Yes, sir.

15 Q. And you wanted them to make sure that they
16 could secure that?

17 A. Yes, sir.

18 Q. Right away?

19 A. (Nods head.) Yes, sir.

20 Q. Now, Detective, you seem a little
21 emotional here today. Are you still emotional about
22 this case?

23 A. I didn't think I was emotional today.

24 Q. But you actually cried at the depo I took
25 of you?

1 A. That's correct.

2 MR. GARCIA: Judge, how is this relevant,
3 as far as his emotions go?

4 MR. ESCOBAR: Because emotions affect
5 testimony, Your Honor.

6 MR. GARCIA: Really, Judge?

7 MR. ESCOBAR: Oh, yes. Really.

8 MR. GARCIA: Does he really want to get
9 into this?

10 MR. ESCOBAR: Really, it does.

11 THE COURT: All right.

12 MR. GARCIA: Then Judge, if he wants to
13 get into that, then let's have Mr. Hamilton
14 explain why he was so emotional.

15 THE COURT: I'm going to --

16 MR. GARCIA: No. Judge, I want him -- no.
17 He's opened it up.

18 THE COURT: I'm going to overrule the
19 objection. He can get into emotion, to some
20 extent.

21 But I do want the record to reflect, Mr.
22 Escobar, you just said, you appear to be very
23 emotional here today.

24 MR. ESCOBAR: And he said no.

25 THE COURT: And he did say no. And I want

1 the record to reflect that I don't see any
2 visible signs of emotion.

3 MR. ESCOBAR: Okay.

4 THE COURT: Proceed. And you can bring
5 out whatever the door has been opened to you.

6 MR. GARCIA: Okay. I intend to, Judge,
7 because --

8 THE COURT: Enough.

9 BY MR. ESCOBAR:

10 Q. Did the officers pick up that phone?

11 A. I don't know.

12 Q. Now, after Mr. Reeves was taken away, the
13 officers moved you to another location, correct?

14 A. Yes, sir. Eventually.

15 Q. In fact, moved all the witnesses?

16 A. I don't know where they went.

17 Q. Well, didn't the officers have all the
18 witnesses in the theater sit in a certain area?

19 A. I don't know. I didn't orchestrate that,
20 so I don't know where they sat.

21 Q. Page 127, starting on Line 18 through 25.
22 We're going to direct your attention to the area
23 that you were seated on the floor with your wife.

24 A. Okay. In the theater?

25 Q. In the theater.

1 A. Okay.

2 Q. Were you seated on the floor with your
3 wife?

4 A. Yes, sir. At some point in time.

5 Q. Okay. Had law enforcement come up to you
6 and told you, Corporal Hamilton, you're not supposed
7 to speak to anyone about what you had seen in the
8 theater to anyone else?

9 A. I don't remember them saying that.

10 Q. Okay. Did you see any of the officers
11 there speak to any group of people and tell them,
12 you're not to speak to anyone about what you have
13 seen in the theater?

14 A. I didn't hear that.

15 Q. So how long did it take you to write that
16 statement?

17 A. I can't be exact how long it took.

18 Q. But when you finished that, you and your
19 wife were requested to go and have an interview?

20 A. Yes, sir. That's correct.

21 Q. Page 138 is coming. Your wife went with
22 you?

23 A. That's correct.

24 Q. She went in the room with you?

25 A. Best I remember. Yes, sir.

1 Q. While you were being interviewed?

2 A. Best I can remember. Yes, sir.

3 Q. Well, let me ask you a question. Do you
4 normally interview individuals, two individuals, at
5 the same time in the presence of each other that
6 have witnessed an event?

7 A. I don't.

8 Q. Because you realize, do you not, that
9 there's a great danger with the issue of witness
10 contamination?

11 A. Well, I sleep with this witness.

12 Q. Oh, so is that different. So you can't
13 contaminate a witness you sleep with?

14 MR. GARCIA: Judge, I'm going to object.
15 He's being argumentative with this witness.

16 MR. ESCOBAR: Judge, he just said he
17 sleeps with her, as a roving question.

18 THE WITNESS: I mean, whenever we were
19 talking he was, I think, trying to accommodate
20 us. But when you're asking me what they do
21 with their policies and procedures, I don't
22 know. If you're asking me, would I do that
23 personally in a law enforcement capacity while
24 I'm working? No, sir. I would not.

25 BY MR. ESCOBAR:

1 Q. Okay. Because of contamination.

2 A. Could be.

3 Q. Now, let's talk a little bit about that
4 recorded interview, because you realized it was
5 going to be recorded, right?

6 A. With the detective?

7 Q. Yes, sir.

8 A. I'm sorry?

9 Q. Yes, sir.

10 A. Yes, sir.

11 Q. Now, I believe you already testified that
12 the vulgar statement that you had attributed to Mr.
13 Oulsen -- excuse me, Mr. Reeves, telling
14 Mrs. Reeves, you believe that that was an important
15 statement for you to share with Proctor?

16 A. That's correct.

17 Q. And as you sit here, you really can't
18 imagine any scenario as to why you wouldn't have
19 told him that?

20 A. I mean, I asked the questions that --
21 answered the questions that he was asking.

22 Q. Listen to my question. It's a yes-or-no
23 question. So as you sit here today you can't
24 imagine any scenario why you wouldn't have told him
25 that?

1 A. No, sir.

2 Q. But you didn't?

3 A. No. I didn't.

4 Q. And you didn't put it in your voluntary
5 statement form?

6 A. No, sir. I didn't.

7 MR. GARCIA: Asked and answered, Judge.

8 THE COURT: Sustained.

9 MR. ESCOBAR: May I have a moment, Your
10 Honor?

11 THE COURT: You may.

12 MR. ESCOBAR: Your Honor, we'll supply the
13 proffered pages to the Court as soon as we pull
14 them and copy them.

15 THE COURT: Thank you.

16 Redirect?

17 MR. GARCIA: Yes, Judge. May it please
18 the Court, Counsel?

19 REDIRECT EXAMINATION

20 BY MR. GARCIA:

21 Q. Sergeant Hamilton, have you had an
22 opportunity to view the video in this case?

23 A. Yes, sir.

24 Q. And immediately after the shooting there's
25 a person who walks over to Mr. Reeves, right --

1 A. Yes, sir.

2 Q. -- in that video? Can you tell the Court
3 who that person is?

4 A. Me.

5 Q. It's you, right?

6 A. Yes, sir.

7 Q. So immediately after the shooting you walk
8 over to Mr. Reeves and he has the gun on his left
9 knee?

10 A. Yes, sir.

11 Q. And you take it from him, right?

12 A. Yes, sir.

13 Q. So clearly when Mr. Escobar on
14 cross-examination asked you what time you got into
15 the movie theater, or question to that effect and
16 you said 1:30, that was not right, correct?

17 A. That's correct. I have notes to say
18 different. I was incorrect in that statement.

19 Q. Okay. Because clearly that's you on the
20 video, right?

21 A. Yes, sir.

22 Q. And the person that had this knee on his
23 gun, do you -- or the gun on his knee, do you see
24 him in the courtroom?

25 A. Yes, sir.

1 Q. Can you point him out and describe?

2 A. Yes, sir. He's here in the dark blue,
3 one-piece suit.

4 Q. Okay. In the middle?

5 A. Yes, sir. In the middle.

6 MR. GARCIA: Judge, I would ask the record
7 reflect that Sergeant Hamilton has identified
8 the defendant in this case.

9 THE COURT: It will so reflect.

10 BY MR. GARCIA:

11 Q. And the things in which you've testified
12 to here this afternoon, did you actually see those
13 events?

14 A. Yes, sir.

15 Q. Nothing obstructed your view, right?

16 A. No, sir.

17 Q. Sergeant Hamilton, do you recall
18 testifying at the bond hearing back on -- between
19 February 5th and February 6th of 2014?

20 A. Yes, sir. I do.

21 Q. And did you testify in that hearing?

22 A. Yes, sir.

23 MR. GARCIA: Judge, I would invite
24 counsel's attention to Page 334, Line 1 of the
25 bond hearing.

1 THE COURT: What are we doing?

2 MR. GARCIA: 334, the bond hearing, Judge.

3 This is a consistent statement. It's being
4 offered as a consistent statement.

5 He has attacked him. He's attacked him as
6 far as what he said. And this goes to show
7 that he -- this is a consistent statement that
8 he stated back on that date, that Mrs. Reeves
9 indicated or stated to Mr. Reeves, that was no
10 cause to shoot anyone. And then he leaned back
11 around and stuck his finger out, you know, as
12 to, you know, scold her and said, you shut your
13 fucking mouth and don't say another word.

14 BY MR. GARCIA:

15 Q. Sergeant Hamilton, would you agree with me
16 that February 5th and 6th of 2000 --

17 MR. ESCOBAR: Judge, that's leading.

18 THE COURT: You're right.

19 MR. GARCIA: I'll rephrase.

20 THE COURT: Sustained.

21 BY MR. GARCIA:

22 Q. February 5th and 6th of 2014, does that
23 come before March 20th of 2015?

24 A. Yes, sir.

25 Q. So the bond hearing would have been closer

1 in time to this event, right?

2 A. That's correct.

3 Q. And Sergeant Hamilton, just because you
4 didn't put it in your written statement and you
5 didn't put it in your taped statement, doesn't mean
6 that it wasn't said and it didn't happen?

7 MR. ESCOBAR: Objection, Your Honor. It's
8 leading.

9 THE COURT: Sustained. Rephrase.

10 BY MR. GARCIA:

11 Q. In your deposition you did not use the
12 exact words, right?

13 MR. ESCOBAR: Objection, leading.

14 BY MR. GARCIA:

15 Q. Did you use the exact words in your
16 deposition?

17 A. No.

18 Q. I'm sorry?

19 A. No. In my deposition?

20 Q. In your deposition.

21 A. No.

22 Q. Why?

23 A. You know, I mean, I had two attorneys
24 firing at me from -- one from one area and one from
25 the next. I mean, it's kind of hard to keep up at

1 that pace. You know, you're going to make a mistake
2 somewhere in there. You're going to make that
3 wrong, you know, wrong thing. And there's no sense
4 in backing up out of that. You just kind of keep
5 moving forward, two against one.

6 Q. Let me ask you this, Sergeant. Was there
7 a lady present in the room?

8 A. Yes.

9 Q. Do you normally speak like that? Do you
10 normally say those words?

11 A. No, sir.

12 Q. Was it hard for you here today to say
13 those words?

14 A. Yeah. For the second time, yes, sir.
15 Again, from the first time that all this was on the
16 news and it got kind of caught and scolded in
17 reference to it.

18 Q. You normally don't talk in that manner, do
19 you?

20 A. No, sir. Not in public.

21 Q. And we saw that here today, right?

22 A. Yes, sir.

23 MR. GARCIA: May I have a moment, Judge?

24 THE COURT: You may.

25 MR. GARCIA: I have nothing further, Your

1 Honor.

2 RECROSS-EXAMINATION

3 BY MR. ESCOBAR:

4 Q. Detective, you know that when we took your
5 depo it was recorded, correct?

6 A. Yes, sir.

7 Q. There was a tape recorder there in
8 addition to a stenographer?

9 A. That's correct.

10 Q. So we can take the oral questions, as
11 they're given to you, as well as your answers?

12 A. That's correct.

13 Q. Was there an attorney badgering you during
14 that depo?

15 A. I didn't say badgering. I just said that
16 there was two attorneys and one of me.

17 Q. Were both attorneys asking you questions
18 at the same time or one at a time?

19 A. Periodically, they were back and forth.

20 Q. You're saying that myself and Mr. Michaels
21 were asking you questions at the same time?

22 A. No. If you wanted to expound on what he
23 said, you would break in and vice versa.

24 Q. And so -- and so clearly the recording of
25 that would --

1 MR. GARCIA: Judge, I'm going to object.
2 First of all, to the relevancy of these
3 questions.

4 Second of all, he's argumentative with the
5 witness in the form of the question. I object
6 to the form of the question.

7 MR. ESCOBAR: The relevancy. He opened
8 the door. He was the one that said that the
9 reason --

10 THE COURT: Opened the door to what?

11 MR. ESCOBAR: Opened the door to the fact
12 that he's saying, well, it was just two lawyers
13 and, you know, it was such a chaotic, you know,
14 scene there at the depos. And we've got a
15 recording of that that it wasn't chaotic at
16 all. In fact, we were very pleasant with him.

17 THE COURT: Sustained. Move on.

18 MR. ESCOBAR: No further questions, Your
19 Honor.

20 THE COURT: May this witness be released?
21 You're entitled -- it's your witness. You're
22 entitled to have the last word. Do you need
23 any more?

24 MR. GARCIA: No, Your Honor.

25 THE COURT: May this witness be released?