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 Hearing
State's Opening Statement

BEFORE: THE HONORABLE SUSAN BARTHLE
Circuit Court Judge

DATE: February 20, 2017

PLACE: Robert D. Sumner Judicial Center
38053 Live Oak Avenue
Dade City, FL 33525

TRANSCRIBED BY: Charlene M. Eannel, RPR
Registered Professional Reporter
Notary Public
State of Florida at Large

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

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

THE COURT: Thank you, Mr. Michaels.

State?

MR. MARTIN: Counsel. On January 13th, 2014, it was a date day. It was a date day for Nicole and Chad Oulson. They also had children, one, a small daughter that's in daycare. And on that particular day they took it upon themselves to take her to the daycare and drop her off. And then they went to the mall, had some quality time together as husband and wife, and they decided to go to the movies.

It is one of the first times that they agreed on a particular movie they both wanted to see -- Lone Survivor. And I believe what you will hear from the testimony of the witnesses that even though Ms. Oulson doesn't know exactly when Mr. Reeves arrived in the theater and sat directly behind them, they were there first. They settled in. They were eating popcorn. At some point, Chad Oulson left and got some Twizzlers and maybe another Coke.

Chad Oulson does have a cell phone. He had it in the theater. He had the cell phone on. Now, what is significant is the timing. Now, you will be able to see during the theater view exactly the lighting conditions in the theater. It will be set up with

the house lights and you will hear the term "mid one." That's the light setting so people can walk into the theater so that they don't fall down and trip over each other trying to get to their seat. It is not the very dark lighting that you would anticipate for the feature movie.

So what happens during the time period when the feature -- when the trailers are on and when we have a house level at a setting where people can see their movements and where they're going, people are talking, people are coming in and disturbing everyone while they're getting to their seats as the trailers are going on.

Mr. Oulson is, in fact, using his phone in some fashion. There won't be any testimony that he was talking on it, but the screen was illuminated.

Now, at some point, Mr. Reeves does take his seat behind Nicole. Now, I believe what you're going to hear from the testimony is that Chad Oulson was sitting in his seat and Nicole Oulson was to his left. Now, the seats in the theater are just a little bit -- not right behind each other, but a little bit off to the side for viewing purposes, but for the purposes of me explaining it to you, Mr. Reeves was seated behind Mrs. Oulson and

Mrs. Reeves was behind Mr. Oulson.

At some point in time while the trailers are playing, while people are still walking in, while people are still stepping over one another getting to their seats, while other people are still talking among themselves, Mr. Oulson has his phone out and he is doing whatever. You don't hear in the testimony what he is doing.

It is for some reason that Mr. Reeves takes an exception to the light of an iPhone being displayed while the trailers are being played. And it's at this point that Mr. Reeves has a nonconsensual contact with Mr. Oulson, not once, not twice, but more than likely three times, but at least twice.

And during that time period he leans over significantly into Mr. Oulson's space and asks him to turn off the phone. I'm not going to try to tell you what the witnesses are going to say about the demeanor, how it was said, or what words were said. You will hear that during the testimony.

But suffice it to say, that Mr. Oulson took exception to that nonconsensual contact. He wanted Mr. Reeves to just leave him alone. Mr. Reeves then took it upon himself, after the at least two contacts with Mr. Oulson to then leave and go complain to the

manager.

What Mr. Michaels didn't tell you in his scenario is that when Mr. Reeves came back and walked behind Mr. Oulson, he did not see the phone. Whatever was disturbing Mr. Reeves to the point that he felt that he had to have this nonconsensual contact with Mr. Oulson not once, but not twice, whatever was going on that was so significant to Mr. Reeves that he felt that he had to get up out of his seat and miss the previews, that the light in his eyes were disturbing that he couldn't watch, he went and complained to the manager, and when he came back, that was over. The phone was out of the way.

Mr. Reeves told that to law enforcement. As he's walking back, sitting down, he did not see the phone. Now, whether or not it was an apology or what statements were made, you will hear from the witnesses how Mr. Reeves then rekindled that contact with Mr. Oulson. Knowing that Mr. Oulson was taking exceptions to the nonconsensual contact to start with, he rekindled it. He said words to the fact, Hey, I see you put your phone away. Whatever. You will hear it from the witnesses.

You're going to hear the witnesses through Nicole Oulson and some of the other witnesses that

observed certain snapshots in time. You're sitting in the movie theater and the witness will tell you, we were watching the previews. We could see what was going on between these two guys. Maybe we wanted to look, maybe we didn't. But every time they looked over, they saw a snapshot in time of what occurred.

And each of the witnesses have various different snapshots that they saw and it's for us to try to figure out, can we put that together for some type of meaningful event that took place so we could make a decision in this case?

But the bottom line is, is that after that comment you will see in the video, Mr. Reeves leaning forward again. So this is the second time after he comes back from the manager, then he makes the nonconsensual contact with Mr. Oulson after the event that he complained about was over.

You'll be able to see through the video and the video is also snippets of events. It is a motion sensor camera. There is some no recording, sometimes for a second, sometimes for five seconds. But you have to keep that in mind as you watch the video so that you could discern and put proper meaning to the content of what you see the participants in the video doing.

But it's at that point that, again, Mr. Reeves the protagonist, the nonconsensual contact with Mr. Oulson again makes contact and Mr. Oulson responds. Now, what you're going to see in the video is that there is a grabbing of the popcorn. There's a hand that comes in. It comes back out. The popcorn is tossed. The popcorn lands in the area of Mr. Reeves. And the hand comes back.

And what you're going to see when you start sequencing the event is that as Mr. Oulson brings his hand back from tossing the popcorn, that Mr. Reeves is in the process of drawing his pistol. It is at that point that after Mr. Oulson is retreating from the immediate area of Mr. Reeves, he is no longer in his face. He is in his side of the aisle, Mr. Reeves is pulling his firearm from his pants pocket. He is leaning forward. He presses that firearm towards the area of Mr. Oulson and shoots him right in the chest in the area of the heart just above the nipple line.

The significance of that, Judge, is what you're going to hear from the witnesses is that prior to the shot being fired, Mr. Reeves said, "Throw popcorn on me, will you?" Bang.

When we talk about self-defense, when we talk

about stand your ground, the Court is well aware that what we're talking about is, is it reasonable? Would a reasonable person believe under the circumstances knowing what Mr. Reeves knows, was it reasonable and necessary? Was it reasonably necessary to prevent immediate great bodily harm, death, or a forceable felony.

If I can use the analogy of Goldie Locks, too hot, just right, too cold. When we talk about stand your ground, it has to be just right. It is to prevent. Once the popcorn is grabbed, once the popcorn is tossed, that is over. He can't prevent that by shooting Mr. Oulson.

As Mr. Oulson is coming back in a submissive nonaggressive stance with his hand coming back towards him, it is Mr. Reeves who made a decision that it was too late. By his own statement he knew that the popcorn had hit him in the face. By his own statement, he says, Throw popcorn in my face, will you? His conduct is nothing but retaliation for the very embarrassing act of having popcorn thrown on a former police officer who is used to having people do what he says.

It's a sad situation. It's very sad. Was he scared? Yes. The Court is well aware that being

scared doesn't make it reasonable. You have to look at the timing of the threat. Was there anything from Mr. Reeves to prevent after the tossing of the popcorn? What was it that was taking place? It can't be an assumption, Well, I got popcorn tossed on me, a bag of fluffy popcorn is now on my body. Then the next thing that has to occur is, This guy is coming over the seat and he is going to pound the crap out of me. That's the assumption that can't be made. You have to look at exactly what the actions of Mr. Oulson were.

So when we look at this case and when you hear the witnesses and the cross and the testimony that is going to be put on, I think you'll be able to see that first there was no cell phone thrown. I think that's going to be clear once you hear all the testimony. It wasn't thrown. There is no injury consistent with Mr. Oulson's face. There's a small possibly abrasion on his eyelid underneath his glasses. There is nothing to indicate that a cell phone was thrown and hit him in the face.

And through the other testimony and the expert testimony, I think that will be clear. What you have is the grabbing and tossing of popcorn and retaliation by Mr. Reeves of shooting of Mr. Oulson.

It's the retaliation. Applying the Goldie Locks rule, he was too late. What he did was after everything occurred and there was nothing to prevent and under that circumstance, Mr. Reeves is not entitled to immunity. Thank you.

(Opening statement was concluded.)

CERTIFICATE OF REPORTER

STATE OF FLORIDA)

COUNTY OF PINELLAS)

I, Charlene M. Eannel, RPR, Stenograph Court Reporter, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript, pages 1 through 12, is a true record of my stenographic notes.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 2nd day of October, 2020.

/s/ Charlene M. Eannel, RPR

CHARLENE M. EANNEL, RPR