

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA CRUZ

DEPARTMENT 6

HON. PAUL P. BURDICK, JUDGE

THE PEOPLE OF THE)
STATE OF CALIFORNIA)

PLAINTIFF(S),)

VS.)

BRENT ELLIOTT ADAMS)
FRANKLIN CRUZ ALCANTARA)
DESIREE CHRISTINE FOSTER)

BECKY ANN JOHNSON)
ROBERT NORRIS KAHN)
CAMERON STEPHENS LAURENDEAU)
GABRIELLA CELESTE)
RIPLEYPHIPPS,)

DEFENDANT(S).)
_____)

) SUPERIOR COURT
) CASE NO. F22197, F22689,
) F22191, F22194, F22196,
) F22698, F22198
)
) PRELIMINARY EXAMINATION
) VOLUME 2 OF 2
)
)
)
)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

MONDAY, JANUARY 8, 2013

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TUESDAY, JANUARY 8, 2013; SANTA CRUZ, CALIFORNIA

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

2 -000-

3
4 THE COURT: Please be seated. We're back on the
5 record in the People versus Adams, et al. And all counsel
6 are present. So I believe, Mr. Clymo, we have Officer
7 Hedley here.

8 MS. YOUNG: Yes. And, Your Honor, just for the --
9 just to update the Court, we're talking about the
10 stipulation that the amount of damage was over the threshold
11 needed for felony vandalism. I have Detective Gunter
12 outside. He has an appointment at 11 a.m. So if we've got
13 a stipulation, that's great, and I can let him go. If not,
14 I'd like to put him on now to get him on his way. I know --
15 I'm sorry. Are we -- Mr. Beauvais, have you met with the
16 other attorneys about --

17 MR. RUBEN: There will not be a stipulation.

18 THE COURT: We'll take Officer Gunter out of order.
19 If you'll come forward, sir, and be sworn.

20
21 **DAVID GUNTER**

22 called as a witness by and on behalf of
23 the PEOPLE, having been duly sworn, was
24 examined and testified as follows:

25
26 THE COURT: Good morning.

1 THE WITNESS: Good morning, Your Honor.

2 THE COURT: Tell us your first and last name;
3 spell the last name.

4 THE WITNESS: David Gunter, G-U-N-T-E-R.

5

6

DIRECT EXAMINATION

7 BY MS. YOUNG:

8 Q Good morning.

9 A Good morning.

10 Q Who are you employed by?

11 A The City of Santa Cruz Police Department.

12 Q What's your job title?

13 A Employed as a detective.

14 Q How long have you been with the Santa Cruz PD?

15 A Just over 14 years.

16 Q And jumping right to the purpose of your
17 testimony, were you tasked with getting an estimate of
18 damage done to 75 River Street during a takeover that
19 occurred from November 30th, 2011, to December 3rd, 2011?

20 A Yes, I was.

21 Q Who did you speak with in order to get that
22 information?

23 A Laicia Bucher, last name is spelled B-U-C-H-E-R.

24 And she's --

25 Q L-A-I-C-I-A?

26 A That's correct.

1 Q What's her title?

2 A She's the regional property manager for Wells
3 Fargo.

4 Q And was she able to come up with estimate for you?

5 A She initially estimated \$200,000 for the damage
6 but she later sent me actual invoices for damages that
7 occurred.

8 Q Were you able to review those invoices?

9 A Yes, I was.

10 Q Did they comport with that number or did the
11 number change?

12 A The number actually changed. It was decreased.

13 Q What did the number go down to?

14 A To approximately \$23,000.

15 Q And what went into that number? How did they come
16 up with that number?

17 A I believe there's estimates from six different
18 companies, which I have copies of. Some of it included
19 hauling of the damaged furniture from inside the building.
20 Cleanup services from all the damage, biohazard cleanup to
21 the maintenance unit in the building as well as overall
22 cleaning, locksmith changes. All the locks on the building
23 as well as some thermostat replacements of controls in the
24 building.

25 Q All right. Thank you. I should ask actually has
26 that -- have you spoken with her since or did that number

1 still remain at 23K?

2 A Those are the only invoices she has sent me.

3 Q Thank you.

4 THE COURT: Anything further?

5 MS. YOUNG: No, Your Honor. Thank you, Your
6 Honor.

7 THE COURT: All right. Mr. Ruben?

8 MR. RUBEN: No questions.

9 THE COURT: Mr. Hackett?

10 MR. HACKETT: No questions.

11 THE COURT: Mr. Beauvais?

12

13

CROSS EXAMINATION

14 BY MR. BEAUVAIS:

15 Q Do you know if these invoices were presented by
16 out of county companies?

17 A Yes. All of the businesses that I have invoices
18 for are out of county.

19 Q Do you know whether or not that increased the
20 amounts of those invoices, they were from companies out of
21 county?

22 A Reading of the invoices, there's one that charges,
23 I think time of day fee and some travel fees that are
24 associated to those bills.

25 Q You don't know to what extent those invoices are
26 enhanced by the fact that the various contractors have to

1 travel to get here to do their services?

2 A Other than the one that -- I'm not sure how they
3 come up with their billing.

4 Q Was there a locksmith fee of \$2,000?

5 A Yes.

6 Q Do you know how many doors they had to change the
7 locks on?

8 A I believe all of the exterior. I can look at the
9 actual invoice if you'd like me to.

10 Q Do that, please.

11 THE WITNESS: If you don't mind, Your Honor.

12 THE COURT: Go ahead.

13 THE WITNESS: If I'm reading this correctly, it
14 looks like 10.

15 BY MR. BEAUVAIS:

16 Q Ten?

17 A They list different looks like standard cylinders,
18 room devices. I'm not familiar with locksmithing
19 terminology what that is, but appears that's what they list
20 on their invoices.

21 Q Where is that company based?

22 A According to the invoice Foster City.

23 Q Foster City?

24 A That's correct.

25 Q Do you know personally of any locksmith companies
26 here in Santa Cruz County?

1 A Yes, I do.

2 Q Are there some?

3 A There are several.

4 Q With respect to the biohazard cleanup, do you know
5 how that amount is calculated, some \$6,222?

6 A Again, I believe they just list the amount.
7 Looking at the actual invoice, just says water damage
8 restoration and that's a handwritten note. Underneath that
9 says biohazard cleanup and utility room.

10 Q What did the water damage consist of? Do you
11 know?

12 A I do not know, no.

13 Q Okay.

14 MR. BEAUVAIS: Nothing further.

15 THE COURT: Mr. Clymo?

16

17

CROSS EXAMINATION

18 BY MR. CLYMO:

19 Q One of the invoices a Wells Fargo energy Service
20 West?

21 A Yes.

22 Q Was that for \$6,545.41?

23 A That's correct.

24 Q Does that appear to be for removing damaged
25 furniture?

26 A Yes.

1 Q And that included labor fees of \$5,238 to remove
2 furniture?

3 A That's correct.

4 Q Did you get any clarification from Wells Fargo why
5 it would be -- how they came up with that? What was
6 involved?

7 A No. That's just the invoice from the company
8 itself.

9 Q Now, you were the lead investigator during part of
10 the investigation?

11 A That's correct.

12 Q Do you know how many pieces furniture would be
13 required to be removed from what you saw on December fifth?

14 A I do not know which furniture they deemed damaged.

15 Q How much furniture was inside of the building?

16 A Well, again the banking setup. So there was
17 multiple filing cabinets; both two drawer, four drawer.
18 Probably at least downstairs that I can recall offhand, ten
19 to 15 file cabinets. Multiple desks. There was also
20 additional furniture and I don't know of other items that
21 were brought into the building during the occupation as
22 well.

23 MR. CLYMO: Okay. Nothing further.

24 MS. BRIGGS: No questions, Your Honor.

25 MS. MC CAMEY: No questions.

26 MS. PORTER: No questions.

1 THE COURT: Anything else?

2 MS. YOUNG: Very quickly.

3

4 **REDIRECT EXAMINATION**

5 BY MS. YOUNG:

6 Q In the damage estimate you said there was -- they
7 had to replace the locks; did you speak with Miss Bucher
8 about how -- about whether or not the bank had been locked
9 before the takeover on November 30th?

10 MR. RUBEN: Objection. Beyond the scope of cross
11 or direct.

12 THE COURT: Sustained. I'm treating this as if
13 the doors were locked.

14 MS. YOUNG: Okay. Sorry. Okay. Thank you. Now
15 I'll get Officer Hedley.

16 THE COURT: All right.

17 All right. Officer Hedley, if you'll just
18 resume the witness stand. You remain under oath from the
19 oath you took yesterday.

20

21 **MICHAEL HEDLEY**

22 called as a witness by and on behalf of
23 the PEOPLE, having been PREVIOUSLY sworn,
24 was examined and testified FURTHER as
25 follows:

26 THE COURT: Mr. Clymo, you can resume your

1 cross-examination.

2 MR. CLYMO: Thank you.

3

4 **CROSS EXAMINATION**

5 BY MR. CLYMO:

6 Q Yesterday on direct you discussed while you were
7 parked across the street from 75 River Street you had a
8 conversation with Mr. Norris Kahn?

9 A Yes.

10 Q Now, that conversation I think you gave something
11 to the effect you better not go back in there, Robert. Do
12 you recall that?

13 A Ya, it was actually Detective Williams said
14 something to the effect of "Just so you know, you're
15 trespassing by going inside and might end up getting
16 arrested" or something to that effect.

17 Q Okay. Now, this conversation that was going on,
18 that was across the street from the main group; correct?

19 A Yes.

20 Q And that was a conversation you had and your
21 partner were inside a vehicle; correct?

22 A Yes.

23 Q And that was just, you know, you don't believe you
24 didn't get out, make any loud -- get a bull horn and tell
25 the group?

26 A No. This was just for Mr. Norris. I think there

1 was one other person with him. I don't remember who it was.

2 Q Okay.

3 MR. CLYMO: Nothing further.

4 THE COURT: Miss Briggs?

5 MS. BRIGGS: Thank you, Your Honor.

6

7

CROSS EXAMINATION

8 BY MS. BRIGGS:

9 Q Miss Briggs for Mr. Laurendeau.

10 You indicated that on December 2nd, you
11 accompanied Lieutenant Richard's to the location; is that
12 correct?

13 A Yes.

14 Q What officers were with you on that occasion?

15 A Lieutenant Richard, myself and Detective Gunter, I
16 believe.

17 Q I'm sorry?

18 A Gunter.

19 Q And you wrote a report regarding your presence
20 that day; is that correct?

21 A Yes.

22 Q And your report indicated that you observed
23 Mr. Laurendeau on December 9th?

24 A Typo. If you look earlier in the report I had the
25 date right.

26 Q I'm sorry?

1 A It's a typo. If you look earlier in the report,
2 the date is right.

3 Q There's a typo in the report? Indicates the 9th
4 on that location?

5 A Yes.

6 Q Are there any other errors in this report?

7 A That's the one I caught.

8 Q Okay. And do you indicate anywhere in there that
9 Detective Gunter was with you that date?

10 A I believe earlier in the report not where the typo
11 is where the date's correct.

12 Q Would it refresh your recollection to review your
13 report to be able to direct me to that location?

14 A Well, the part that I was thinking of, second
15 paragraph on page five. But there is not the mention of
16 Gunter being present. Just that's the part where I had the
17 date correct, talking about me being there with Lieutenant
18 Richard video documenting.

19 Q Okay. And you'd indicated that you'd reviewed
20 video in preparation for today's preliminary hearing; is
21 that correct?

22 A The last time I reviewed the video was a year ago.

23 Q Last time you reviewed it was a year ago?

24 A Aside from this clip I've seen here in court.

25 Q Aside from the clip you'd seen today?

26 A Yes.

1 Q You don't have any independent recollection of the
2 conversation or comments by Lieutenant Richard the
3 individuals outside? Do you remember the content
4 Lieutenant Richard's comments to the individuals outside on
5 December 2nd?

6 A I remember him asking about the whereabouts of
7 Gabriella. I have independent recollection of that.

8 Q And do you have any independent recollection of
9 any statements made by Mr. Laurendeau?

10 A I recall he was answering Lieutenant Richard's
11 questions about Gabriella's whereabouts but the specifics
12 words I don't recall.

13 Q What questions do you recall Lieutenant Richard's
14 asking Mr. Laurendeau about Miss Ripleyhipps?

15 A Just where she was and when she might be back. He
16 wanted to talk to her.

17 Q What do you recall Mr. Laurendeau's responses
18 being?

19 A Only she wasn't there. I don't remember the
20 content of the words, just the message that she wasn't
21 there.

22 Q Do you recall comments or questions by any of
23 those individuals asking Lieutenant Richard's where people
24 are supposed to go?

25 A Yes, somebody asked that.

26 Q And do you remember my client indicating to him it

1 was not the time to ask those questions?

2 A No.

3 Q And on the date that -- on December 2nd after the
4 conversation with Lieutenant Richard, did you observe
5 Mr. Laurendeau re-enter the building at any time?

6 A Not a hundred percent certain. I think he left
7 after that conversation. I don't think he went back in.

8 Q Did you include that in your report?

9 A No.

10 Q And do you have any evidence that Mr. Laurendeau's
11 presence was anything other than transitory?

12 MS. YOUNG: Your Honor, I object to "transitory."
13 It's a legal term of art.

14 MS. BRIGGS: It was close to the prior.

15 THE COURT: Go ahead, rephrase the question.

16 BY MS. BRIGGS:

17 Q Do you have any evidence to indicate
18 Mr. Laurendeau's presence was anything other than temporary?

19 A Everybody's presence was temporary; it only lasted
20 a few days.

21 Q Do you have any reason to -- fair enough. If you
22 consider that temporary or transitory occupation, I don't
23 have any further questions. Thank you.

24 THE COURT: Ms. McCamey?

25 MS. MC CAMEY: Thank you, Your Honor.

26 **CROSS EXAMINATION**

1 BY MS. MC CAMEY:

2 Q Good morning, Officer Hedley.

3 A Good morning.

4 Q Now, before you and Detective Williams were given
5 this assignment to videotape the march and then the
6 subsequent activities at 75 River Street, was there any
7 briefing by the department as to what your role would be
8 that day?

9 A We were given a very limited briefing that quite
10 honestly I felt was inadequate. We weren't told of any
11 specific plans, what the plan would be if it went bad. We
12 were just basically briefed that there's going to be a
13 march. It's going to end up somewhere and that we were --
14 our role was to video document it in plain clothes.

15 Q When you say "plan," you're referring to plans on
16 the part of the police; you were told just to video document
17 this; is that right?

18 A Yes.

19 Q Okay. And you indicated that when you got to 75
20 River Street, was -- at the point you got there were they
21 still closed or were they open?

22 A They were closed.

23 Q Okay. And at some point they were opened; is that
24 correct? And you did not see how that occurred?

25 A When we first saw the doors opened, they were
26 opened without using any force or didn't -- they looked like

1 they were already unlocked.

2 Q So appeared to you that there was no effort of
3 forced entry; they just walked right in?

4 A Yes. They just had to pull on the door and it
5 opened.

6 Q And I believe you testified yesterday you started
7 videotaping about 3:00 o'clock in the afternoon; is that
8 right?

9 A No. There's a misunderstanding on reading
10 military time. I said roughly 4:06.

11 Q 4:06, excuse me. You videotaped until it became
12 dark; is that right?

13 A Off and on videotaped until we returned to the
14 police department.

15 Q Okay.

16 A At one point after it became dark we had moved
17 across the street, were on foot videotaping as part of the
18 crowd.

19 Q Okay. During the point that you were over on the
20 levee videotaping, other than, you know, putting the camera
21 down and starting up with a new clip; it was fairly
22 continuous; is that fair to say?

23 A Aside from the part where we left to go offer
24 assistance to officers that needed help on Water Street.

25 Q That was on the side of the post office; is that
26 right?

1 A Yes.

2 Q And that interaction didn't take very long then
3 you went back to your spot over on the levee?

4 A Yes.

5 Q And during this time that you were videotaping is
6 it fair to say between 20 and 50 people outside of the bank
7 during of the course of the day?

8 A Probably more at various times.

9 Q Okay. How many more would you estimate?

10 A It's hard to say, it was probably more than 50.
11 Between 50 and 100 at different times.

12 Q Okay. Also fair to say during this maybe two hour
13 time period that you were videotaping people were
14 continuously in and out of 75 River Street; is that right?

15 A Yes.

16 Q The doors remained open the entire time; is that
17 correct?

18 A Yes, they were. Things already been moved in
19 front of the doors and it pretty quickly from our vantage
20 point looked like the access was being controlled by the
21 people inside.

22 Q Fair to say when you look on the video that you
23 provided, the people are coming and going fairly freely
24 throughout the daylight hours?

25 A Protesters were, yes.

26 Q Okay. And early on, not too long after you

1 started filming, various members of the Santa Cruz Police
2 Department showed up on scene; is that correct?

3 A Yes.

4 Q There was about six or seven officers on scene?

5 A I didn't think it was that many. Thought more
6 like roughly four if you were looking at the bank from our
7 vantage point it would be to the left of the building.

8 Q And it appeared looking at your videotape these
9 officers were standing off to the left?

10 A Yes.

11 Q Now, these officers never at any time went in the
12 bank; is that correct?

13 A As far as I know; correct.

14 Q Based on you're telling me what we saw in the
15 video, appears they didn't really move much from that
16 location?

17 A Correct.

18 Q During the daylight hours?

19 A I remember them mostly standing together in a
20 group to the left.

21 Q And they were talking to various people who had
22 come to the protest; is that correct?

23 A From my vantage point it looked like that, yes.

24 Q To your knowledge, these officers were not there
25 to prevent anybody from entering or exiting the building?

26 A Assumption on my part because I wasn't privy to

1 what their plans were but from my vantage point it didn't
2 look like they were interfering.

3 Q That was going to be my revised question. It
4 didn't appear to you they were preventing anybody from
5 entering or exiting the building?

6 A Correct.

7 Q And it didn't appear to you that they were handing
8 out flyers to any of the protesters?

9 A Correct.

10 Q And while you were observing, you observed -- I
11 think Mr. Clymo asked the question -- all different types of
12 people; is that fair to say?

13 A Yes.

14 Q Families; correct?

15 A Yes.

16 Q And then also people wearing bandanas?

17 A Yes.

18 Q People wearing masks?

19 A Yes.

20 Q Okay. And at some point while you were physically
21 there somebody set up a rather large sound system; is that
22 correct?

23 A Yes.

24 Q Okay. And that sound system was blasting music;
25 is that correct?

26 A Yes.

1 Q And at various points during your filming there
2 was people coming out speaking on a sound system; is that
3 fair to say?

4 A Yes, I think so.

5 Q Inviting people in?

6 A I don't remember the exact contents of it but I
7 remember seeing people waiving people in.

8 Q This is all going on while your four to five
9 police officers were standing off to the left of the front
10 doors?

11 A Yes.

12 Q Now, you described -- did you see people carrying
13 furniture in?

14 A Yes.

15 Q And people carrying pallets in?

16 A Yes.

17 Q And at the time that you saw -- I believe when you
18 described Mr. Brett Adams you described him as carrying
19 trash cans; is that right?

20 A Yes.

21 Q He was carrying plastic trash cans; is that right?

22 A Yes.

23 Q And recycle bins?

24 A I don't know about recycle bins. I perceived them
25 being black trash cans.

26 Q And they were stacked inside of one another; there

1 was about seven or eight of them he had in his hand; is that
2 right?

3 A Yes.

4 Q Okay. You took those trash cans and he placed
5 them right outside the doors of the bank; is that right?

6 A I don't recall. I just remember seeing him
7 carrying them.

8 Q Would it refresh your recollection to look at the
9 video clip?

10 A Yes.

11 Q Clip number 77, we're starting at approximately --

12 MS. YOUNG: Your Honor, I can do that. It's the
13 passes -- video from camera one, clip 00077 dot MTS.

14 MS. MC CAMEY: I apologize if I said 77, I meant
15 73.

16 MS. YOUNG: Your Honor, just for the record, I'm
17 backing it up about a minute.

18 BY MS. MC CAMEY:

19 Q Are you watching this, Officer Hedley?

20 A Yes.

21 Q And right about now you see Brett Adams?

22 A Yes.

23 Q Okay. But you see what he's carrying?

24 A Yes.

25 Q Those are the trash cans you stated he carrying?

26 A Yes.

1 Q Do you see how he's putting them outside of the
2 building?

3 A I saw he put one by the tree.

4 Q Did you also see him put one by the right-hand
5 side of the door?

6 A No. I saw him put one by the tree.

7 Q And that was the first point that you had seen
8 Mr. Adams; is that correct?

9 A I believe so.

10 Q And you indicated I believe it was on direct
11 examination that you initially didn't know who these people
12 were you later identified?

13 A Other than Robert, yes.

14 Q Okay. And were you asked by somebody to review
15 this tape later?

16 A Yes.

17 Q Okay. How were you given names or photographs of
18 people to look for?

19 A I was tasked with identifying the people. So what
20 I did was created a series of still photos of different
21 people whose faces were shown. I sent them out department
22 wide. I asked for tips from officers. I got tips from the
23 general public. Using those tips I would find either
24 booking photos or DMV photos to compare, make a
25 determination whether or not I felt the tip was correct.

26 Q Okay. Do you have any idea how Mr. Adams was

1 identified?

2 A I received information that he was in a You Tube
3 video where he identified himself.

4 Q Who gave you that information? Do you recall?

5 A I'm not sure.

6 Q Was it another police officer?

7 A Yes.

8 Q Okay. And do you -- did you keep the still photos
9 that you used and sent out to have these individuals
10 identified?

11 A They were stored on the network drive associated
12 with this case. I believe that they were all put on to a CD
13 ROM. I'm not positive about that.

14 Q Were they labeled as still photos used to identify
15 people went at 75 River somehow labeled so they're
16 distinguishable from other photographs that were provided?

17 A I believe the filler on the network drive was
18 still video; I think that's how I titled it.

19 Q Now, the next time that you saw Mr. Adams was on
20 December first; is that correct? Maybe I can refresh your
21 recollection. I believe you indicated you were the
22 cameraman when this Detective Richard was walking around
23 posting signs up on the building on December first?

24 A Yes.

25 Q Okay. And do you recall filming an interaction
26 between Detective Richard and Mr. Adams on that day?

1 A Not Mr. Adams, no.

2 Q Do you recall Detective Richard walking up to one
3 of the doors and post a sign?

4 A Yes.

5 Q And some gentleman coming out and speaking to him?

6 A Yes, mister -- I don't know how to say the name.
7 Cameron.

8 Q With the Court's permission, I'd like to show the
9 video of that interaction, see if it refreshes the officer's
10 memory.

11 THE COURT: Yes. Identify for the record what it
12 is.

13 MS. YOUNG: We actually played this when
14 Lieutenant Officer Richard testified.

15 MS. MC CAMEY: I don't think you did. Cameron.
16 Clip 82 starting at about 4 minutes.

17 MS. YOUNG: From 423 to 0918.

18 MS. MC CAMEY: Start it back at four minutes.

19 BY MS. MC CAMEY:

20 Q So you were filming this particular interaction,
21 camera two, video two, at about 406; were you filming that?

22 THE COURT: While we are on the still, can you
23 identify who's depicted in that still shot there?

24 THE WITNESS: Lieutenant Richard, Officer Hoppe.

25 BY MS. MC CAMEY:

26 Q Lieutenant Richard without a hat, Officer Hoppe is

1 the one with the hat posting the sign?

2 A Yes.

3 Q I guess the person in front of them is the
4 cameraman from TV station?

5 A Yes.

6 Q Okay. Go ahead and play it.

7 (Video played)

8 MS. MC CAMEY: Sorry, Your Honor. Just trying to
9 get the audio on it. Judge, can you hear this at all?

10 THE COURT: No.

11 MS. MC CAMEY: Does the Court mind stepping off
12 the bench, coming down to listening to this?

13 THE COURT: Why don't we have the officer stand
14 next to -- Officer Hedley, if you'll stand next to the -- if
15 it's necessary for me to hear it, I can come down and play
16 it again.

17 BY MS. MC CAMEY:

18 Q Do you recognize the man came out there with the
19 black hat on?

20 A Not at this time, I do not.

21 Q At the time you thought that was somebody else?

22 THE COURT: Let's pause right there. Why don't
23 you go back to the person in the black hat.

24 MS. MC CAMEY: Sure.

25 THE COURT: We're on a still shot. Person in the
26 black hat has just opened the door of the building. Do you

1 now recognize that individual?

2 THE WITNESS: Yes.

3 THE COURT: Who is that?

4 THE WITNESS: Mr. Adams.

5 BY MS. MC CAMEY:

6 Q Who did you originally think it was?

7 A I didn't know at the time.

8 Q Did you note in your report another individual
9 exited the building?

10 A In my report I'm addressing September 2nd not
11 addressing camera.

12 Q You're saying you didn't --

13 A I don't recall addressing this interaction in my
14 report.

15 Q You're saying you never addressed this interaction
16 in your report?

17 A I don't recall addressing this.

18 Q But when this interaction occurred, you thought it
19 was somebody else?

20 A I didn't know who it was.

21 Q Didn't you just say that you gave us a name of who
22 you thought it was?

23 A I thought you were talking about the interaction
24 on December 2nd.

25 Q Okay.

26 THE COURT: Just so we're all clear, this is a clip

1 from December first posting?

2 MS. MC CAMEY: Yes. And this was the first time
3 that officer Richard and Officer Hoppe had gone down and
4 placed no trespassing signs on the door; is that right, on
5 December first, .

6 A First time I'm aware of.

7 Q Okay. Fair enough. Mr. Adams is exiting the door
8 immediately after that sign is posted; correct?

9 A Yes.

10 THE COURT: Now you want him to listen to the audio
11 portion of the exchange between Lieutenant Richard and
12 Mr. Adams?

13 MS. MC CAMEY: Yes.

14 (Tape played)

15 BY MS. MC CAMEY:

16 Q Does that video clip, Officer Hedley, refresh your
17 recollection of the interaction between Mr. Adams and
18 Officer Richard?

19 A Lieutenant Richard.

20 Q Excuse me. I get the title confused. Lieutenant
21 Richard.

22 A Yes.

23 Q And initially when Mr. Adams came out to talk to
24 Lieutenant Richard, he told him last night we tried to talk
25 to you but it never happened; is that right?

26 A Yes, that's part of what was said.

1 Q He said that officer when you got the paper there
2 was something about the officer. Officer Harms trying to
3 talk to the group and Mr. Adams in that clip when he spoke
4 to Lieutenant Richard was upset because he said that never
5 happened; is that right?

6 A Yes.

7 Q And he said that when he tried to talk to the
8 officers they refused to speak to him; is that right?

9 A Yes.

10 Q All right. And Lieutenant Richard responds with
11 "Well, I didn't know that"; is that right?

12 A Yes.

13 Q Okay. And then when Lieutenant Richard at that
14 point handed him a telephone and after saying we've got word
15 from the property owners you're trespassing, you need to
16 leave, but at the same time I'd like to have discussions
17 with you; that's what he said to Mr. Adams; correct?

18 A Something to that effect. His exact words I
19 wasn't taking notes.

20 Q Okay. And he wanted him to take in a phone and
21 said I'll call this phone in an hour; is that right?

22 A Yes.

23 Q And Mr. Adams --

24 A Actually he asked him to give the phone to
25 Gabriella.

26 Q Okay.

1 A Deliver it to her.

2 Q Maybe I misstated that. Mr. Adams said I'm not
3 going to take the phone in; is that right?

4 A Mr. Adams said that he needed to discuss it and
5 they needed to decide things as a group and that he wasn't
6 comfortable with just taking the phone in. I'm paraphrasing
7 because he didn't know if the phone was bugged, some kind of
8 surveillance device. So he had to talk to the other
9 protesters and have a meeting about it, decide it as a group
10 what they were going to do with the phone.

11 Q He specifically stated "I'm not promising you I'm
12 going to take this in"; is that right?

13 A Something to that effect, yes.

14 Q Okay. Now, when you went back in to assess the
15 damage, that was on December fifth?

16 A Fourth and fifth.

17 Q Fourth and fifth. And you took the photographs
18 that Miss Young showed you were taken on both days or one
19 day?

20 A The smaller stack of photos was taken on the
21 fifth. The larger stack, if you will, two inches thick,
22 those were taken on the fourth.

23 Q Now, you testified on direct regarding a bunch of
24 graffiti that you found in the elevator; is that right?

25 A Yes.

26 Q And how long have you been a police officer?

1 A This month will be 18 years.

2 Q And how long in that 18 years have been on patrol?

3 A Hard to say. I've done a lot of assignments.
4 Roughly maybe seven or eight years of just general patrol.
5 There were number a of years where I had assignments such as
6 motorcycle duty where I was on the streets but not assigned
7 as a patrol officer. I was also worked at D.U.I. for a
8 while. I worked in downtown. Of the 18 years, five years
9 was as a detective off the streets. The remainder was in
10 various assignments on the street, just not all patrol
11 capacity.

12 Q All of this was in the Santa Cruz Police
13 Department?

14 A Yes.

15 MS. MC CAMEY: May I approach the witness, Your
16 Honor?

17 THE COURT: Yes.

18 BY MS. MC CAMEY:

19 Q I'm going to show you what's been marked People's
20 Exhibit 5, 6, 7, 8 and 9, if I may, and ask you if those
21 photographs depict some of the graffiti you found in the
22 building or in the elevator to be more specific?

23 A Yes.

24 Q And at least five through eight, what does that
25 graffiti appear to be to you based on your experience?

26 A Anarchist symbol. I see valley go home. Locals

1 only type of graffiti.

2 Q Is that something you might consider a moniker?

3 A The "KRU," yes. The anarchy symbol pretty
4 generic. Locals only. Those aren't local monikers. It
5 looks like either H or KOP. That could be somebody specific
6 tag. The other generic in this one, the word "fuck the" and
7 "I hate police" is initial, it's not depicted in the photo.
8 It's generic.

9 Q You're looking at nine?

10 A I'm looking at nine.

11 Q Why don't you look at the other ones.

12 A Eight depicts some type of a bunny, I imagine,
13 with the word I can't read underneath it and maybe HOP,
14 which would be -- that would be somebody's tag.

15 Q Yes. And that's the type of thing that you would
16 see on the streets in your experience; is that right?

17 A Yes.

18 Q Tagging on the side of buildings and fences of
19 people's property?

20 A Yes.

21 Q You can keep looking at them.

22 A Seven I see "Occupy Santa Cruz 11-30, 2011"
23 written on the wall. I see some type of a tag that starts
24 with an 'M.' I can't really make out. And then the anarchy
25 symbol with that.

26 In six it looks like HOP, are written above

1 occupy Santa Cruz. And the rest is similar to what's in the
2 last photo. They overlap each other. Five is just some
3 type of a tag that I can't read in yellow spray paint.

4 Q Now, what you also -- do you know whether or not
5 the water was on in that building?

6 THE COURT: When?

7 MS. MC CAMEY: That's a good question, Your Honor.
8 Thank you.

9 BY MS. MC CAMEY:

10 Q From November 30th through December third of 2011?

11 A I'm not certain. For certain, no. I believe it
12 was turned off at some point by the property owners but I'm
13 not certain when that occurred.

14 Q Okay. And also inside of that building there was
15 someone might have asked you this if they did I apologize,
16 there was a list of rules; is that right?

17 A Yes.

18 Q One of those rules was absolutely no vandalism?

19 A Yes.

20 Q Okay. And there was also a list of supplies
21 needed as well?

22 A I'm not sure.

23 Q Okay. Would it refresh your recollection to look
24 at the photographs?

25 A Yes.

26 MS. MC CAMEY: May I approach the witness, Your

1 Honor?

2 THE COURT: Yes.

3 MS. YOUNG: Your Honor, just for the record, and
4 for counsel, the path to the photo is folder eleven S dash
5 10231 dot 170 and 8. And folder within there initial damage
6 to, photograph number 4091.

7 BY MS. MC CAMEY:

8 Q Now that photo that's showing up on the screen, do
9 you recognize that sign?

10 A Yes.

11 Q Did you take that picture?

12 A Yes.

13 Q Okay. Is that your hand holding the sign down at
14 the bottom?

15 A I think so.

16 Q Okay. Does that sign continue underneath your
17 hand?

18 A Yes.

19 Q So that the top portion of that sign says
20 "supplies needed: Window cleaner." Checked off. Also
21 listed is broom, rags, sponges and trash bags; is that
22 right?

23 A Yes.

24 Q Do you recall whether the supplies were listed or
25 checked off on the --

26 A No.

1 Q Did you take a picture of the second half of that
2 list?

3 A I'm not sure.

4 Q Was it more than two pages long in your memory?

5 A Just from looking at the photo, I can see it's
6 two-pages long.

7 Q Now, in your report you note that there's some
8 areas that appear to have been cleaned off; is that right,
9 in the building. I believe you said in your report -- I'm
10 on page seven of 14, second paragraph. That in the second
11 room on the left there was red colored graffiti that was
12 painted over with brown paint?

13 A Yes.

14 Q Okay. And you actually saw several areas in the
15 building where it appeared someone had tried to paint over
16 the graffiti with some beige paint?

17 A Yes.

18 Q That matched the wall color?

19 A Yes. Didn't exactly match.

20 Q An attempt to match the wall color. You also
21 noted graffiti on the south wall and I'm on page nine of 14
22 of your report, on a wall that looked like someone tried to
23 scrub it off; is that right?

24 A Yes.

25 Q So it appears there were several areas in the
26 building where someone had tried to actually cover up the

1 graffiti or clean it; is that fair to say? When you went
2 through that building?

3 A It was at least smeared. I don't know if their
4 intent was to clean it, repair it or if they just didn't
5 like the message and were masking the message. I don't
6 know.

7 Q You observed several areas through the building
8 where someone had painted over with beige paint similar to
9 the wall color graffiti; correct?

10 A Yes.

11 Q And you observed several areas in that building
12 someone had tried to scrub off graffiti; is that right?

13 A Yes.

14 MS. MC CAMEY: Thank you. I have nothing further.

15 THE COURT: Miss Porter?

16 MS. PORTER: Thank you. Shaneen Porter for
17 Foster.

18 **CROSS EXAMINATION**

19 BY MS. PORTER:

20 Q Good morning.

21 A Good morning.

22 Q So you have no independent recollection of Deseree
23 Foster being there, correct, aside from the videos that you
24 reviewed?

25 A My recollection comes from video because that's
26 when I learned her identity. Other than that I wasn't

1 paying particular attention to her.

2 Q Okay. And after viewing the video, do you recall
3 how defense or how Desiree Foster was identified?

4 A Received a tip from the pictures I had sent out
5 that somebody thought that was Desiree Foster. I located
6 her driver's license photo and compared the photo and made
7 the identification that way.

8 Q And do you have any information that defendant
9 took place in the planning for the march?

10 Did you observe the defendant taking place in
11 the march prior to observing her in the video?

12 A No.

13 Q And when you arrived at 75 Water Street, did you
14 have an opportunity to observe the interior of 75 Water
15 Street prior to persons in the march arriving there on that
16 day?

17 A You mean 75 River?

18 Q River. I'm so sorry if I said Water. 75 River
19 Street.

20 A No, I didn't.

21 Q And when the march arrived, did you observe in the
22 video defendant taking place, Desiree Foster taking place in
23 opening the doors of 75 Ocean Street?

24 A No.

25 Q And did you -- when the doors to 75 River Street
26 were opened, did you hear any alarms sound?

1 A No.

2 Q And when you observed Miss Foster in the video,
3 did you see her holding any objects that could be used for
4 vandalism such as spray paint?

5 A No.

6 Q Did you see her holding any tools?

7 A No.

8 Q Did you see her holding any signs?

9 A No.

10 Q Did Miss Foster have -- was she covering her face
11 with anything?

12 A No.

13 Q And were you able to hear her chanting anything?

14 A No.

15 Q At the time that you observed her in the video,
16 did you see Miss Foster carrying any bag or something
17 similar to carry these objects in?

18 A No.

19 Q And did you ever observe her moving any furniture?

20 A No.

21 Q And did you observe her committing any actual acts
22 of vandalism?

23 A No.

24 Q And did you actually observe any -- any act of
25 vandalism being committed by persons aside from one or two
26 being moved, were you able to observe any of the graffiti

1 being done?

2 A No.

3 Q Did you observe Miss Foster having verbal
4 communication with other persons who were present in any of
5 the videos?

6 A Only nonverbal hand signals.

7 Q And these nonverbal hand signals, did you see
8 specifically who they were directed towards?

9 A She was waiving people to come into the bank.

10 Q And how do you know that she was waiving people to
11 come into the bank?

12 A It was real obvious from watching the video that
13 her actions wouldn't have been anything else. She was
14 standing near the doorway waiving in a common hand gesture
15 in waiving people to come inside.

16 Q And was there any indication at that time that
17 Miss Foster did not know that they -- or that she wouldn't
18 know they had permission to enter?

19 A I can't imagine anybody believed they had
20 permission to enter.

21 Q But you don't know that she wasn't told by the
22 persons that they had permission to enter?

23 A No.

24 Q And was there anything in the video that showed
25 that defendant was present when announcements were made
26 telling -- warning the persons present at 75 River Street to

1 leave?

2 A I don't recall.

3 Q And do you have any -- did you observe anything on
4 the videos that showed Miss Foster having any direct
5 communication with any officers or law enforcement?

6 A No.

7 Q Did you observe her having any communication
8 directly with someone who did have direct communication with
9 officers such as liaison?

10 A No.

11 Q And she's not removed by officers; correct?

12 A Correct.

13 MS. PORTER: I have no further questions at this
14 time. Thank you.

15 THE COURT: Any redirect?

16 MS. YOUNG: Your Honor, I had a series of photos
17 that I premarked yesterday I was going to ask Officer Hedley
18 about. I'm sorry. May I have a moment? I will return
19 these to the clerk. May I approach?

20 THE COURT: Yes.

21

22 **REDIRECT EXAMINATION**

23 BY MS. YOUNG:

24 Q Showing you what's been marked for identification
25 as People's 37 through 45, can you please take a look at
26 those photos, let me know when you're done.

1 A Okay.

2 Q Do you recognize what's in those photographs?

3 A Yes.

4 Q Are those in fact photographs that you took?

5 A Yes.

6 Q And those are fair and accurate copies of the
7 photos that you took that day?

8 A Yes.

9 Q In part obviously it's only a fraction?

10 A Yes.

11 Q Let's go through those photographs, can you? Your
12 Honor, with that, the People would move to admit 37 through
13 45?

14 THE COURT: When were they taken?

15 THE WITNESS: These appear to be photos from
16 December 4th visit.

17 BY MS. YOUNG:

18 Q December fourth and December fifth?

19 A I took photos December fourth and fifth. These
20 appear to be photos from the fourth.

21 Q Let's go through them identify each of them.
22 Let's go to People's 37; do you recognize that?

23 A Yes.

24 Q What is it?

25 A It's a photo of a sign taped to a wall.

26 Q Do you remember where that -- this is a wall

1 within 75 River Street?

2 A Yes.

3 Q Do you remember where in particular?

4 A No.

5 Q Just within the building?

6 A Yes.

7 Q What does that sign say?

8 A "We took a vacant building. Wells Fargo supports
9 Gitmo. Who are the real criminals."

10 Q And move on to 38.

11 A Yes.

12 Q What's that?

13 A The photograph of a key box on to a wall that is
14 open and empty.

15 Q And 39?

16 A The photograph of keys on top of a handwritten
17 sign on a table. It says "Don't forget your key. We made
18 history in these walls. Respective happiness, peace" and
19 there's hearts drawn.

20 Q How about People's 40?

21 A Photograph of a bunch of office furniture, desk,
22 filing cabinets, blocking the door path.

23 Q 41.

24 A Photograph of a table top that's been taken apart
25 and filing cabinets and some plywood that are obstructing
26 the window.

1 Q 42?

2 A A photograph of a window being covered up with a
3 bunch of brown butcher type paper.

4 Q 43?

5 A It's one of the surveillance cameras from above
6 what would be the teller area when it was a bank and the
7 wires connecting the camera are disconnected. Camera's
8 pointing down and there's duct tape covering the lens.

9 Q And you testified about the surveillance cameras
10 on both direct and cross-examination. Is this what you're
11 talking about what's depicted in this particular photograph?

12 A Yes, it's one of many.

13 Q Let's move on to the next one then. This is
14 People's 44.

15 A This is a photo of the wires that were leading to
16 the -- what was once as security camera and the holes in the
17 ceiling from where the mounting bolts for the security
18 camera had been on.

19 Q And 45?

20 A Again this is photo of disabled camera where the
21 wires had been disconnected, duct tape covering the lens.

22 MS. YOUNG: Your Honor, with that, the People
23 move to admit 36 through 45.

24 THE COURT: Received.

25 **(People's Exhibit(s) 36-45, Received In Evidence)**

26 THE COURT: Any cross examination on these

1 photographs? Go ahead. I thought you were done.

2 MS. YOUNG: That's okay. Go ahead.

3 MR. RUBEN: If I can approach, Your Honor?

4 THE COURT: Yes.

5

6

RECROSS-EXAMINATION

7 BY MR. RUBEN:

8 Q Specifically regarding People's Exhibit 44, is it
9 fair to say what's depicted there is where a camera had been
10 mounted?

11 A Yes.

12 Q Do you see three, what appear to be screw holes?

13 A Yes.

14 Q They seem to be screwed into what looks like
15 drywall?

16 A Yes.

17 MR. RUBEN: No further questions.

18 MR. HACKETT: I have brief follow-up from
19 yesterday about pinpointing video. Going to be very quick.

20 THE COURT: Go ahead.

21

22

RECROSS EXAMINATION

23 BY MR. HACKETT:

24 Q Bryan Hackett for Gabriella Ripleyhipps. Good
25 morning, officer. Thanks for coming back. Appreciate your
26 patience. So --

1 MS. YOUNG: Hang on. Sorry. Sorry. Sorry.

2 BY MR. HACKETT:

3 Q So yesterday --

4 THE COURT: Everybody should turn off their cell
5 phones.

6 BY MR. HACKETT:

7 Q Just so we're clear, yesterday you recall,
8 officer, you testified that at some point you saw
9 Miss Ripleyphipps going in and out of the building; do you
10 recall testifying to that?

11 A Yes.

12 Q You indicated during that testimony that that
13 wasn't based on any personal observation of the event but
14 rather a subsequent review of the video?

15 A Yes.

16 Q And after that testimony yesterday, I believe you
17 had an opportunity to speak with the District Attorney about
18 pinpointing some of the points in the videos that you had
19 referenced; correct?

20 A She indicated to me that all the questions about
21 where on the video she had an outline of those times and
22 events.

23 Q Did she show you that outline yesterday?

24 A I only glanced at it.

25 Q Okay. Well, what I'm about to show you is the
26 video clip that you referred to, that 1534 at 0068 dot MTS.

1 So keyed up at 1522 so we're -- and at some point I want you
2 to notify me and the Court when Miss Ripleyhipps enters or
3 exits the building.

4 A There. I'm sorry. I saw her walk by in the
5 lavender shirt, I believe.

6 Q So you saw her walk by?

7 A Yes, she's walking by in that clip.

8 Q Walking by in that clip. So at no time in that
9 clip is she in the building?

10 A Not in that clip.

11 Q Or entering the building?

12 A No.

13 Q Or exiting the building?

14 A She's walking by in that chip.

15 Q She's just outside in that clip?

16 A In that clip, yes.

17 Q Are you aware of any other clip that puts her
18 entering or exiting the building?

19 A I didn't make an kind of outline at the time. In
20 my review of it, yes, I saw her going in and out. Exactly
21 what time point, I was relying on the outline by the
22 District Attorney.

23 Q I'm relying on the outlines by the District
24 Attorney as well. And I don't mean to belabor this point,
25 officer, but kind of a critical distinction whether or not
26 my client was ever in this building. It said 1534 in this

1 tape is the point in the outline and that the People are
2 providing as the -- that sort of critical evidence against
3 my client. And you're saying that clip merely shows her
4 walking by. I'm trying to find out if there's some other
5 clip that you're aware of?

6 THE COURT: So the question is: Do you recall
7 Miss Ripleyhipps being shown on video as going into or
8 coming out of 75 River Street?

9 THE WITNESS: Yes. I just don't know exactly what
10 point in the video because I didn't make that outline.

11 THE COURT: That's fine. Not your responsibility.
12 BY MR. HACKETT:

13 Q So just to follow-up briefly. You had no
14 independent recollection of seeing Miss Ripleyhipps at all
15 personally during this realtime?

16 A Correct.

17 Q And this video is part -- the video we just
18 watched which was 00068 dot MTS at roughly 15 minutes,
19 that's at -- that's at -- during the video that you and
20 Detective Williams made from the car across the street on
21 November 30th?

22 A Yes.

23 Q Okay. And that's daylight hours?

24 A Yes.

25 Q And at the point at which we just watched, that's
26 prior to the arrival of the 20 some odd officers in riot

1 gear we've heard about?

2 A Yes.

3 Q And it's prior to the December first posting of
4 any notices whatsoever?

5 A Yes.

6 Q And actually on December 2nd you testified to the
7 fact that you were there filming when Lieutenant Richard's
8 had a conversation with someone asking about my client and
9 my client was not there?

10 A Yes.

11 Q And you had independent recollection of her not
12 being there?

13 A Yes, or being told she wasn't there.

14 Q Okay. To your knowledge, she was never removed
15 from the premises?

16 A Correct.

17 MR. HACKETT: Okay. Your Honor, at this point
18 without being a real pain in the neck, I inclined to ask if
19 Officer Hedley can review the video and find these sort of
20 ephemeral, mysterious points.

21 THE COURT: You folks had the videos.

22 MR. HACKETT: I haven't found any point that puts
23 my client anywhere in the building. Miss Young is the
24 prosecutor, had the obligation to bring it forth. Gave me
25 an outline that indicated that 1534, the one point
26 implicates my client potentially maybe exiting the bank and

1 the officer just testified she simply walked by the front
2 door. He's saying at some point there was something, we
3 don't know where, don't know when, we have no evidence of it
4 unless I get a stipulation from the People that that's the
5 only video or photographic evidence that has been referred
6 to and is now been characterized her "walking by." I'm at a
7 loss.

8 THE COURT: Miss Young, are you aware of any other
9 portion, are you personally aware of what it is that Officer
10 Hedley is referring to?

11 MS. YOUNG: When I drew up the outline, provided
12 it, this is my description. This was for counsel's use
13 only. This was not in conjunction in the officers -- we're
14 not sitting side-by-side. It's my looking at the video
15 myself. Obviously it's the officer's testimony that sticks.
16 And from what I understand obviously not everything is going
17 to be captured on the video that he saw that day. So in my
18 outline that was the one place where I noticed
19 Miss Ripleyhipps. I think it would be useful to go through
20 it again or have -- I don't --

21 THE COURT: This is not deeming this to be a
22 failure of proof. It's not essential for your
23 cross-examination. I have other sufficient evidence that
24 Miss Ripleyhipps is actively engaged in trespassing.

25 So whether she's in or out of the building for
26 the purposes of the preliminary hearing, whether it's

1 depicted on videotape is not important for my determination
2 of the holding order.

3 If you want to find it and deal with it at
4 subsequent hearing, you can do that. I'm not going to
5 instruct anyone to go over hours of videotape to find the
6 specific reference for further cross-examination today.

7 MR. HACKETT: I understand that, Your Honor. I
8 just need to make my record. I object because I was tasked
9 with looking at each and every minute of all this video. I
10 did so and never saw anything that is there. I'm given one
11 snippet of these hundreds of hours of video and told that's
12 where it is. And the officer has testified now that that
13 merely has my client walking past. And what we have at best
14 is circumstantial evidence. It's been now refuted by the
15 testimony of the officer. Miss Young says it's the
16 officer's testimony that is standing. When it's
17 contradicted at best and not corroborated at least by the
18 documents.

19 THE COURT: I will tell you then that I will
20 accept your representation when I make my ruling that
21 there's no videotape depicting her coming into the building
22 or going out of the building.

23 MR. HACKETT: Thank you, Your Honor. Nothing
24 further. Thank you, officer.

25 THE COURT: Yes. Mr. Beauvais?

26 MR. BEAUVAIS: Thank you, Your Honor.

RECROSS EXAMINATION

1
2
3 BY MR. BEAUVAIS:

4 Q The photographs that were just admitted into
5 evidence, number 37 through 45, you have no information or
6 evidence that Robert Norris was responsible for any of the
7 damage to the building in the photos; is that right?

8 A Yes.

9 Q You also have no information that Robert Norris
10 acted as liaison or coordinator with the police department
11 on behalf of the protest that was taking place; isn't that
12 right?

13 A Yes.

14 Q You have no information that he was in any
15 leadership role whatsoever with respect to this protest; is
16 that right?

17 A Yes.

18 Q Including the march; correct?

19 MS. YOUNG: I'm sorry. I missed that.

20 MR. BEAUVAIS: Including the march that led up to
21 the building.

22 A You're asking -- excuse me. Can you repeat the
23 specifics of your question?

24 BY MR. BEAUVAIS:

25 Q You have no information Robert Norris was in any
26 way responsible for coordinating or was in a leadership

1 position with respect to the march that led to 75 River
2 Street; correct?

3 A That's correct.

4 Q Now, do you recall when you were videotaping that
5 there was a point at which the police officers retreated?

6 A Yes.

7 Q Okay. And just before they retreated, could you
8 describe what was happening?

9 A Pretty chaotic. Crowd was chanting. Officers
10 were standing at the bank and Detective Williams and I were
11 standing back a little bit filming or Detective Williams
12 actually had the camera. I was potentially watching his
13 back to make sure that nobody tried to harm him or myself.

14 Q This is a point at which you're on foot; right?

15 A Yes.

16 Q Okay. And did you capture on video what was
17 occurring in that time or did someone capture it? Officer
18 Williams?

19 A Yes.

20 Q And were there anything in which police officers
21 used force upon any of the protesters that were there?

22 A Not that I recall, no.

23 Q Do you know if that video was provided in
24 discovery?

25 A I have no idea.

26 Q Do you have any information about what the

1 condition inside this bank was before the protesters went
2 inside?

3 A No.

4 Q Do you have any information about anyone ever
5 trespassing on this property during the three-and-a-half
6 years that the bank was vacant?

7 A No.

8 Q Did you check to see if any reports made by way of
9 complaint?

10 A No.

11 Q Did any of the grafitti appear to be gang-related
12 graffiti, street gangs?

13 A No.

14 Q Did you seek out any evidence Wells Fargo about
15 the condition of the building before the protest took place,
16 ask them to furnish any documents, photographs or anything
17 else that would establish what the condition was before the
18 protest took place?

19 A No. By the time we're getting estimates the case
20 had been handed off to Detective Gunter.

21 Q Are you aware of anyone else in your department
22 making such an effort?

23 A No. Once I handed the case off, I stopped paying
24 attention to it.

25 MR. BEAUVAIS: Thank you. I have no further
26 questions.

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RECROSS-EXAMINATION

BY MR. CLYMO:

Q The pictures Miss Young showed you on redirect, do you have any information Becky Johnson had anything to do with them?

A No.

MR. CLYMO: Nothing further.

MS. BRIGGS: I have brief, slightly out of order regarding the prior exhibit.

THE COURT: Go ahead.

RECROSS-EXAMINATION

BY MS. BRIGGS:

Q Approaching with what's previously marked Defense Exhibit G. Does this appear to be depicting the posting notices on December 2nd?

A I'm not sure which date this is.

Q Which officers are depicted in that photograph?

A Sergeant John Bush and Lieutenant Larry Richard.

Q And in the window there do you see the reflection of an individual with a camera?

A Yes.

Q And who is that?

A I don't know.

Q Who do you recall having a camera that day

1 December 2nd?

2 A December 2nd it was me.

3 Q Okay. So is that you reflected in the window?

4 A I don't know.

5 Q Okay. And do you have any evidence that my
6 client, Mr. Laurendeau, was in any way responsible for any
7 of the damages?

8 A Well, I know he was on the roof. I know the
9 ladder to the --

10 MS. BRIGGS: Objection, Your Honor.

11 THE COURT: Overruled.

12 MS. BRIGGS: But there's absolutely been no
13 testimony regarding that whatsoever.

14 THE COURT: He just said he knew he was on the
15 roof.

16 BY MS. BRIGGS:

17 Q What's your basis for believing he was often roof?

18 A There's a paragraph of him on the roof.

19 Q Where do you see that photograph?

20 A It was either in the Indymedia notes or Sentinel
21 photos.

22 Q Do you have any knowledge who took that
23 photograph?

24 A Indymedia, they were all attributed to Bradley
25 Stewart.

26 Q You're not sure where that photograph was? You

1 said that it was either the Sentinel or Indymedia?

2 A From off the top of my head I don't recall where
3 it was. I just recall seeing a photograph of him on the
4 roof during the protest.

5 Q And in that photograph what leads you to believe
6 that that was the roof of that building?

7 A I recognize the building.

8 Q How much of the building was depicted in the
9 photograph?

10 A The roof line, probably about toward about halfway
11 down the building. At least from the it would have been the
12 southeast corner of the building.

13 Q And did you ever speak with the photographer?

14 A No.

15 Q And you indicated that you're not sure where you
16 saw the photograph; correct?

17 A It was either in the Indymedia or Santa Cruz
18 Sentinel.

19 Q Who do you believe the photographer is?

20 A If it was Indymedia, Bradley Stewart.

21 Q Did you speak with Bradley Stewart about the
22 photograph that he allegedly took?

23 A No.

24 Q You never made any verification regarding the
25 location or date of the photograph?

26 A Location is obvious in the photograph.

1 Q That was not my question. Move to strike.
2 Nonresponsive.

3 THE COURT: Overruled.

4 BY MS. BRIGGS:

5 Q Did you ever speak to the photographer, confirm
6 the date of the photograph?

7 A No.

8 Q Is this the photograph you're referring to?

9 A Yes.

10 Q Could you please explain to me how it is you can
11 confirm what building this is located on?

12 A I've seen the entirety of the building and that's
13 consistent with 75 River Street.

14 Q Is there anything to distinguish this photograph
15 meaningfully from any number of other buildings in downtown
16 Santa Cruz?

17 A Doesn't look like any other buildings to me.

18 Q Of all the buildings and all of Santa Cruz,
19 there's not a single building that it might look like?

20 A That it might look like? Potentially. Doesn't
21 look like any other building that I recognize. No.

22 Q You didn't take any steps to confirm the location
23 of this photograph with the photographer?

24 A Didn't seem necessary to me.

25 Q The answer's no?

26 A Yes.

1 Q So you have no information confirming either
2 location or date of this photograph; correct?

3 A No.

4 Q And based on the skyline in the corner, does it
5 appear to be daytime or nighttime?

6 A Daytime.

7 MS. BRIGGS: Thank you. No further questions.

8 THE COURT: Where did you locate this photograph?

9 THE WITNESS: Like I said, it was either on
10 Indymedia or Santa Cruz Sentinel. I believe Indymedia. I'm
11 just not sure.

12 THE COURT: All right. Miss McCamey?

13 MS. MC CAMEY: I have no questions, Your Honor.

14 THE COURT: Miss Porter?

15 MS. PORTER: No further questions, Your Honor.

16 THE COURT: All right. This witness be excused
17 now?

18 MS. YOUNG: Yes. So I have one final witness.
19 Actually in the meantime let me premark some photos and show
20 them to defense counsel.

21

22 **(People's Exhibit(s) 46-48, Photographs, Marked for ID)**

23 ///

24 ///

25 ///

26

WILLIAM WINSTON

1 called as a witness by and on behalf of
2 the PEOPLE, having been duly sworn, was
3 examined and testified as follows:

4
5 THE COURT: Good morning. Tell us your first and
6 last name; spell the last name.

7 THE WITNESS: William Winston, W-I-N-S-T-O-N.
8

9 **DIRECT EXAMINATION**

10 BY MS. YOUNG:

11 Q Good morning.

12 A Good morning.

13 Q Who are you employed by?

14 A City the Santa Cruz.

15 Q And what's your job title?

16 A I'm a police patrol officer.

17 Q How long have you been an officer with Santa Cruz
18 PD?

19 A Seven years.

20 Q And were you on duty working as an officer
21 Wednesday, November 30, 2011?

22 A Yes.

23 Q What was your particular assignment that day?

24 A I was assigned to observe the activity of a plan
25 occupy Santa Cruz march.

26 Q And were you to respond to a particular location?

1 A Yes.

2 Q Where was that?

3 A The area of the courthouse.

4 Q Actually as to that, where did you initially
5 respond to?

6 A We responded to the area of the courthouse. We
7 sat in the -- when I say "we," I had Officer Forbus with me
8 in a patrol car. We sat in the jail driveway observing the
9 steps on the Water Street side of the courthouse.

10 Q Did there come a time when you moved from that
11 location?

12 A Yes.

13 Q Where did you move to?

14 A First we moved east along Water Street to Ocean
15 Street following the march. And then we continued back west
16 on Water Street to 75 River Street.

17 Q About what time did you end up at 75 River Street?

18 A Right around 3:00 o'clock.

19 Q And where were you positioned at 75 River Street?

20 A When we first arrived, we were in the parking lot
21 which is I guess to the southwest of the building. And
22 later we moved up to the southeast corner of the building.

23 Q When you moved to the southeast corner, are you
24 now on foot or are you still in your car?

25 A On foot.

26 Q Are you in uniform?

1 A Yes.

2 Q Was your car a marked vehicle?

3 A Yes, it was.

4 Q Now, you're on foot. And, I'm sorry. Where do
5 you go to?

6 A We go to the southeast corner of 75 River.

7 Q How many officers are -- when you go to the
8 southeast corner, how many officers are there at that time?

9 A We we first get there just Officer Forbus and I
10 and a Lieutenant and the sergeant are also on scene but not
11 there with us.

12 Q And you roughly know what time this is?

13 A Shortly after 3.

14 THE COURT: I'm sorry. After three?

15 THE WITNESS: Yes, sir.

16 BY MS. YOUNG:

17 Q Did you remain at that location?

18 A For most of the day, yes.

19 Q And just for -- just to get oriented, is this by a
20 set of double doors leading into the building?

21 A Yes.

22 Q And how close were you to the building itself?

23 A Right directly next to it

24 MR. CLYMO: Vague as to which point.

25 THE COURT: Ya. Let's clarify that.

26 MS. YOUNG: I'm sorry.

1 THE COURT: Where in relation to the building? At
2 which time?

3 BY MS. YOUNG:

4 Q Okay. You said you were positioned at the
5 southeast corner; do you mean of the block or do you mean of
6 the building?

7 A Of the building.

8 Q And can you describe what is there at that
9 location?

10 A It's a bank. I believe it was a bank, a building,
11 two, three stories tall with a parking lot to the rear,
12 sidewalk to the front.

13 Q And you were positioned by where?

14 A Where -- at the corner of the building looking
15 towards a set of entry doors.

16 Q And why was that particular location chosen?

17 A Why were we standing there?

18 Q Yes.

19 A Because of the group of people that had marched
20 several of them had broken off of the march and gone into
21 the building through those doors.

22 Q Now, at the time you arrived had this already
23 happened?

24 A That someone had gone into the building?

25 Q Yes.

26 A As we were driving by the building, people were

1 entering it.

2 Q So by the time you took up the position by those
3 doors --

4 A People were already in.

5 Q Within the building?

6 A Yes.

7 Q You weren't able to see how they made entry?

8 A No.

9 Q And when they -- when you were driving by and
10 folks were initially streaming in, were there any officers
11 who were positioned by those doors at that time?

12 A No.

13 Q Fair to say you and Forbus were maybe first at
14 that location?

15 A Yes.

16 Q And how long do you think you were positioned at
17 that location? You said it was a little bit after three?

18 A We were there probably within an estimate I would
19 say 9 p.m.

20 Q At that spot? Let's talk about what you saw
21 during that time. And I should just make clear you don't
22 have a still camera and you're not taking photographs?

23 A I did take some photographs, yes.

24 Q And how about video?

25 A No.

26 Q Okay. Let's go into folks that you saw there.

1 A All right.

2 Q Is there anyone in court today that you saw on
3 November 30th?

4 A Yes.

5 Q Okay. Let's go through them one by one.

6 A Okay.

7 Q Who do you see here in court today that you saw
8 November 30th? Let us know the person and then what time
9 you saw them on November 30th.

10 A Okay. Start with Mr. Alcantar. We saw him -- I
11 saw him gathering on the courthouse steps and then during
12 the march and then several more times throughout the time I
13 was at 75 River Street.

14 Q Just for the record, can you briefly state where
15 he's seated, what he's wearing?

16 A Mr. Alcantar is seated on the bench wearing a dark
17 shirt and dark pants.

18 THE COURT: The record will reflect that the
19 witness has identified Mr. Alcantara.

20 BY MS. YOUNG:

21 Q Who else did you see? We'll go into detail for
22 each one. Right now I just want to get identification
23 completed. Who else did you see?

24 A Mr. Norris. At the steps, the march, and in and
25 out of the building as well.

26 Q For the record, where is he seated, what is he

1 wearing?

2 A Seated next to Mr. Alcantara wearing a bathrobe.

3 THE COURT: The record reflect the witness
4 identified Mr. Norris.

5 BY MS. YOUNG:

6 Q And who else?

7 A Becky Johnson seated next to Mr. Norris; I saw her
8 at the building at 75 River.

9 Q And could you please state where she's seated,
10 what she's wearing.

11 A Seated next to Mr. Norris. I believe she's
12 wearing a brown top.

13 THE COURT: Record reflect witness identified
14 Miss Johnson.

15 BY MS. YOUNG:

16 Q Anybody else?

17 A Yes.

18 Q Who?

19 A Brent Adams. And I saw Brent at 75 River.

20 Q And for the record, could you please state where
21 he's seated, what he's wearing.

22 A Seated at the end of that bench wearing a dark
23 colored vest with a maroon shirt underneath.

24 THE COURT: Record will reflect the witness
25 identified Mr. Adams.

26 BY MS. YOUNG:

1 Q Now, is it fair to say that in the courtroom today
2 the folks that are assembled in a row behind counsel, that
3 these were the only four that you can identify as you having
4 seen them on November 30th?

5 A Correct.

6 Q And were you there on December 1st, December 2nd,
7 3rd, 4th?

8 A I was there on a subsequent day. I'm not positive
9 which date it was. So I had gone on another day, yes.

10 Q Is it fair to say most of your involvement was on
11 November 30th?

12 A Yes.

13 Q Okay. So let's go through each of those four you
14 just identified. So Mr. Alcantara, what time did you see
15 him on November 30th?

16 MR. RUBEN: Objection. Vague.

17 THE COURT: Overruled.

18 THE WITNESS: Originally shortly after 2 p.m.

19 BY MS. YOUNG:

20 Q Where was that?

21 A On the courthouse steps.

22 Q And what was he doing on the courthouse steps?

23 A He was gathering with the group that ended up
24 being the group that marched up and down Ocean Street to 75
25 River Street.

26 Q When did you see him next after the courthouse

1 steps?

2 A During the march.

3 Q And did you see him again after that?

4 A I did.

5 Q Where was that?

6 A They marched to Chase Bank. I saw Mr. Alcantara
7 there. That would be on the corner of Ocean and Water
8 Street.

9 Q Okay.

10 A And then the westbound march back to River Street.

11 Q And where did he go after that?

12 A Then I saw him outside and inside the building at
13 75 River Street.

14 Q At 75 River Street. Okay. Was he -- did you at
15 any point see him address the crowd?

16 A I did see him make several announcements. I
17 couldn't hear what the announcements consisted of. The
18 first one I saw him make I believe was at the Chase Bank.

19 Q And how about at 75 River Street?

20 A He did. He spoke a little bit there and again
21 couldn't hear what was being said.

22 Q Was it just his voice or how to could you tell?

23 A I'm not sure if he was using a PA system or not.
24 I don't recall. But he seemed to be in somewhat of a
25 leadership role.

26 MR. RUBEN: Objection calls for speculation.

1 THE COURT: Let me hear the answer.

2 MR. RUBEN: And nonresponsive.

3 THE COURT: Rephrase the question.

4 MS. YOUNG: Sure.

5 BY MS. YOUNG:

6 Q Let's focus on 75 River Street. What he did
7 there. Was he addressing other folks outside the building?

8 A Yes.

9 Q Okay. How many people -- if you can just describe
10 what you saw. Other people around him? What are you
11 seeing?

12 A There are people all in front of the property on
13 the sidewalk, on the, I guess landscaped area, near the
14 doors. I see Mr. Alcantara near the building speaking to
15 people there.

16 Q Was he wearing anything that made him kind of
17 visually identifiable?

18 A Yes.

19 Q What was that?

20 A Bright green T-shirt.

21 Q And this was, from what I understand, one of
22 several times you saw him address a group of people?

23 MR. RUBEN: Objection. Misstates the testimony.

24 THE COURT: Overruled.

25 BY MS. YOUNG:

26 Q Is that correct?

1 A That's correct.

2 Q And with respect to entry, did you see
3 Mr. Alcantara enter the building?

4 A Yes.

5 Q About what time was that, if you can recall?

6 A I saw him enter the building several times. I
7 wouldn't be able to pin down an exact time. The first time
8 was shortly after my arrival.

9 Q When was the last time?

10 A It would probably still be light outside. I
11 wouldn't be able to pin down a time again.

12 Q And I understand you were there for a block of
13 time so -- okay. Let's move on to Mr. Norris. Where did
14 you first see him on that November 30th?

15 A Again on the courthouse steps.

16 Q And was he addressing anyone there?

17 A I don't think he was.

18 Q And where did you see him after that?

19 A Involved in the march. Chase Bank again. The
20 march back to 75 River Street and then again at 75 River.

21 Q So the same path that you just described with
22 Mr. Alcantara?

23 A Yes.

24 Q Now at 75 River Street, is he -- is he easy for
25 you to identify or keep track of I should say? Easily
26 identifiable?

1 A He's a person I'm familiar with. I did see him
2 several times there.

3 Q What did you see him do specifically at 75 River
4 Street?

5 A I saw him walking around with his tape recorder, I
6 believe. Maybe a camera. I'm not sure. Definitely a tape
7 recorder. I saw him moving about in the crowd outside. I
8 also saw him go into and come out of the building several
9 times.

10 Q And with respect to Miss Johnson, where did you
11 first see her?

12 A I saw Miss Johnson only at 75 River.

13 Q And where was she?

14 A I saw her first outside in the crowd sort of on
15 the sidewalk also the landscape or the lawn area.

16 Q Did she have any banners or signs, anything with
17 her?

18 A She did.

19 Q What was that?

20 A She had a sign, I believe said picket corporate
21 banks, something like that.

22 Q With respect to Miss Johnson, have you reviewed
23 video of her at the location?

24 A Yes.

25 MS. YOUNG: Your Honor, may I have one moment?

26 THE COURT: Yes.

1 MS. YOUNG: I need to cue up the video.

2 MR. CLYMO: I'm going to object to Officer Winston
3 being shown videos other officers shot of my client to
4 correct the testimony.

5 THE COURT: Well, let me just clarify.

6 You were there from 3:00 o'clock to 9:00 o'clock
7 on November 30 at 75 River Street; did you ever see
8 Miss Johnson go into the building?

9 THE WITNESS: Yes.

10 THE COURT: Okay.

11 BY MS. YOUNG:

12 Q And the video that you reviewed, did it comport
13 with your recollection of what you saw that day with respect
14 to Miss Johnson?

15 A Yes.

16 Q Okay.

17 THE COURT: The objection's overruled.

18 MS. YOUNG: Just for the record, video's on
19 camera one, 00068 dot MTS. And I'm going to back it up to
20 21 -- 21 minutes zero seconds.

21 BY MS. YOUNG:

22 Q Let me stop it for just a second. Is this the
23 southeast corner that you were describing?

24 A Yes.

25 Q Okay. Do you see Miss Johnson in this video?

26 A I do.

1 Q Where is she at, indicating essentially behind a
2 silver car that's in the forefront of the shot at the back
3 of the car?

4 A Yes.

5 Q What is the sign she has with her?

6 A What does it say?

7 Q Yes.

8 A "Seize the banks."

9 Q Does this comport to your memory of what you saw
10 that day?

11 A Yes.

12 Q Where are you?

13 A I should be right about there behind the gentleman
14 with the hood.

15 Q Okay. I'm going to try to get a better shot.
16 That may not be possible. Okay. Sorry.

17 And I should also ask with respect to
18 Miss Johnson, did you have the opportunity to review her
19 blog?

20 A Yes.

21 Q Okay. And did you review a blog posting from
22 Thursday, February 16th of 2012?

23 A Yes.

24 MR. CLYMO: I'm going to object as to relevance.
25 First Amendment; hasn't been provided in discovery.

26 THE COURT: Thursday, February 16th, 2012?

1 MS. YOUNG: Yes.

2 THE COURT: Okay. And you're offering this as an
3 admission?

4 MS. YOUNG: Exactly.

5 THE COURT: All right. Overruled.

6 BY MS. YOUNG:

7 MR. CLYMO: I've been handed several pieces of
8 paper all new to me. I'd ask for a copy -- actually ask for
9 a continuance if the Court's going to admit it.

10 THE COURT: Overruled.

11 MR. CLYMO: Also lack of foundation, if I didn't
12 previously state that, how the officer knows this is by
13 Becky Johnson.

14 THE COURT: On foundation ground I'll permit you
15 to lay a further foundation.

16 BY MS. YOUNG:

17 Q Okay. Obviously --

18 MR. CLYMO: Just for the record, I still don't
19 have a copy. It's been taken away. I haven't seen this.

20 THE COURT: Let's do this. We'll take our noon
21 recess at this point in time. We will reconvene at 1:30.
22 You can provide copy of this, you intend to utilize with
23 this witness. And we'll start up with the continued direct
24 examination at 1:30.

25 (Whereupon, a recess was taken to 1:30 p.m. the same day)

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