

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT OF
THE STATE FLORIDA, IN AND FOR PASCO COUNTY
CASE NO. CRC14-00216CFAES

STATE OF FLORIDA,

Plaintiff,

vs.

CURTIS J. REEVES,

Defendant.

PROCEEDINGS: Excerpt of Testimony of:
THOMAS PECK, MICHELLE SIMPSON

DATE: February 22, 2017

BEFORE: The Honorable Susan Barthle
Circuit Court Judge

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

REPORTED BY: Charlene M. Eannel, RPR
Court Reporter

PAGES 1 - 71

VERBATIM PROFESSIONAL REPORTERS, INC.
601 Cleveland Street, Suite 380
Clearwater, Florida 33755
(727) 442-7288

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

APPEARING ON BEHALF OF
THE STATE OF FLORIDA:

Glenn Martin, Assistant State Attorney
Office of Bernie McCabe, State Attorney
Pinellas County Judicial Center
14250-49th Street North
Clearwater, Florida 33762

Manny Garcia, Assistant State Attorney
Stacy Sumner, Assistant State Attorney
Robert D. Sumner Judicial Center
38053 Live Oak Avenue
Dade City, Florida 33523

APPEARING ON BEHALF OF
THE DEFENDANT: CURTIS REEVES
Richard Escobar, Esquire
Dino Michaels, Esquire
Rupak Shah, Esquire
ESCOBAR & ASSOCIATES
2917 W. Kennedy Blvd.
Suite 100
Tampa, Florida

INDEX OF PROCEEDINGS

PAGE

THOMAS PECK

Direct Examination by Mr. Escobar

4

Cross-Examination by Mr. Garcia

42

Redirect Examination by Mr. Escobar

57

MICHELLE SIMPSON

Direct Examination by Mr. Escobar

60

Cross-Examination by Ms. Sumner

67

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

(Thereupon, the following excerpts of trial testimony were transcribed per request of Counsel.)

* * * * *

THE COURT: Who is your next witness?

MR. ESCOBAR: Your Honor, the Defense would call Thomas Peck.

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

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

THE COURT: You may proceed, Counselor.

DIRECT EXAMINATION

BY MR. ESCOBAR:

Q. Good morning, Mr. Peck.

A. Good morning.

Q. Mr. Peck, tell me a little bit about yourself. What is your educational background?

A. I'm a graduate of the Culinary Institute of America as a chef. I've been in this business, in the food and beverage, for 20, 30-plus years now.

Q. Okay. And give me a little bit about -- tell me a little bit about your employment history, if you can?

1 A. I worked at many companies, starting out with
2 smaller mom and pop places, moving up to major companies
3 like Walt Disney World and the Seminole Hard Rock Hotel
4 and Casino.

5 Q. And what sort of position did you hold at those
6 particular companies?

7 A. Everything from executive chef to food and
8 beverage operations manager.

9 Q. And are you employed by the Cobb Theater?

10 A. Yes, I am.

11 Q. And how long have you been employed by the Cobb
12 Theater?

13 A. Going on eight years now.

14 Q. Okay. In 2013, what was your position there at
15 the Cobb Theater?

16 A. I was originally general manager for the
17 CineBistro, then promoted to general manager for the
18 CineBistro, in the Cobb Groves 16 Theater.

19 Q. So on January the 13th of 2014 you were the
20 general manager, not only for the CineBistro area of Cobb
21 Theater, but also for the general?

22 A. That's correct.

23 Q. Okay. And what does that job or occupation
24 entail?

25 A. Overall operations of running -- basically

1 running both upstairs and downstairs management teams in
2 both areas, basically just managing the areas.

3 I couldn't tell you the day-to-day operations
4 because they vary every day.

5 Q. So you are actually also managing other
6 managers?

7 A. This is correct.

8 Q. Would you tell the Court, if you can for me, how
9 many managers you manage?

10 A. Currently, I manage five downstairs and four
11 upstairs, so nine managers.

12 Q. If you could give the Court a little bit of the
13 layout of the Cobb Theater, as far as the different
14 offices, the different theaters and how the CineBistro and
15 the general layout or the general theater are situated.

16 A. We have offices upstairs and a full kitchen, a
17 full operational kitchen upstairs in the CineBistro area.

18 We also have offices downstairs, guest service
19 desk, a safe area, of course, the general manager's
20 office. And the CineBistro is tied into the general
21 theater. We have six auditoriums that are tied into
22 the -- to six of the auditoriums in the Grove 16
23 downstairs, as well.

24 Q. And employees, what are the different types of
25 employees that you have there at the Cobb Theater?

1 A. I have a maintenance person. I have an IT tech
2 office person, which would be like a projectionist type
3 ops. I have assistant managers, hourly managers,
4 supervisors, ushers, concession area, cashiers.

5 I have servers, bartenders, what we call
6 runners, people that run the food out into the CineBistro.
7 Kitchen staff, including the executive chef, cooks, line
8 cooks, prep cooks, dishwasher help.

9 Q. How do you handle security issues there within
10 the Cobb Theater?

11 A. A case-by-case basis, depending on the
12 situation. It's a case by case.

13 Q. Meaning case by case, is that something that you
14 would handle yourself? Is that something that the ushers
15 would handle? How does that security measure get
16 enforced?

17 A. It's something that our ushers would handle
18 depending on the situation, along with the managers as
19 well. You know, up -- accelerating up to possibly
20 outside -- outside forces as well, like, a police force or
21 something like that.

22 Q. Okay. At times, you actually hire off-duty
23 police officers?

24 A. That's correct.

25 Q. Is that primarily on the weekends?

1 A. Correct.

2 Q. Now, in order to get into the CineBistro area of
3 that theater, what would you have to do? The CineBistro
4 area?

5 A. When you come in the main doors, there's a
6 stairway to the left, and there's also an elevator that
7 would bring you up to the CineBistro area.

8 Q. Okay. So that is a separate and distinct area
9 from the general area where the general population would
10 go to watch a movie?

11 A. That's correct.

12 Q. I guess I'm calling it general. What do you
13 call that?

14 A. Well, we have CineBistro guests, and I guess you
15 would call them the general population.

16 Q. The guests on my part.

17 Okay. Now, in that theater, we're going to talk
18 about, obviously, Theater 10, because that's the focus of
19 this particular case.

20 In Theater 10, are there security cameras?

21 A. Yes, there is, upstairs in CineBistro only.

22 Q. So if I'm seated in the general section of the
23 theater and I am looking at the screen, where would the
24 cameras be?

25 A. If you're sitting -- I'm sorry?

1 Q. If I'm seated in the general area.

2 A. The general area?

3 Q. I know there's one up high --

4 A. It would be behind you.

5 Q. -- and another one up high to the left; is that
6 correct?

7 A. That would be up behind you to the left and
8 right, correct.

9 Q. Now, those cameras carry or cover predominantly
10 the CineBistro area; is that correct?

11 A. Those cameras in general, yes.

12 Q. But they do cover some of the general areas as
13 well?

14 A. Yes. Yeah. There's some limited view as well.

15 Q. Now, other than knowing that those cameras are
16 there, do you have a room there in your complex --

17 A. Yeah, we do.

18 Q. -- that allows you to record what's taking place
19 in those particular cameras onto a DVR and allows you to
20 obviously go and manage that as well?

21 A. Yes, we do.

22 Q. I'm going to show you what's been marked as
23 Defense Exhibit Number 46. I'm going to take you through
24 a series of photos that I'd like you to look at and see if
25 they fairly and accurately depict that room.

1 What do you call that room, the room with the
2 DVRs?

3 A. The projection IT office.

4 Q. The projection IT office. Okay.

5 Let's start off with CE3A5620JPEG.

6 Do you recognize that particular photo?

7 A. Yes, that's -- that is the projection IT office.

8 Q. And does that fairly and accurately depict that
9 office as it appeared in January -- specifically, January
10 13th of 2014?

11 A. There maybe new carpeting on the floor, but,
12 yes.

13 Q. Okay. CE3A5621JPEG, take a look at that
14 particular photo. Does that fairly and accurately depict
15 that particular room?

16 A. Yes.

17 Q. Okay. And so since that is your projection IT
18 office, does that particular room and that equipment that
19 you see in that particular room allow you to go into that
20 room and view what is being captured on the cameras in the
21 individual theaters?

22 A. Yes.

23 Q. Okay. And please explain to the Court how that
24 takes place.

25 A. Well, we can go into that room and we can look

1 at live video, live video feeds of the certain areas
2 and/or we can also look at recorded video feeds. And
3 obviously we can look at different speeds of it as well.
4 We can speed it up, slow it down, still frame it to get to
5 what we're looking for.

6 Q. So how would you do that, if you had a
7 particular time sequence that you wanted to view, for
8 example, in Theater 10?

9 A. We would go back and look in the log, and in the
10 log we would have time stamps next to it, and it would
11 give us a general idea of what we can slip on look at it
12 and say: "Okay. We're going to look at this stamp."

13 Q. So you can pull up that particular time stamp
14 and you can look at the video as it plays? You can slow
15 down the video to a slower playing speed, you said, and
16 then you can look at individual images?

17 A. That's correct.

18 Q. And tell the Court how is it and why you're able
19 to do this? What's the function of that?

20 A. It could be -- again, with security, in a
21 case-by-base basis, if we were looking for something
22 possibly, you know, somebody taking a popcorn, or
23 something like that, we can go back look at it.

24 If we're looking at an unruly guest, or anything
25 along those lines, we can look at the video and determine

1 what's going on, if we're looking for somebody possibly
2 recording a movie as well.

3 Q. And do you use that process often there at
4 your --

5 A. Yeah. I mean, we use it, you know, frequently.

6 Q. Okay. Now, you have the ability to do the same
7 thing that you can do in this particular room elsewhere as
8 well, correct?

9 A. Correct, in the general manager's office.

10 Q. Please tell the Court where the general
11 manager's office is, and how it is that you're able to do
12 that from that office as well?

13 A. It's downstairs in the main theater off to one
14 of the hallway sides, and we have a PC there that's linked
15 up to it as well, so that way we can pull up the live
16 feed, as well as the recordings of it.

17 Q. So if someone came up to you and you were
18 downstairs working --

19 A. Uh-huh.

20 Q. -- either at the front counter, or what have
21 you, and they asked you, "Mr. Peck, you know, I'd like to
22 see some video of a particular time and a particular
23 theater," could you do that?

24 A. Yes. I mean, to clarify, just some random
25 person off the street, no, I would not, but --

1 Q. A law enforcement officer?

2 A. Yes.

3 Q. Okay. That's -- that's an easy answer, correct?

4 A. Yes.

5 Q. Okay. CE3A5622, is that the same room?

6 A. Yes, it is.

7 Q. Does it fairly and accurately depict what that

8 room looked like on January 13th of 2014?

9 A. Yes.

10 Q. CE3A5623, the same question?

11 A. Yes.

12 Q. The same answer?

13 A. Yes.

14 Q. CE3A5624, the same question?

15 A. Yes.

16 Q. The same answer?

17 A. Yes.

18 Q. Does it fairly and accurately depict what it

19 looked like on January 13th of 2014?

20 A. Yes, sir.

21 Q. CE3A5625?

22 A. The same, yes.

23 Q. CE3A5626?

24 A. Yes, sir.

25 Q. Fairly and accurately depicts.

1 CE3A5627?

2 A. Yes, sir.

3 Q. And CE3A5628?

4 A. Yes, sir.

5 Q. Okay. Now, in addition to you being able to
6 view the videos both upstairs and now downstairs as well,
7 is there another office or another entity within the Cobb
8 Theater enterprise that is able to do the same offsite?

9 A. Our corporate office can as well, IT department.

10 Q. Okay. And would you tell the Court where your
11 corporate office is at?

12 A. Our corporate office is located in Alabama.

13 Q. So how is it that they can view what you can
14 view there at the Cobb Theater?

15 A. They could dial in remotely.

16 Q. Okay. And that's something that they can do
17 remotely as well as you can?

18 A. Yes.

19 Q. Okay.

20 A. I can't dial in from outside the company, but
21 they can.

22 Q. But they can?

23 A. Correct.

24 Q. Okay. Now, let's give the Court a little bit of
25 an idea of how the movie theater itself runs in reference

1 to commercials, previews and then the actual movie.

2 A. Okay.

3 Q. How is the commercial part of it -- when you
4 first go into a theater and the previews are not yet
5 playing, but the commercials are, how does that operate
6 within your system there at the Cobb Theater?

7 A. We would have 30 minutes prior to show time.
8 Let's say show time was 1:30 or 2:00, so at 1:00 or 1:30
9 that NCM, which is National Cinema Media Marketing, would
10 take over and they'd have commercial advertisements up on
11 the screen. They can run anywhere from 20 to 30 minutes
12 in length, but basically the entire 30 minutes is NCM
13 commercials.

14 Q. So they're controlling that?

15 A. Correct.

16 Q. You're not controlling that?

17 A. No, we are not.

18 Q. So tell me what the lighting conditions are for
19 the commercial.

20 A. They're not -- I mean, our full lights, what we
21 call the usher lights, which are basically fluorescent
22 lights on, they're basally our house lights or less than
23 house lights which is just a little dimmer than the normal
24 lighting.

25 Q. Okay. And so you're sitting there and you're

1 watching the commercials.

2 A. Uh-huh.

3 Q. What happens after the commercials are
4 completed?

5 A. After the commercials are completed, we'll have
6 a couple of PSI -- PSAs, public service announcements,
7 that will come up on the screen, including a "Don't
8 record" one to prevent people from recording movies.
9 Basically it says something along the lines of: This
10 is -- this is annoying -- showing somebody on a cell
11 phone. This is this, showing somebody doing something
12 else. Then this is illegal, showing somebody trying to
13 record a movie.

14 After that, we'll have another PSA, which will
15 go into -- it could be an advertisement for CineBistro or
16 something like that, but then we'll go into another PSA.
17 The last PSA we'll show before the movie Cobb Theater
18 logo, no cell phones, would you please put away cell
19 phones and discontinue texting.

20 Q. Now, that portion of discontinue cell phone use,
21 no texting, that takes about how many seconds to play?

22 A. About 30 seconds. 20 or 30 seconds.

23 Q. Okay. And when that's played on your screen, is
24 it pretty clear to everyone what your policy is at that
25 point in time?

1 A. Yes. If they're in the theater at the time,
2 yes, it should be.

3 Q. Why is that a policy that is obviously enforced
4 there at the Cobb Theater?

5 A. It's something we want to do to provide a great
6 experience. I mean, we want to prevent, you know,
7 interference from the outside. We want to prevent any
8 other noises. We just want to provide a wholesome
9 experience.

10 Q. To whom?

11 A. To our guests.

12 Q. To your guests. Okay.

13 So you try to make that very clear from the very
14 beginning before the previews?

15 A. Correct.

16 Q. Okay. Now, tell the Court what sort of
17 enforcement process you use in an effort to make sure that
18 now this policy that you've made clear to everyone is
19 going to be adhered to?

20 A. We would have an usher go around do theater
21 checks throughout the auditorium at different times. They
22 would be -- they would have an usher schedule. They look
23 it over, see what time the movie is starting, and they
24 would walk up and down in the theater doing theater checks
25 to prevent that.

1 Q. So what is the policy there at the Cobb Theater
2 if someone is, for example, have their phone in their
3 hands and it's on?

4 A. We would politely ask them to put it away, an
5 usher would.

6 Q. Okay. So the usher would then go to that
7 particular patron directly and converse with him about the
8 fact that he had his phone on?

9 A. Yes. That's correct.

10 Q. Because that was a violation of your policy?

11 A. Correct.

12 Q. And a violation of making sure that the
13 experience for everyone is great?

14 A. Correct.

15 Q. Okay. What if an individual has a phone and
16 they're actually texting?

17 A. It doesn't make a difference whether the phone
18 is out, we would ask them to please put their phone away
19 at that time.

20 Q. Okay. For the same reason?

21 A. Correct.

22 Q. What if the individual says, "I'm not going to
23 do it"?

24 A. At that point, the usher would call for a
25 manager, and a manager would go in and ascertain the

1 situation and then do the same approach.

2 Q. Okay. What if you come in and they say,
3 "Sorry"?

4 A. We would ask the guest to leave. And if they
5 refuse to leave, then we would contact the authorities.

6 Q. To remove them physically?

7 A. Correct.

8 Q. And that's your policy there at the Cobb
9 Theater?

10 A. Yes, we have a very strict policy on that,
11 absolutely.

12 Q. How long had that policy been in place?

13 A. For years. I mean, as long as I've been there.

14 Q. As long as you've been there?

15 A. Correct.

16 Q. Is that an important policy for the Cobb
17 Theater?

18 A. Absolutely, yes.

19 Q. Now. What if a patron comes to you and says
20 someone's using the phone? Would you tell that patron,
21 "Hey, just move"?

22 A. No.

23 Q. And why not?

24 A. The patron has every right to the seat they
25 chose, that they chose in there for their experience. I

1 mean, if they chose a certain seat, it's their right to
2 sit there.

3 Q. You want that patron to have the same great
4 experience?

5 A. Yes.

6 Q. So you would not tell that patron, "Hey, just
7 move"?

8 A. No.

9 Q. And I would imagine you train your employees not
10 to tell the patrons, "Just move"?

11 A. Exactly. Yes.

12 Q. Are your employees trained on these policies
13 independently from someone else, or are you the one that's
14 providing the training, as well, for all your employees?

15 A. They're provided training from my management
16 team.

17 Q. From the management team?

18 A. Correct.

19 Q. So obviously you've trained your management team
20 and your management team trains them?

21 A. That's correct.

22 Q. So really all of your employees know these
23 rules. They're not rules that they're not familiar with?

24 A. Correct.

25 Q. Everybody is familiar with these rules?

1 A. Yes.

2 Q. On January 13th of 2014, that mid afternoon,
3 1:20 period, what movie was playing in Theater 10?

4 A. Lone Survivor.

5 Q. What is that showing normally called?

6 A. A matinee.

7 Q. And what is a matinee?

8 A. A matinee is prior to 4:00 and earlier. It's
9 usually a slower show, less guests.

10 Q. Okay. Are normally those guests there at the
11 Cobb Theater, at that matinee, normally older individuals?

12 A. It varies. It varies depending on the time of
13 year, the day, the weekends, et cetera.

14 Q. And so Lone Survivor was playing, and where
15 would you be positioned that day at about 1:20 plus?

16 A. I probably would have been at the guest services
17 desk.

18 Q. I'm going to show you what's been marked as
19 Defense Exhibit Number 45 and ask you to take a look at
20 this particular exhibit that's showing -- it has a date of
21 1/13/2014, time, 13:25:49, and it has a BTS number of
22 011V08, and ask you if you recognize that particular
23 exhibit.

24 A. Yes, I do.

25 Q. And does that exhibit reflect a time and date of

1 January 13th of 2014, when you were at the front counter
2 of the CineBistro?

3 A. Yes, it does.

4 Q. Does it fairly and accurately --

5 A. Excuse me. I'm sorry. Not the CineBistro. The
6 Cobb Theater.

7 Q. Excuse me. The Cobb Theater?

8 A. Correct.

9 Q. Does that fairly and accurately reflect that?

10 A. Yes, it does.

11 Q. Now, at that time, that matinee time, was the
12 CineBistro open or closed?

13 A. It would have been closed.

14 Q. Okay. And so if you can identify for me the
15 individuals that you see in those particular photos.

16 A. The female guest was a guest I was interacting
17 with at the time, talking to her about -- I think she
18 wants some movie posters or something.

19 Q. For her children?

20 A. Yes, I assume so.

21 Q. Did you ask her there, during that conversation,
22 to give you a list of the photos or the posters that she
23 wanted?

24 A. I probably would have, yes.

25 Q. Okay. How long was that conversation between

1 you and this young lady?

2 A. It was, I would say, more than a minute, almost
3 two minutes, maybe three minutes, maybe more.

4 Q. Okay. And during that particular time that you
5 were conversing with her, do you recognize the gentleman
6 that is to the far right in that particular photo?

7 A. I do now, yes.

8 Q. Who is that gentleman?

9 A. I believe Curtis Reeves.

10 Q. Okay. And was Mr. Reeves there at the counter
11 waiting for you to finish your conversation with this
12 young lady?

13 A. I assume so.

14 Q. Okay. You weren't paying attention to him?

15 A. Correct.

16 Q. You were focusing on your -- on your
17 conversation?

18 A. Yes, I was.

19 Q. At any point in time, did Mr. Reeves, while you
20 were conversing with this young lady, at any point in
21 time, did he interrupt you?

22 A. Not that I recall.

23 Q. Okay. Did you see anything in reference to Mr.
24 Reeves that day at that counter that caused you any
25 concern concerning his emotional being, his -- was he mad?

1 Was he -- anything of that sort?

2 A. Not that I recall.

3 Q. Okay. Let's go to the next one.

4 I'm going to show you now, again, another photo,
5 1/13/2014 at 13:26:07 with a BTS Number of 011VOB and ask
6 you if you recognize that particular photo.

7 A. Yes, I do.

8 Q. And what is that a photo of?

9 A. It appears to be a photo of me sitting at the
10 desk and, I assume, paying attention to Mr. Reeves.

11 Q. And this young lady has now moved a little bit
12 further to the right?

13 A. To my left, her right, yes.

14 Q. Yeah. And was she writing down the posters that
15 she wanted you to try to seek for her?

16 A. I assume so.

17 Q. So that fairly and accurately depicts what was
18 taking place there at the CineBistro somewhere post 1:20
19 that day?

20 A. Yes. That's the guest services desk at the
21 Grove 16. Yes, that depicts it.

22 MR. ESCOBAR: Your Honor, at this point in time,
23 I'd like to introduce both Defense Exhibit Number 45
24 and Defense Exhibit Number 46.

25 MR. GARCIA: Judge, we have no objection.

1 THE COURT: All right. What are we on, 23 and
2 24?

3 MR. ESCOBAR: 46 would be first. 45 would be
4 second.

5 Can I keep going while she's doing that?

6 THE COURT: What's depicted on that?

7 MR. ESCOBAR: 46 was the DVR room. 45 was these
8 pictures right here that the Court has seen.

9 THE COURT: Okay. Thank you.

10 (Whereupon, Defense Exhibits 45 and 46 for
11 identification were received in evidence by the
12 Court.)

13 BY MR. ESCOBAR:

14 Q. Now, tell the Court what you remember of the
15 conversation that you had with Curtis Reeves there at the
16 counter.

17 A. I don't recall anything.

18 Q. Do you recall any anxiety or any concern on your
19 part that Mr. Reeves may have been mad or anything?

20 A. Not that I recall.

21 Q. And so what happens after Mr. Reeves comes and
22 leaves?

23 A. It seemed like a brief time after that somebody
24 comes running out of Auditorium 10 and screams, "Call 911.
25 He shot someone. He shot someone."

1 Q. Okay. Now, Mr. Peck, tell me what you do at
2 this moment?

3 A. At this moment, I'm trying to dial 911 on the
4 landline. I'm not having success. It just keeps ringing
5 and ringing. It felt like forever.

6 Then I also realized that I needed to move
7 around, I could not be landlocked down to a landline, so I
8 grabbed my cell phone and decided to call 911 from my cell
9 phone.

10 Q. And did you?

11 A. Yes, I did.

12 Q. Were you able to reach 911?

13 A. Yes, I was.

14 Q. What are you doing with your phone as you're
15 calling 911? Are you still stationary there at the front
16 desk or are you moving somewhere else?

17 A. I'm starting to move towards Auditorium 10.
18 Guests at this time are leaving the theater. Some are
19 running around the concession area, some are upset, some
20 are panicked, and they're heading towards the exit. Some
21 are sitting down.

22 I'm trying to calm guests down and walking
23 through the crowd, trying to calm them down.

24 Q. Now, you go into the Theater 10. Please
25 describe to the Court where you go.

1 A. I walk into the auditorium, and there's two ways
2 you can go. You can go straight in or you can go to the
3 left around the other side of the auditorium. I go
4 straight in the auditorium, head towards the screen, take
5 a left, I take another left to go up the stairs.

6 Q. So if you're looking at the screen of the
7 theater --

8 A. Uh-huh.

9 Q. -- you would be going up the stairs that are to
10 your right?

11 A. If I'm looking at the screen, they would be the
12 stairs to my -- yes, the furthest to the right, correct.

13 Q. The furthest to the right?

14 A. Yes.

15 Q. So you go up those stairs?

16 A. Correct.

17 Q. And where do you go?

18 A. I go up the stairs towards the top.

19 Q. Okay. And as you're going up the stairs, what
20 are you able to see?

21 A. I could see a person laying on the floor. I
22 could see my maintenance person, James Redfern (phonetic)
23 over the top of him, along with somebody else, performing
24 CPR. I see a gentleman sitting up in the back row with
25 another gentleman with his hand on his shoulder.

1 Q. Okay. And the gentleman that you saw seated in
2 that back row, do you see that gentleman here today?

3 A. Yes, I do.

4 Q. And who is that gentleman?

5 A. Curtis Reeves.

6 Q. Okay. Do you notice anything about Mr. Reeves
7 other than he was seated there quietly?

8 A. At one point it looked like, when I was up there
9 on the phone, he was wiping his brow, but just sitting
10 there.

11 Q. When you're saying, "Wiping his brow," you mean
12 his hand --

13 A. Yes.

14 Q. -- was --

15 A. Yeah, wiping his forehead, brow.

16 Q. Okay. So what do you do at this point in time?
17 You still have the cell phone in your hand?

18 A. I still have the cell phone.

19 Q. Tell me what you do.

20 A. I'm still talking to 911. They're asking me to
21 ascertain the situation. They're asking me if the gun has
22 been detained. Asking, you know, if the shooter and/or
23 the gun has been detained. Somebody screams out that it
24 has been.

25 Then I'm just sitting there watching and talking

1 to 911 at the same time. They ask me if the shooter is
2 still there. And I say something along the lines, "The
3 assailant's still here," or something like that.

4 Q. Okay. And when you said to 911, "The assailant
5 is still here," what happens?

6 A. Mr. Reeves says something along the lines of,
7 "I'm not the assailant," or, "Watch who you're calling the
8 assailant. I'm not the bad guy," something along those
9 lines. I don't recall exactly.

10 MR. GARCIA: Objection as to hearsay, Judge.

11 MR. ESCOBAR: It's an excited utterance.

12 MR. GARCIA: Judge, we -- can we approach?

13 THE COURT: Do we need to or --

14 MR. GARCIA: Well, it's the Defendant's
15 statement, number one. It's being offered for the
16 truth of the matter asserted, number two. It's not
17 admissible, Judge, unless the Defendant testifies,
18 and the Defendant can testify and testify to his
19 statement himself.

20 MR. ESCOBAR: Judge, it is classic excited
21 utterance. What Mr. Garcia doesn't realize is an
22 excited utterance doesn't have to happen immediately
23 when the startling event takes place. In fact,
24 there's case law that says an excited utterance could
25 be introduced far beyond -- actually beyond the

1 excited event. And clearly, that's what happening
2 here.

3 Everybody's excited. He talks about everybody
4 being excited. People are yelling out, "We've got
5 the gun." He comes into the theater and he makes
6 this statement, and Mr. Reeves says, "I'm not the
7 assailant. I'm not the bad guy here." That's
8 classic.

9 THE COURT: Response?

10 MR. GARCIA: Judge, I disagree. I mean, the
11 thing is, if he had said it immediately, some time
12 has already passed by. Now he's saying, "I'm not the
13 assailant; I'm the victim"?

14 MR. ESCOBAR: Judge, I can cite Harmon versus
15 State, --

16 THE COURT: I'm aware of the case law.

17 MR. ESCOBAR: Okay.

18 THE COURT: An excited utterance can occur at
19 some time after the event, not typically a long time
20 after the event, but this is still within the realm
21 of the scene and I'm going to overrule it.

22 MR. GARCIA: Judge, I'm going to object to
23 improper predicate. He hasn't laid a predicate to
24 get that statement in. We don't know how much time
25 elapsed. We don't know when it was said. He needs

1 to lay a proper predicate if he's intending to
2 introduce this statement.

3 THE COURT: This witness has indicated that he's
4 on the telephone with 911. I'm assuming that that's
5 very close in time still.

6 MR. GARCIA: Judge, with all due respect to the
7 Court, I wouldn't assume anything in this case.

8 THE COURT: All right. I'll grant you that one,
9 State.

10 MR. ESCOBAR: Judge, I've laid the predicate.
11 He's talked about someone coming and running out
12 immediately --

13 THE COURT: Let's try to get an exact estimate
14 of time, seconds, minutes.

15 MR. ESCOBAR: Okay.

16 BY MR. ESCOBAR:

17 Q. Mr. Peck, how much time elapsed between the time
18 that Mr. Reeves left your front office or front desk there
19 and the time that you first hear someone coming out saying
20 he shot someone?

21 A. Unfortunately, I don't recall the exact timing.
22 I'm sorry.

23 Q. Well, are we talking about minutes? Are we
24 talking about hours?

25 A. It wasn't hours. It was minutes.

1 Q. Okay. And so the minute that you hear someone
2 saying, "He shot someone," do you quickly go into that
3 theater?

4 A. After I was at the guest service desk calling
5 911, I couldn't get through, I hung up the phone, and went
6 there as quickly as I can between talking to guests on the
7 way through.

8 Q. Short number of minutes?

9 A. I would be guessing, but, yeah, I guess.

10 Q. I mean, you're not going to be waiting there at
11 the desk --

12 MR. GARCIA: Objection as to leading.

13 BY MR. ESCOBAR:

14 Q. Are you going to be waiting there at the desk
15 for a long period of time?

16 A. No, I'm not.

17 Q. So you went into the theater with phone in hand
18 talking to 911?

19 MR. GARCIA: Objection as to leading, Judge.

20 MR. ESCOBAR: He's already testified to that,
21 though, you know.

22 THE COURT: Rephrase.

23 BY MR. ESCOBAR:

24 Q. Did you go into the theater with your phone?

25 A. I left the desk and I went to the theater

1 talking to guests and ascertaining the situation on the
2 way.

3 Q. And who were you talking to on the phone?

4 A. 911.

5 Q. 911. Did you stop anywhere to go to an office
6 or the bathroom or anything, or did you go straight into
7 the theater?

8 A. No. I mean, I was stopping, interacting with
9 some of the patrons on the way in, but not -- I wouldn't
10 say for an extended period of time, I wasn't stopping.

11 Q. Okay. You went into the theater. You went
12 upstairs?

13 A. Yes.

14 Q. And that's when you had this conversation?

15 A. Yes.

16 THE COURT: Good enough.

17 MR. ESCOBAR: Okay.

18 BY MR. ESCOBAR:

19 Q. Now, so Mr. Reeves makes this statement, either,
20 "I'm not the assailant," or, "I'm not the bad guy,"
21 something to that effect?

22 A. Something along that line, yes.

23 Q. Okay. Do you notice anything about his facial
24 expressions that gave you any concern?

25 A. No, he was just sitting there.

1 Q. He was just sitting there. Did he say anything
2 else?

3 A. Not that I could hear.

4 Q. So what do you do now? You're there. You've
5 got your phone in your hand. You've spoken to 911. Where
6 do you go from there?

7 A. I'm still with 911 back and forth, talking to
8 them about the victim in this case and their well-being.
9 I'm not knowing what it is at that time. I'm moving down
10 the stairs. I'm walking around the theater, the
11 auditorium.

12 And then once I see that the local authorities
13 have taken over, I kind of just move out towards the lobby
14 area.

15 Q. Okay. Now, let's talk a little bit about the
16 lobby area. There were patrons inside the theater that
17 day. Have some of those patrons come outside the theater?

18 A. Yes, some are sitting out in the concession area
19 at the cafe tables.

20 Q. Describe to the Court what you mean by the
21 concession area and the cafe tables.

22 A. When you exit one of our auditoriums, you go
23 towards the center part of the theater area, there's a
24 concession area where we serve popcorn and drinks. There
25 are some small tables there as well where the people sit

1 and can enjoy their time before they leave or come in,
2 either way.

3 Q. And what's your estimate of the number of people
4 that were there?

5 A. Not to be vague, but a lot. I mean, 30, 40, 50,
6 I would assume, somewhere around there.

7 Q. What were those people doing as they were there
8 in the concession area?

9 A. Some were just sitting around. Some were
10 just -- it sounds like they were talking to each other,
11 and some were just panicked, some are upset, some are
12 crying, for obvious reasons, and they were just -- I had
13 my employees handing out drinks and popcorn to try to
14 console and calm people down as well.

15 Q. Were any police officers there at the time?

16 A. Yes, there was.

17 Q. Okay. Who was there? Do you know who? I'm
18 talking about the concession stand, the concession area.

19 A. Right. There was a mixture of in-uniform and
20 out-of-uniform police officers.

21 Q. Okay. Now, did you hear any of those police
22 officers make any statement to this group to not discuss
23 what they had seen in Theater 10 amongst themselves?

24 A. Not that I recall hearing.

25 Q. Did any police officer give you any instructions

1 to give others not to discuss their testimony with anyone
2 else there in that theater?

3 A. Not that I can recall.

4 Q. Now, did you ever have a conversation with any
5 law enforcement officer concerning your video surveillance
6 system?

7 A. Can you clarify?

8 Q. Yeah, that day.

9 A. That day?

10 Q. That day. Once the officers were there, did you
11 have a conversation that day with officers concerning your
12 video surveillance system and what was on it?

13 A. I don't think I had anything directly with
14 anybody, just outside of a couple of my employees asking
15 me that people were asking around about video, and I said,
16 "Yeah, we would have video available."

17 Q. And those employees, would those have been James
18 Redford and Melvin Baez (phonetic)?

19 A. Correct. His last name is Redfern, F-E-R-N.

20 Q. I've done that before.

21 So you told your employees -- I imagine they
22 would know as well -- "Hey, we've got, you know, some
23 video," right?

24 A. Correct.

25 MR. GARCIA: Your Honor, I'm going to object as

1 to leading.

2 THE COURT: Sustained.

3 BY MR. ESCOBAR:

4 Q. Did any police officer come to you and say, "I
5 want you to take me and show me the video in Theater 10"?

6 A. Not that I recall, no.

7 Q. Had an officer come to you and said, "I want to
8 see the video that you have in Theater 10," what would you
9 have done?

10 A. I would probably -- depending on what I was
11 doing at the time, I would contact my corporate office and
12 make sure we could allow the video to be seen and release
13 it.

14 Q. Okay. And so how would you go about doing that?
15 Would you go up to your DVR room?

16 A. Yes. Correct.

17 Q. And you would find the time log?

18 A. Correct.

19 Q. Then what would you do?

20 A. We would review the -- based on the camera, what
21 we want to look at, what the person would directly want to
22 see.

23 Q. And if that police officer wanted to have a
24 thumb drive to keep it, could you do that?

25 A. I don't know. I honestly don't know. I don't

1 know if I could record directly off my PC.

2 Q. Okay. Is your PC a regular PC?

3 A. Well, the one upstairs, I've never actually
4 tried to record off a thumb drive, so I couldn't tell you.

5 Q. Okay. So you don't know if it has a thumb drive
6 slot?

7 A. It does, I assume, but, yeah.

8 Q. Okay. Could you have done the same thing from
9 your office downstairs?

10 A. Viewed it, yes, and the pass (indiscernible) as
11 well.

12 Q. So if they would have made this request,
13 certainly you would have made the request to your office,
14 is what you're saying, your corporate office?

15 A. Correct.

16 Q. Now, were you having conversations with your
17 corporate office during this time period?

18 A. Yes. I was in and out of touch with my
19 corporate office, with various people, talking about the
20 situation, letting them know what was going on on the
21 scene at the time, depending on the time of where I was,
22 et cetera.

23 Q. And were they accessing your DVR system?

24 A. Yes. One of our IT people was accessing it,
25 Eric Andrew.

1 Q. And the fact that someone was accessing your DVR
2 system, would that have prevented you from going upstairs
3 and viewing these videos?

4 A. No, that wouldn't have prevented me from, no.

5 Q. Would that have prevented you from going into
6 the downstairs office and viewing this video?

7 A. I don't believe so, no.

8 Q. Now, did you ever tell law enforcement that --
9 by the way, who interviewed you? Which law enforcement
10 officer interviewed you? Let's go there first.

11 A. I don't recall.

12 Q. Was it a long interview or was it a brief
13 interview?

14 A. There was a lot going on that day. I really
15 don't recall. There was -- talking to people left and
16 right and trying to ascertain the situation, trying to
17 keep people calm, moving people down, people asking me to
18 use rooms. I don't recall who was who. I'm sorry.

19 Q. Okay. Did you ever explain to law enforcement
20 that day that Mr. Reeves had come to your front desk and
21 had a discussion with you?

22 A. Not that I recall.

23 Q. Okay. Will you tell the Court why you didn't
24 tell law enforcement?

25 A. At the time when I -- there was a lot going on

1 that morning. I had a conversation going on with one of
2 our linen companies about them saying that our doors were
3 left unlocked from the cleaning crew the night before,
4 when they weren't.

5 I had a maintenance issue with my -- James
6 Redfern. He had a sink that he was trying to replace the
7 spigot on. I remember I was involved in that
8 conversation, which was an extended period conversation,
9 as well as the woman who came up to the counter and asked
10 me about posters.

11 I was basically involved with all of those other
12 conversations and the interaction I really just don't
13 recall happening.

14 Q. So the interaction you're saying with Mr. Reeves
15 was not significant enough where you remembered it?

16 A. No, it wasn't. In fact, I didn't realize I had
17 an interaction until I was shown it later.

18 Q. When you went into the theater and you saw
19 Mr. Reeves sitting there, had you described Mr. Reeves as
20 an older man?

21 A. Yes.

22 Q. When you saw Mr. Reeves there, you didn't know
23 his name at the time when you went upstairs, correct?

24 A. That's correct.

25 Q. So when you saw this older man sitting there in

1 the chair who made that statement to you when you said,
2 "The assailant is here," did you even recognize that that
3 was an individual that had just been earlier to your desk
4 to discuss this issue?

5 A. No, because I didn't recall the interaction.

6 Q. Now, who flew in that night from your corporate
7 office?

8 A. That would be Fred Meyers.

9 Q. And do you recall when it was that law
10 enforcement was given a copy of the video or at least a
11 portion of the video from the camera from Theater 10?

12 A. The exact timing, no, I do not.

13 Q. Certainly not on January 13th of 2014?

14 A. I don't assume they were, no.

15 Q. You believe it happened sometime thereafter?

16 A. I assume so, yes.

17 Q. And do you know how long thereafter?

18 A. No, I don't. It would have to be while Fred was
19 there.

20 Q. How long was Fred there?

21 A. I believe he was there five to seven days,
22 somewhere; almost a week.

23 Q. Now, the following day, which would have been --
24 what day would the 14th have been?

25 A. The day of the week?

1 Q. Yeah.

2 A. I don't know.

3 Q. Did you open that next day?

4 A. We did not open the next day, no.

5 Q. You did not open the next day?

6 A. No.

7 Q. The next day the doors were closed because of
8 this incident?

9 A. Uh-huh.

10 Q. So if law enforcement wanted to be there, you
11 would have allowed law enforcement to be there to do their
12 job?

13 A. Correct.

14 MR. ESCOBAR: May I have a moment, Your Honor?

15 THE COURT: You may.

16 MR. ESCOBAR: I will pass the witness.

17 THE COURT: You may cross-examine.

18 MR. GARCIA: Thank you, Your Honor. May it
19 please the Court, Counsel.

20 CROSS-EXAMINATION

21 BY MR. GARCIA:

22 Q. Mr. Peck, good morning, sir.

23 A. Good morning.

24 Q. Mr. Peck, you would agree with me, would you
25 not, that January 13th of 2014, that specific day impacted

1 your life, didn't it?

2 A. Yes, sir.

3 Q. In fact, it was very traumatic for you, wasn't
4 it?

5 A. Yes, sir.

6 Q. Mr. Oulson lost his life, correct?

7 A. Yes, sir.

8 Q. Nicole Oulson was shot in her hand?

9 A. Yes, sir.

10 Q. Mr. Reeves was arrested for second-degree
11 murder?

12 A. Yes, sir.

13 Q. Those are very significant events; wouldn't you
14 agree with me?

15 A. Yes, sir.

16 Q. And you indicate that on January 13th of 2014,
17 you were at the guest services desk, correct?

18 A. Correct.

19 Q. And that Mr. Reeves came up to you, correct?

20 A. Correct.

21 Q. You would agree with me that because of these
22 events, you would have memorialized this, correct?

23 A. The events, yes.

24 Q. Did you write notes?

25 A. No.

1 Q. You didn't write any notes?

2 A. No.

3 Q. Prior to today you reviewed that video, though,
4 didn't you?

5 A. Once or twice.

6 Q. Okay. And you were able to identify Mr. Reeves,
7 right, even though you had never seen him before, correct?

8 A. I identified him by name.

9 Q. You identified him in the video and said, "Yeah,
10 that's Mr. Reeves," and then in Court today you were able
11 to identify him and point him out and go, "Yeah, that's
12 Mr. Reeves" --

13 A. Correct.

14 Q. -- right?

15 And is it your testimony that you don't recall
16 what Mr. Reeves told you when he came to the desk?

17 A. Yes, sir.

18 Q. You have no independent recollection of that?

19 A. Not that I recall, sir.

20 Q. Well, isn't it true that he didn't tell you,
21 "I'm in fear," did he?

22 A. I don't recall what he said, sir.

23 Q. Did he tell you, "I'm afraid"?

24 A. Again, I would be speculating to answer.

25 Q. Okay. Did he tell you, "Call the police. I've

1 been assaulted"?

2 MR. ESCOBAR: Your Honor, I'm going to object.
3 He's already said that he doesn't remember anything.
4 I think, at this point in time, it's really badgering
5 this witness who obviously has had a hard time with
6 this incident.

7 MR. GARCIA: Judge, I need to explore this and I
8 need to see what he remembers because other things he
9 remembers clearly, but when you get to the specific
10 conversation with Mr. Reeves, he has no recollection
11 at all.

12 MR. ESCOBAR: Judge, exploring is one thing.
13 Badgering this witness is a completely different
14 thing. That is totally inappropriate.

15 THE COURT: I'll allow it. I'll overrule.

16 BY MR. GARCIA:

17 Q. Mr. Peck, did Mr. Reeves tell you, "Call the
18 police. Things are really getting bad in the theater"?

19 A. Not that I recall. If somebody would have said
20 something like that, I probably would have reacted --

21 Q. But he didn't, right?

22 A. Not that I recall.

23 Q. Did he say that the gentleman that was in the
24 theater was cursing at him?

25 A. Not that I recall.

1 Q. Did he say that the gentleman in the theater had
2 come and climbed over the seats towards him?

3 A. Not that I recall.

4 Q. In fact, after you had this conversation with
5 him he went back into the theater, didn't he?

6 A. Yes.

7 Q. Did you ever see Mr. Reeves at that front desk
8 with his wife? Did he take his wife with him?

9 A. No, sir.

10 Q. Did you even know his wife was there?

11 A. No, sir.

12 Q. Okay. Now, you indicated that you were very
13 forthright and forthcoming with law enforcement, correct?

14 A. Yes.

15 Q. Did you ever tell them that they could view the
16 video that day?

17 A. I really don't recall. I'm sorry.

18 Q. You don't recall that?

19 A. Right.

20 Q. Do you recall being spoken to by Detective
21 Bossone?

22 Mr. Peck, isn't it a fact that Detective Bossone
23 asked you, "Can we please see the videos?"

24 A. I don't know.

25 Q. Do you remember that conversation you had with

1 Detective Bossone?

2 A. No, I don't. I'm not trying to be evasive. I
3 just don't recall. There was a lot going on that day.

4 Q. Isn't it true that you told Detective Bossone
5 that, "We're already in contact with the technical
6 department and we're in the process of downloading all of
7 the footage"?

8 You further stated that there was a digital
9 video recording system. It was an extremely large amount
10 of data and would take several hours to complete, and that
11 you would contact him directly when the download was
12 completed.

13 You have no independent recollection of that?

14 A. No, sir.

15 Q. Did you tell Detective Bossone that there was a
16 room downstairs where you could watch these videos?

17 A. Not that I recall.

18 Q. Did you tell him there was a room upstairs that
19 they could watch these videos?

20 A. Not that I recall.

21 Q. So you have no independent recollection of
22 telling him any of this?

23 A. No, sir.

24 Q. So are you saying that you never had this
25 conversation with Detective Bossone or you just don't

1 recall this conversation?

2 A. You're asking me if I had the conversation. I
3 don't recall the conversation, sir. It could have
4 happened. Yes, sir, it could have happened. Could it not
5 have happened? Yes, sir. I don't know.

6 Q. You know that law enforcement wanted to see the
7 videos, though, right? They asked you, "We want to see
8 the video"?

9 MR. ESCOBAR: Judge, I'm going to object. Asked
10 and answered.

11 THE WITNESS: I don't recall, sir.

12 THE COURT: Sustained.

13 BY MR. GARCIA:

14 Q. Mr. Peck, you would agree with me, would you
15 not, that you have been named in a lawsuit, haven't you?

16 A. Yes, sir.

17 Q. In fact, you are being sued, correct?

18 A. Yes, sir.

19 Q. You along with the Cobb Theater?

20 A. Yes, sir.

21 Q. You're being represented by Mr. Kelly?

22 A. Yes, sir.

23 Q. He's your attorney, correct?

24 A. Yes, sir.

25 Q. Did you ever tell Detective Bossone that you

1 could speed up the video, slow down the video, and if it
2 was time marked, you could go directly to that portion of
3 the video?

4 A. I don't recall the conversation with
5 Mr. Bossone, so I don't know.

6 Q. Now, you said that this could have been done
7 back on January 13th of 2014, correct?

8 A. Yes, it could have been.

9 Q. The viewing -- who would have been responsible
10 to show law enforcement the video and the segments of that
11 video? You?

12 A. It could be. It could have been my projection
13 tech. It could have been anyone that had access to it.

14 Q. Okay. So it could have been you, right? Thomas
15 Peck?

16 A. It could have been.

17 MR. ESCOBAR: I'm going to object. He said him
18 and his tech. How many more times do we have to ask
19 the same question?

20 MR. GARCIA: Judge, I'm going through it. I
21 want to find out him, being Thomas Peck, and then I'm
22 going to ask him who the tech is so we can get these
23 names.

24 THE COURT: Fair enough. Proceed.
25

1 BY MR. GARCIA:

2 Q. So it's you, right, Mr. Peck?

3 A. Myself or Seth Gordon.

4 Q. And obviously you were available, right?

5 A. Somewhat, yes.

6 Q. Seth Gordon was available, correct?

7 A. I assume, yes. He was there.

8 Q. Well, what do you mean, you assume? You were
9 there, weren't you?

10 A. Yes, sir. I was there.

11 Q. Well, was Mr. Gordon there or not?

12 A. Yes, sir, he was.

13 Q. You indicated that at some point during the
14 previews that there's a -- I guess an announcement, no
15 cell phones, and it runs for 20 to 30 seconds, and that's
16 to enforce the no-cell-phone policy and for the guests to
17 have a good experience, correct?

18 A. Correct.

19 Q. Is that no-cell-phone policy enforced during the
20 previews?

21 A. During the previews?

22 Q. Yes.

23 A. We will ascertain a walk-through, but it's not,
24 like, strictly enforced. We're more interested in the
25 movies.

1 Q. Okay. So if somebody is -- has their phone out
2 during a preview and they're scrolling or they're looking
3 on the phone, would one of the ushers come up to them and
4 say, "Hey, you need to put that phone away"?

5 A. They'll ask them to, yes.

6 Q. You just said it wasn't strictly enforced during
7 the previews. Now, is it or isn't it?

8 A. We'll give them a warning.

9 Q. Okay. So are they checking during the previews
10 or not?

11 A. They try to. Yes, sir.

12 Q. So if somebody has their phone out during the
13 previews, they give them a warning?

14 A. Yes, sir.

15 Q. Now, is that discretionary with the usher or is
16 that policy? Is that your policy?

17 A. It's supposed to be policy, yes, sir.

18 Q. And I think that you indicated that it -- should
19 they not put their phone away, then obviously the usher
20 would go to management and then would you address the
21 issue?

22 A. That's correct.

23 Q. Now, if somebody did not put their phone away
24 during the previews, and it's during the previews, are you
25 going to escort them or tell them you need to leave the

1 theater now?

2 A. We'll warn them again and we'll ask them to
3 please put their phone away still.

4 Q. And if they don't put the phone away and it's
5 still during the previews, are you going to escort them
6 out and tell them to leave?

7 A. We may ask them to step out in the hallway and
8 talk to them and explain to them why.

9 Q. When you walked in the theater and you indicated
10 that you had seen, I believe, Mr. Reeves or you recognized
11 him?

12 A. I didn't recognize him.

13 Q. Did you recognize him?

14 A. No.

15 Q. At what point in time did you associate
16 Mr. Reeves with the individual who had walked up to the
17 counter?

18 A. Not until when I seen the video after the fact.

19 Q. Okay. At that point in time, you realized that
20 the gentleman that had been at the counter is the one that
21 was involved in this incident, correct?

22 A. That's correct.

23 Q. Okay. Did you memorialize that anywhere? Did
24 you write it down? Did you --

25 A. No.

1 Q. Did you write an incident report about this?

2 A. I think we did do an incident report, yeah.

3 Q. Did you do an incident report?

4 A. I don't recall. I really don't.

5 Q. Well, you just said, "We did an incident
6 report," so either you did or you didn't.

7 A. I don't recall if I did the incident report.
8 No, I do not.

9 Q. Okay. Was there any other members of your staff
10 that wrote down an incident report?

11 A. Not that I'm aware of.

12 Q. You remember seeing Mr. Reeves and he was wiping
13 his brow, correct?

14 A. Yes.

15 Q. Was there a young lady that was sitting next to
16 him?

17 A. I didn't see anybody sitting there.

18 Q. You indicated that there was an individual that
19 had their hands on his shoulders. Did you find out who
20 that individual was?

21 A. No.

22 Q. You would agree with me, would you not, that you
23 were having a lot of conversations with the corporate
24 office, correct?

25 A. Yes.

1 Q. And did they put limitations on you, as far as
2 cooperating with law enforcement?

3 A. No.

4 Q. You had to check with them, didn't you?

5 A. Well, yeah. I checked with them to make sure --
6 you know, they just basically asked me what was going on
7 with the situation, and I told them that the officers were
8 in there. They said, "All right. Well, just do whatever
9 you can."

10 Q. Did you ever tell Detective Bossone or Detective
11 Smith that your corporate office could access that video
12 as well?

13 A. I don't recall.

14 Q. You recall being interviewed by law enforcement,
15 though, correct?

16 A. I remember being talked to, yeah. I don't know
17 if I was interviewed officially. I don't know.

18 Q. And is it your testimony that you were
19 distracted because there was a problem with the sink and
20 there was a problem with linens, and you were more focused
21 on that than you were about the issue with Mr. Reeves and
22 what had just transpired in your Theater 10?

23 A. No, that's not what I said.

24 Q. That's not what you said?

25 A. No. You asked me what I recalled in the

1 conversations, and I recall the conversation prior to the
2 incident. I don't recall much after the incident because
3 I wasn't -- I had never been a part of it. It was
4 surreal. It was --

5 Q. Do you remember having conversations with Fred
6 Meyers?

7 A. I remember speaking with him, yes.

8 Q. Who is Fred Meyers?

9 A. At the time, he was our director of operations.

10 Q. He was in charge of you, right?

11 A. Yes.

12 Q. And do you remember speaking to Mr. Wellman
13 (phonetic)?

14 A. Yes.

15 Q. Who is Mr. Wellman?

16 A. At the time he was our COO.

17 Q. Okay. Do you remember telling Fred Meyers that
18 Mr. Reeves was a rude old man?

19 A. No, I don't recall that.

20 Q. You don't recall saying that to him?

21 A. No.

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

23 THE COURT: You may.

24 BY MR. GARCIA:

25 Q. Mr. Andrews was in the process of downloading

1 the videos, correct?

2 A. Yes.

3 Q. Were you told by your corporate office not to
4 let anybody get hands on those videos until they were
5 downloaded?

6 A. I'm assuming that I would have said something
7 along those lines, yeah. Stop me, or whatever.

8 Q. So you agree you were instructed by the
9 corporate office not to let law enforcement get those
10 videos, then, correct?

11 A. They might have, yeah.

12 Q. Well, Mr. Peck, either they did or they didn't.
13 Were you instructed not to let law enforcement get their
14 hands on the video?

15 A. What you're asking me, is you're asking me to
16 communicate clearly what I knew at the time. At the time,
17 sir, I was a little bit out of sorts in my mind. I don't
18 recall everything from the situation.

19 It is now three years removed, I'm trying to
20 forget the situation, so I don't recall exact
21 conversations. And I apologize for that, I'm not trying
22 to be evasive.

23 Q. Well, you clearly remember certain aspects of
24 it, and you're not having any difficulties remembering it.

25 Were you instructed by corporate not to give law

1 enforcement the videos?

2 A. If you say so, yes, sir.

3 Q. I'm not saying so. I'm asking you.

4 A. Yes, sir.

5 MR. GARCIA: I have no further questions, Judge.

6 THE COURT: Redirect?

7 REDIRECT EXAMINATION

8 BY MR. ESCOBAR:

9 Q. Mr. Peck, are you a law enforcement officer?

10 A. No, sir.

11 MR. GARCIA: Outside the scope of cross.

12 MR. ESCOBAR: Oh, no. I think it's very much
13 inside the scope of cross, because he's indicated
14 that this individual had control of things in that
15 particular theater and I'm going to tie it up.

16 THE COURT: I'll overrule.

17 BY MR. ESCOBAR:

18 Q. Have you had any training in law enforcement?

19 A. No, sir.

20 Q. Were you investigating this particular incident?

21 A. No, sir.

22 Q. Were you the individual that was responsible for
23 preserving the evidence in this case?

24 A. No, sir.

25 Q. Did you do anything, anything -- did you tell

1 any police officer, "You're not to go into this room"?

2 A. No, sir.

3 Q. Did you tell any police officer, "You're not to
4 go to the IT office"?

5 A. No, sir.

6 Q. Did you tell any police officer, "You're not to
7 go to my office and touch my computer"?

8 A. No, sir. Not that I recall.

9 Q. Did you impede law enforcement in any way, in
10 this particular case, for them to do their job?

11 A. No, sir.

12 Q. They had full access of your entire theater; is
13 that not correct?

14 MR. GARCIA: Objection to leading, Judge.

15 BY MR. ESCOBAR:

16 Q. Did they have full access of your entire
17 theater?

18 A. Absolutely.

19 Q. Mr. Peck, are you lying today because you are
20 being sued?

21 MR. GARCIA: Objection, Judge. Objection.

22 That's an improper question, Judge, and Mr. Escobar
23 knows that.

24 THE COURT: Sustained.

25

1 BY MR. ESCOBAR:

2 Q. Does the fact that you are being sued today,
3 does that influence your testimony in any way?

4 A. No, sir.

5 MR. ESCOBAR: No further questions.

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

7 THE COURT: You may.

8 MR. GARCIA: I don't have any further questions
9 of Mr. Peck.

10 THE COURT: May this witness be released?

11 MR. ESCOBAR: We will keep him under subpoena
12 but released for now.

13 THE COURT: Mr. Peck, you still are subject to
14 recall, so please answer your calls or return any
15 calls that you get from either of the lawyers, and
16 otherwise, you're free to go for today, correct?

17 THE WITNESS: I'll be out of the country
18 starting this weekend.

19 THE COURT: This coming weekend?

20 THE WITNESS: Yes, ma'am.

21 MR. ESCOBAR: I'm aware of that, Your Honor.

22 THE COURT: All right.

23 Thank you, Mr. Peck. You're free to go.

24 (Witness excused.)

25 THE COURT: Who's our next witness going to be?

1 MR. ESCOBAR: Your Honor, the Defense calls
2 Michelle Simpson.

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

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

9 THE COURT: You may proceed, Counselor.

10 DIRECT EXAMINATION

11 BY MR. ESCOBAR:

12 Q. Good morning, Ms. Simpson.

13 A. Good morning.

14 Q. Ms. Simpson, please tell us your full name.

15 A. Dawn Michelle Simpson.

16 Q. Ms. Simpson, how are you employed?

17 A. I work for Centennial Bank.

18 Q. What do you do for that bank?

19 A. I'm a teller supervisor.

20 Q. Okay. How long have you had that occupation?

21 A. In banking, 26 years.

22 Q. Okay. Give us a little bit of history
23 concerning your banking employment for those 26 years.

24 A. I started as a teller. I moved -- then I moved
25 on to operations. My bank was -- I was laid off because

1 my bank was bought out.

2 So I then went on to Bay City Bank and was a
3 teller there and then became a teller supervisor. Went
4 back to operations again, and now I'm back as a teller
5 supervisor. Our bank was purchased by Centennial.

6 Q. Okay. Do you live here in this community?

7 A. I live in the Lutz/Land O' Lakes area.

8 Q. Okay. I'm going to direct your attention to
9 January 13th of 2014, and I'm going to show you initially
10 some photos and I'd like you to take a look at these
11 photos and see if you recognize them.

12 The photos are, first of all, Defendant's
13 Exhibit Number 24 that has been introduced into evidence.
14 I want you to take a look at this particular photo and the
15 time stamp at the bottom is 1/13/2014, 1345:49.

16 Can you recognize that particular photo?

17 A. Yes.

18 Q. Does that fairly and accurately depict for you
19 that time sequence there at the Cobb Theater in this
20 county?

21 A. Yes.

22 Q. Okay. Do you remember that?

23 A. Yes.

24 Q. Okay. Would you tell the Court what you were
25 doing at the Cobb Theater on January 13th of 2014?

1 A. I stopped there to look for movie posters, to
2 see if they had movie posters for my daughter's TV room.
3 She was doing a movie theme and I was looking for posters.

4 Q. Okay. So you went to that counter to speak to
5 that particular gentleman?

6 A. Yes.

7 Q. Did you know that gentleman before?

8 A. No.

9 Q. So did you have a conversation with that
10 gentleman?

11 A. Yeah. A short conversation.

12 Q. What did you tell that gentleman?

13 A. Just that I was looking for movie posters, and
14 he asked that I make a list of which particular movies I
15 was looking for.

16 Q. The photo that we're seeing now, is that a photo
17 that's depicting your conversations with that gentleman?

18 A. Yes.

19 Q. Okay. As you were having that conversation with
20 that gentleman, did you notice someone else coming to the
21 counter?

22 A. I noticed someone walking up, yes.

23 Q. Okay. And do you see that particular individual
24 in the court today?

25 A. Yes.

1 Q. Okay. Could you please point him out?

2 A. Right there.

3 Q. Is he the gentleman with the maroon tie and the
4 dark blazer, an older gentleman?

5 A. Yes.

6 Q. And is that the same gentleman that you see in
7 the photo depicted up on the screen at this point in time?

8 A. Yes.

9 Q. Now, you finished your conversation?

10 A. Uh-huh.

11 Q. Do you know how long your conversation was with
12 Mr. Peck?

13 A. Not very long. Just a couple minutes. Not very
14 long.

15 Q. Okay. And during that time did Mr. Reeves wait
16 patiently for you to finish your conversation?

17 A. Yes.

18 Q. Okay. Did you notice anything that would have
19 caused you any alarm about Mr. Reeves being there at that
20 counter with you at that time?

21 A. No.

22 Q. Now, we're going to show you another picture.
23 Do you recognize that picture? And that picture is at
24 1/13/2014 at 13:26:07, and that has a VTS number of
25 VTS011VOB.

1 Do you recognize that photo?

2 A. Yes, that's when I moved to the side.

3 Q. Would you tell the Court why it was that you
4 moved to the side at that time?

5 A. I had a piece of paper, and then he asked that I
6 make a list of what particular movie posters I was looking
7 for.

8 Q. So that you could give that list to him and he
9 could act accordingly, trying to get those posters for
10 you?

11 A. Yes.

12 Q. Okay. Now, during that period of time did you
13 notice whether or not there was a conversation between
14 Mr. Reeves and the gentleman there at the counter,
15 Mr. Peck?

16 A. When I stepped aside to start making the list,
17 then he started to speak.

18 Q. Do you know what the conversation was about?

19 A. Yes.

20 MS. SUMNER: Objection. Calls for hearsay.

21 MR. ESCOBAR: I'm not going to go there.

22 BY MR. ESCOBAR:

23 Q. Was there anything about that conversation that
24 alarmed you?

25 A. No.

1 Q. Can you tell the Court what the appearance of
2 Mr. Reeves was as he was having that conversation? Was he
3 calm? Was he agitated? Was he mad? What?

4 A. No. He was very calm, polite. He waited for me
5 to step aside, and then had his conversation with the
6 manager.

7 Q. Okay. Did you think anything of it at that
8 point in time?

9 A. No.

10 Q. Just a normal conversation?

11 A. He wasn't upset.

12 Q. Okay. And what did you do then?

13 A. I don't recall how much longer I was there. It
14 was only, really, a minute or two. I knew they weren't
15 going to have the movies that we were looking for, so I
16 decided to leave and come back at later date.

17 Q. Okay. And so what happens later that day?

18 A. After I left the theater?

19 Q. Yeah.

20 A. I walked to my car and proceeded to drive up to
21 State Road 54 to head home. As soon as I got to 54, I
22 guess it was a few seconds, maybe a minute or so, either a
23 Pasco County deputy or a trooper, I don't recall, came by
24 and passed me. And then a few seconds later another
25 deputy drove past me at a pretty high rate of speed.

1 So I thought to myself, something has happened
2 in the area. I didn't know if it was a bank robbery or
3 something.

4 Q. Working for a bank?

5 A. Right. I knew it wasn't --

6 Q. Right.

7 A. -- normal speed for police officers.

8 Q. Now, at some point in time later that day did
9 you figure out that an incident had happened, a shooting
10 incident had happened at the Cobb Theater?

11 A. Yes. I got home maybe ten minutes later and I
12 turned on the TV, and the bulletin was just going off.
13 And so I got on my computer, and that's when I -- I
14 believe my home page was Bay News 9, and that's when I saw
15 the caption, what it had said.

16 Q. Okay. Now, at some point in time, did you
17 communicate with someone else concerning the fact that you
18 were there at that theater shortly before the incident?

19 A. Well, I had called my mom to tell her that I was
20 just there. And she told me that I should call the
21 police. I was like, "I wasn't in the theater," but she
22 said, "You should anyway." So I did. I called 911 and
23 gave them my information.

24 Q. Okay. And at some point in time thereafter, do
25 you get interviewed by a law enforcement officer?

1 A. Yes.

2 Q. Okay. And where does that interview take place?

3 A. It was over the phone.

4 Q. It was over the phone?

5 A. Uh-huh.

6 Q. Do you recall the name of that officer that
7 interviewed you over the phone?

8 A. I don't.

9 Q. Do you know how long or how short that interview
10 was?

11 A. Just a few minutes.

12 Q. Okay. Do you recall what may have been asked of
13 you?

14 A. Just what had happened, what I heard.

15 Q. Okay. And did you tell them or tell that
16 gentleman what you've told us here today?

17 A. Yes.

18 MR. ESCOBAR: No further questions.

19 THE COURT: Cross?

20 MS. SUMNER: Yes, Your Honor.

21 May it please the Court, Mr. Escobar.

22 CROSS-EXAMINATION

23 BY MS. SUMNER:

24 Q. Good morning, Ms. Simpson. How are you?

25 A. Good.

1 Q. Now, isn't it true that you never observed
2 Mr. Reeves indicate any kind of urgency in this matter?

3 A. I'm not sure what you mean.

4 Q. When you saw him -- let me ask you this: When
5 you saw him walk up, did he have any problems walking?

6 A. I didn't see him walk up. I just felt somebody
7 walk up to the counter. I could see out of my peripheral
8 vision, but I didn't see him actually walk up.

9 Q. And you overheard this conversation?

10 A. Part of it, yes.

11 Q. Did he report any urgency in trying to get the
12 general manager to go in right then and take care of this
13 problem?

14 A. No, he was calm, and he just said, there's
15 someone in the theater --

16 Q. I don't want you to say what he said, but he was
17 calm when he reported to the general manager is your
18 testimony?

19 A. Yes.

20 Q. He never reported that he felt threatened by
21 this person, did he?

22 A. No.

23 MR. ESCOBAR: Judge, I'm going to -- she's
24 opening the door at that point in time. She can't
25 have her cake and eat it, too.

1 THE COURT: We're getting close.

2 MR. ESCOBAR: She's asking for an opinion on a
3 conversation that she's saying is hearsay.

4 MS. SUMNER: What's his objection?

5 MR. GARCIA: What's the objection.

6 MR. ESCOBAR: That's the objection. It's
7 hearsay. If it's hearsay on direct, it's hearsay on
8 cross.

9 MS. SUMNER: I'm not asking for what he said,
10 but just how she took what he said to the general
11 manager.

12 THE COURT: All right. You could ask,
13 obviously, about his physical mannerisms, but if
14 you're asking questions that are going to directly
15 call for a hearsay response, then I will have to
16 sustain it.

17 You can rephrase.

18 MR. ESCOBAR: Judge, if she wants the entire
19 conversation, I'm more than glad for her to say it.
20 I'm not objecting to the hearsay. What I'm objecting
21 to is the fact if they object, we get the same rules.

22 BY MS. SUMNER:

23 Q. How long was Mr. Reeves there at that counter,
24 ma'am?

25 A. I'm not really sure. I left, so I don't know if

1 he was still at the counter or not when I left. I didn't
2 pay attention to that.

3 Q. And you indicated that you did not actually hand
4 the piece of paper in to the general manager at that
5 point?

6 A. No.

7 Q. And you didn't think anything of the
8 conversation at that point when you got to 54 and saw two
9 law enforcement cars driving quickly with their lights on?

10 A. No.

11 MS. SUMNER: I have nothing further, Your Honor.

12 THE COURT: Any redirect?

13 MR. ESCOBAR: No need for redirect.

14 THE COURT: May this witness be released?

15 MR. ESCOBAR: This witness may be released.

16 THE COURT: Ms. Simpson, you're free to go.

17 Thank you.

18 (Excerpts of testimony were concluded.)
19
20
21
22
23
24
25

1 CERTIFICATE OF REPORTER

2 STATE OF FLORIDA)

3 COUNTY OF PINELLAS)

4 I, CHARLENE M. EANNEL, RPR, certify that I was
5 authorized to and did stenographically report the
6 foregoing proceedings; and that the transcript is a true
7 record of the proceedings.

8 I FURTHER CERTIFY that I am not a relative,
9 employee, attorney or counsel of any of the parties
10 hereto, nor am I a relative or employee of such attorney
11 or counsel, nor do I have any interest in the outcome or
12 events of this action.

13 DATED this 28th day of March, 2017.

14
15
16

17 CHARLENE M. EANNEL, RPR

18
19
20
21
22
23
24
25