

1 A. No.

2 Q. -- that someone could split up a transaction?

3 A. It actually can happen. Yeah, you can do that.

4 Q. And so, the best we can tell is that at that
5 particular time this defendant swiped a credit card at
6 your store, right?

7 A. Yes.

8 MS. MANCE: Pass the witness.

9 MR. NEYLAND: Nothing further, Your Honor.

10 THE COURT: You may step down, sir.

11 Call your next witness.

12 MS. MANCE: State calls John Carlos.

13 THE COURT: All right. Go ahead.

14 **JOHN CARLOS,**

15 having been first duly sworn, testified as follows:

16 **DIRECT EXAMINATION**

17 **BY MS. MANCE:**

18 Q. Please introduce yourself to the jury.

19 A. My name is John Carlos. I'm with the
20 Woodforest National Bank and I'm the lead fraud
21 investigator.

22 Q. How long have you been employed with Woodforest
23 Bank?

24 A. Since 2004.

25 Q. And have you always been one of the fraud

1 investigators?

2 A. I've been a fraud investigator for about six
3 years now, since 2006.

4 Q. At your particular location, what is sort of
5 the general process for someone to make a fraud claim,
6 if you know?

7 A. To make a fraud claim?

8 Q. Yes.

9 A. Any particular fraud type of claim?

10 Q. If there are fraudulent transactions on
11 someone's debit or credit card.

12 A. The customer would come into one of our -- you
13 know, the most convenient location for them and inform
14 them that there's been unauthorized transactions and
15 file the necessary disputes.

16 Q. And after that information is received, what
17 happens?

18 A. After that, the location will submit it to the
19 appropriate division, whether it be debit card fraud or
20 corporate security for an investigation and processing.

21 Q. In your position, do you also have the
22 opportunity to sort of go through the bank records and
23 documents in a fraud investigation?

24 A. I do, yes.

25 MS. MANCE: Permission to approach the

1 witness?

2 THE COURT: All right.

3 Q. (By Ms. Mance) I'm handing you what's been
4 marked as Defense Exhibit No. 1. Can you flip through
5 this and let me know if you recognize the documents
6 (indicating)?

7 A. That's our debit card dispute of unauthorized
8 transactions. There's a series of questions that's
9 asked to the customer when the customer comes in and
10 then they're asked to sign and date it. Again, it's
11 just the second page. And then the customer's
12 statement, which is signed and dated. And then these
13 pages here seem to be the customer's bank statements
14 that are sent to them on a monthly basis.

15 Q. So, you're familiar with all of these
16 documents?

17 A. Absolutely.

18 Q. And then do you have a copy there that you can
19 use to refer as well?

20 A. Sure.

21 Q. Refer to as well.

22 A. Sure.

23 Q. And let's just go through and make sure that
24 you're looking at the same things.

25 A. Sorry. There's these, this second page,

1 statement, statement, correct, and these last two, which
2 is -- correct (indicating).

3 MS. MANCE: Permission to publish to the
4 jury, Your Honor?

5 THE COURT: Okay.

6 Q. (By Ms. Mance) Let's go through these records a
7 little bit. Up top, obviously, we see the name of the
8 bank, Woodforest, correct (indicating)?

9 A. Correct.

10 Q. And the accountholder is -- what's that name?

11 A. It's Derick M. Fuentes.

12 Q. And what's the card number ending in?

13 A. 3407.

14 Q. And the case I.D. number, is that a number
15 assigned by the fraud division?

16 A. Correct, through our system, an automatic
17 generated I.D. number.

18 Q. Now, there are a list of unauthorized
19 transactions. Can you just briefly go through the date
20 and the location?

21 A. Sure. The first one that's on the -- from top
22 to bottom, it's dated 9-12, 2011, for a dollar. It's at
23 Highfive Food Mart. Second one is 9-11, 2011, for a
24 dollar at Stripes, store number 1007. The third one,
25 9-10, 2011, for 12.98. That's at West Wind Mini-Mart.

1 The fourth one, 9-12, 2011, for 13.92 at
2 Jack-In-The-Box. The fifth one, 9-12, 2011, for 22.47
3 at Fuel Express. And the sixth one, 9-12, 2011, for a
4 dollar at 2747 Highway 6. And 9-11-11 for a dollar at
5 the same location, 2747 Highway 6.

6 Q. And this particular document was signed and
7 dated when?

8 A. It was dated -- signed and dated by our
9 customer on 9-12, 2011.

10 Q. So, let's talk about this a little bit. We see
11 a lot of one-dollar transactions. Is that uncommon for
12 sort of the pre-authorization from places like gas
13 stations or other locations?

14 A. It's common. They -- what they do, like such
15 as gas stations, they'll pre-authorize just to make sure
16 that the funds will go through. So, this seems to be
17 pre-authorized for a dollar, which would later be
18 updated to the appropriate amount.

19 Q. So, would it be fair to say that at the time
20 the customer is making this claim, some of the charges
21 aren't even finalized as far as money or that sort of
22 thing?

23 A. You are correct.

24 Q. And in your experience, is it uncommon for the
25 first reported transactions to be different from the

1 final disputed transactions that appear?

2 A. You are correct.

3 Q. So, this would just be sort of a starting place
4 for --

5 A. Exactly, a starter.

6 Q. Okay. And we have a few statements here.

7 Would those have been provided by the victim?

8 A. That is correct.

9 Q. So, that would have been Mr. Fuentes?

10 A. Exactly.

11 Q. And can you read No. 2 for us?

12 A. No. 2? I realize there was unauthorized
13 activity on my card on my account on 9-12, 2011. If my
14 card was lost or stolen, I realized my card was lost or
15 stolen on 9-11, 2011.

16 Q. And, again, this next page, are these just
17 questions in regards to the transactions and the
18 account?

19 A. That is correct. It's a series of questions
20 that our employees have to ask any time disputes are
21 being filed.

22 Q. And if you can, sort of read to us the first
23 and second question here.

24 A. Okay. The select reason for dispute. The
25 answer was: The transaction was not authorized by me.

1 The second one was, card possession status: I no longer
2 have possession of the card.

3 Q. And what about the next question?

4 A. The next question would be, card possession
5 status: The card was not in my possession.

6 Q. And then if you can skip down to the final two
7 questions. What information do you see there?

8 A. Why do you suspect this person? They were the
9 only ones around at the time. And how did they gain
10 access to your card or card number? Taken from table at
11 pool.

12 Q. And let me -- I'm sorry -- actually back up to
13 the third-to-the-last question. What is that?

14 A. Third to the last? Please provide me the name
15 and contact information of the person. Neighbors:
16 Chuck, Dustin, Gloria, Joleen. None of their last names
17 are known.

18 Q. And the question right before that is just: Do
19 you know or suspect who conducted the transaction. Is
20 that right?

21 A. That is correct.

22 Q. And on the next page in regards to the
23 questions, as of 9-12-11 what was the answer in regards
24 to filing a police report?

25 A. The answer is no.

1 Q. Now, what are we looking at right now
2 (indicating)?

3 A. This is the customer's statement that was
4 written by Mr. Justin -- Derick Fuentes that was
5 provided by him.

6 Q. And do you mind reading that for us?

7 A. I do not.

8 At the pool. Stolen from table while we
9 walked around. It was Derick Fuentes' wallet with his
10 driver's license, Woodforest Mastercard, state
11 inspection license. Left the pool around 8:30 p.m.,
12 went to the store to realize none of us had the wallet.
13 Looked for it all day on September 12th. Was not found.
14 Went to bank and realized they had made a couple of
15 transactions. Our neighbors were with us at pool. When
16 the -- went to Foot Locker, saw the video and realized
17 it was our neighbors, Chuck and Dustin, were on the
18 video. Chuck is the big guy and Dustin is the skinny
19 guy. They both live a -- at Savannah Place Apartments.
20 The address is 3003 Winterchase -- Windchase Boulevard,
21 Houston, Texas, 77082. And then it was signed and dated
22 by Mr. Fuentes.

23 Q. This next document, what is it (indicating)?

24 A. This is a -- the first page of Derick Fuentes'
25 bank statement. Statement period August 28th through

1 September 27th, 2011.

2 Q. So, this document would have been made at least
3 after September 27th. Is that fair to say?

4 A. Correct.

5 Q. So, this is after all the initial charges and
6 everything is settled out in the account?

7 A. That is correct.

8 Q. If we're looking at these transactions, would
9 we see a cancelled transaction?

10 A. No. Cancelled transactions would not show on a
11 customer's account, as it never processed through.

12 Q. So, if my card is swiped and there's a
13 pre-authorized charge at a place, would I be able to see
14 that online or instantly?

15 A. You -- we, the bank, might be able to see it as
16 far as a pending transaction --

17 Q. Right.

18 A. -- but you would not be able to see it on the
19 bank's final statement or the customer's final statement
20 if it was dropped off.

21 Q. So, it's possible for a customer to see a
22 pending transaction in the bank, right?

23 A. Correct.

24 Q. On a certain date?

25 A. Correct.

1 Q. And come back a couple weeks later with the
2 official record and it not be present?

3 A. That is correct.

4 Q. And that is the case for any transaction that
5 is not completely accepted or processed?

6 A. That is correct.

7 Q. So, that goes for cancelled transactions?

8 A. Correct.

9 Q. Declined transactions?

10 A. Correct.

11 Q. So, if it doesn't process, you're not going to
12 see it in here?

13 A. That is correct.

14 Q. In your opinion, would the pre-authorized
15 transaction that your bank is able to see at the time,
16 would that be an accurate representation?

17 A. I'm not sure what the question is.

18 Q. Sure. If there is a pre-authorized transaction
19 on my account with Woodforest --

20 A. Uh-huh.

21 Q. -- and I go to Woodforest Bank to see it, to
22 your knowledge, would those documents or would that
23 screen-shot be accurate?

24 A. Correct.

25 Q. Have you ever seen a screen-shot?

1 A. I have.

2 Q. And those screen-shots, are you able to go back
3 in time and create records of that?

4 A. Of screen-shots?

5 Q. Yes.

6 A. I would not be able to.

7 Q. So, in your experience, you've never been able
8 to go back in time and recreate those temporary
9 transactions?

10 A. Correct. We, the bank, cannot do that.

11 Q. So, it's a snapshot in time that you can only
12 capture once?

13 A. Correct.

14 MS. MANCE: Permission to approach the
15 witness, Your Honor?

16 THE COURT: Okay.

17 Q. (By Ms. Mance) I'm handing you what's been
18 marked as State's Exhibit No. 1. Can you look at this
19 document and see is there anything about it that you
20 recognize as being associated with Woodforest Bank
21 (indicating)?

22 A. This is a screen-shot of one of our bank
23 statements at the time at Woodforest.

24 Q. And what unique identifiers about this document
25 tell you that it is accurate?

1 A. Just the -- I guess the address at the bottom,
2 the date printed, you know, the way -- the formatting
3 and then the identifiers from the pending transactions
4 and how they're posted. This is a bank replica of what
5 we would have screen-shot.

6 Q. So, you see this address that links back to
7 Woodforest; is that correct?

8 A. That is correct.

9 Q. The format, as far as the account, names, the
10 number, the time, the date, all that that appears to be
11 consistent with your business?

12 A. With our business, absolutely correct.

13 Q. And as well as the format in regards to the
14 date, the time, and the location of the transaction.
15 Does that appear consistent with your bank?

16 A. Yes, it does.

17 Q. Just to be clear, you aren't the one who took
18 the screen-shot, but these appear to be accurate for
19 Woodforest Bank?

20 A. You are correct. I did not, but they do appear
21 to be accurate screen-shots of a Woodforest National
22 Bank Statement.

23 MS. MANCE: Your Honor, at this time, State
24 would offer State's Exhibit No. 1 and tenders to defense
25 counsel for inspection.

1 **(State's Exhibit No. 1 Offered)**

2 MR. NEYLAND: Your Honor, I object. This
3 is not an authenticated document. It's also hearsay.

4 THE COURT: Overruled. State's 1 is
5 admitted.

6 **(State's Exhibit No. 1 Admitted)**

7 Q. (By Ms. Mance) I'm going to take one moment to
8 take away the documents that we were looking at. I'm
9 going to show you what we've just admitted into
10 evidence.

11 Now, just to be clear, we have some
12 markings on here that are through some of the
13 screen-shot; is that right (indicating)?

14 A. Correct.

15 Q. And even with these markings, you're still able
16 to see the documentation that you need to see, right?

17 A. That is correct.

18 Q. Okay. So, let's talk about the document. Up
19 top, who's the accountholder (indicating)?

20 A. Derick M. Fuentes.

21 Q. All right. And the account number?

22 A. It's 7945.

23 Q. And would that be associated with the debit or
24 credit card or just the bank account itself?

25 A. That would be the last four of the bank account

1 number.

2 Q. Okay. So, that's different from your card
3 number, right?

4 A. Correct.

5 Q. What is the balance date?

6 A. The balance date is 9-13-2011.

7 Q. And what time?

8 A. It was at 12:38 p.m. central time.

9 Q. And then the "03," that's just going to be the
10 second count?

11 A. Yes, second. Correct.

12 Q. So, let's go to the very top. From what you
13 can read, what does that say?

14 A. The very top one? Start from the top?

15 Q. Yes.

16 A. It is an ATM transaction. It was for 22.47.
17 It was at Fuel Express in Houston. It was a
18 pre-authorization. The next one is an ATM transaction.
19 It was for 56.79, pre-authorized from Highfive Food Mart
20 in Houston, Texas.

21 Q. I'm sorry. Let me stop you right there. This
22 section that we're looking at, this is pending
23 transactions as of that time?

24 A. That is correct, pending at that time.

25 Q. Now, is it possible for all of these to read as

1 teller ATM and then down the road actually get put into
2 a different category?

3 A. Yes, it is.

4 Q. Okay. So, just because we see ATM right here
5 doesn't mean at the end of the day it's not going to be
6 qualified as --

7 A. As an ATM transaction.

8 Q. Okay. And so, we would look to the final bank
9 documents to see exactly how it was finally processed?

10 A. Correct. And they were processed as a
11 point-of-sale or POS transactions.

12 Q. Okay. So, ATM in the pending document later on
13 might show up as a point-of-sale, which is what we
14 traditionally think of as a card swipe?

15 A. Correct.

16 Q. Okay. Now, let's get to the third --

17 A. Third one --

18 Q. -- transaction.

19 A. The third one down states ATM for 48.91,
20 pre-authorized at Foot Locker. And they're in Houston,
21 Texas.

22 The fourth one is --

23 Q. I'm sorry. Let me stop you again.

24 A. No problem.

25 Q. Can you read the date and the time for that

1 particular card swipe?

2 A. Date and time? It looks to be 9 -- 9-12, 2011
3 at 1:35:05 p.m.

4 Q. And so, that would be the exact time that the
5 transaction goes through as far as you can --

6 A. That it was processed and sent to Woodforest.

7 Q. And based on your experience if we're able to
8 go to this location at that exact time, that exact day,
9 we would expect to see, perhaps, that card being used.
10 Is that fair to say?

11 A. That is fair to say, yes.

12 Q. So, something like a surveillance video might
13 show the exact time and date that that transaction
14 happened. Is that fair to say?

15 A. Correct.

16 Q. Okay. And let's skip down. If you can go to
17 the actual posted transactions. I know that's sort of
18 unclear. At what point do you see that the account is
19 overdrawn?

20 A. That would be on 9-12, 2011, it became
21 overdrawn, it looks like, \$50.16. Processed by an
22 overdraft fee of \$34.

23 Q. So, in your experience, any transaction that
24 happens after the account is overdraft -- over-drafted,
25 it may or may not actually go through. Is that fair to

1 say?

2 A. That is correct.

3 Q. So, it wouldn't be out of the ordinary for one
4 of your businesses to get some sort of prompt from the
5 bank about the status, if you know?

6 A. I don't know that.

7 Q. Okay. But after this point, the funds are not
8 in the account, right?

9 A. Correct.

10 Q. And that would affect all of these pending
11 transactions possibly?

12 A. That is correct.

13 Q. Let's go back to the bank records, then, that
14 we were looking at. So, again, we have the account
15 that's ending in 7945, right?

16 A. That is correct.

17 Q. And that's the actual account number that's
18 associated with the victim in this case, right?

19 A. Correct.

20 Q. Under the deposits and other credits, what does
21 this section tell us?

22 A. This tells us all credits that were applied to
23 the -- to the customer's account.

24 Q. And this would have been after the fraud
25 dispute in the end of the statement period on

1 September 27th of 2011?

2 A. That is correct.

3 Q. So, again, at this point anything that didn't
4 actually get authorized is not going to be represented,
5 right?

6 A. True.

7 Q. Can you tell us how many disputes or credits
8 were given back to the account at this point?

9 A. It looks like there's eight total credits that
10 were applied to the account.

11 Q. And can you go through and just identify by the
12 amount and the location --

13 A. Okay. The first one --

14 Q. -- for the credits?

15 A. -- from the top to bottom, it was on 9-7.
16 There was a deposit. It seems to be by our customer for
17 1,148.93. The next one, which would be 9-14, it looks
18 to be a 36-dollar refund from the bank. The third one
19 down is for 215.58, which was a deposit made by the
20 customer. The fourth one down, it was for 12.98. It
21 was a point-of-sale credit dispute from West Wind
22 Mini-Mart.

23 The next one down is 30.24, which is a POS
24 credit, a dispute from Texaco. The next one down is for
25 56.79. It's a POS credit from dispute from Highfive

1 Food Mart. The next one down is \$66, which is another
2 refund from the bank. And the last one is for 66.39,
3 which is four -- four disputes that were credited to the
4 customer's account.

5 Q. Are there any particular reasons why the last
6 four disputes aren't listed out or does it just depend?

7 A. To be -- it kind of depends on how they
8 processed them, but I would not be able to explain why
9 particularly.

10 Q. Let's go to the next page. Have you had an
11 opportunity to sort of go through these transactions on
12 this page?

13 A. I have.

14 Q. And are these withdrawals?

15 A. These are withdrawals, yes, withdrawals and
16 debits from the customer's account.

17 Q. Now, of the three disputes that we've gone
18 through, do you see them being processed here as a
19 withdrawal or debit?

20 A. Yes, I do.

21 Q. Now, if you'd turn to that screen that's right
22 next to you, you can make a mark by pressing your finger
23 down.

24 Can you just press your finger down over
25 the three specific locations that we went over earlier?

1 A. The locations? Okay. Do I just highlight
2 them?

3 Q. Yeah. Probably not over the amounts.

4 A. Oh, sorry.

5 Q. Just next to the amount.

6 A. My apologies.

7 Q. That's okay.

8 A. There you go (indicating).

9 Q. And were you able to find the other four
10 disputes that total 66.39?

11 A. I was.

12 Q. And can you highlight those for us as well?

13 A. Okay (indicating).

14 I did not mean to do that.

15 Q. That's okay.

16 All right. And so, which -- if you can
17 just read that for us, which are those that equal --

18 A. The four?

19 Q. Yes.

20 A. The four are 14.50. It's a debit card -- or a
21 point-of-sale transaction at Harvey -- Harvey's, The Dam
22 Ice in Houston. There is 15.50, which is a
23 point-of-sale transaction at Harvey's The Dam Ice in
24 Houston, Texas. There is a 13.92 -- or -- yes -- 13.92
25 point-of-sale transaction at Jack-In-The-Box there in

1 Houston, Texas. And there's a 22.47 debit card dispute
2 for Fuel Express in Houston, Texas.

3 Q. So, of all of these transactions, how many
4 times do you see that the West Wind Mini-Mart was used?

5 A. I see the West Wind Mini-Mart, looks like,
6 three times.

7 Q. Now, is it possible that when you have
8 transactions coming from the same place three different
9 times, that someone could overlook that particular
10 transaction?

11 A. It is possible, yes.

12 Q. And would that be a fair explanation as to why
13 one of those West Wind Mini-Marts weren't covered?

14 A. I would say so.

15 Q. And all of these transactions posted between
16 9-12 and 9-14?

17 A. That is correct.

18 Q. Now, does that necessarily mean that's when the
19 card was swiped or just when it was finally processed?

20 A. When it was processed.

21 Q. So, those days could be a little off here or
22 there?

23 A. That is correct.

24 Q. And, again, as far as transactions -- as far as
25 seeing a transaction when it literally has been swiped,

1 would screen-shots be the best view for the bank?

2 A. For the bank, yes.

3 Q. And the remaining pages of the document, would
4 it be fair to say that those continue far beyond the
5 time period that we're looking at?

6 A. That would be correct.

7 Q. So, after the disputes were resolved?

8 A. Uh-huh, that is correct.

9 MS. MANCE: Pass the witness.

10 THE COURT: Mr. Neyland.

11 MR. NEYLAND: Thank you, Judge.

12 **CROSS-EXAMINATION**

13 **BY MR. NEYLAND:**

14 Q. At what date and time was the card cut off
15 after it was reported stolen?

16 A. I do not have that information.

17 Q. Do you have any idea what day it was cut off?

18 A. Usually when -- I would assume on 9-12. I can
19 only make an assumption at this point, only because
20 typically when a customer files disputes, we, in most
21 cases, shut the card down at that point.

22 Q. And on these point-of-sale transactions, is
23 there any way to see if a PIN number was entered?

24 A. If a PIN number was entered? I would have to
25 consult with our dispute process -- our processing

1 department to see if there was a PIN number entered or
2 not.

3 Q. Well, where it says: POS DB, "DB" means debit,
4 correct?

5 A. Debit.

6 Q. Now, if it's run through as a credit, would it
7 indicate any differently?

8 A. I would not be able to tell you.

9 Q. So, is it possible that -- so, it's very
10 possible these could have been debit transactions with a
11 PIN number?

12 A. I would say -- I mean, it could possibly be.

13 Q. So, in Woodforest's system -- and I know you
14 said that you couldn't pull the record up, but in
15 Woodforest Bank's system there's no way of getting a
16 record of a declined charge or an authorization that
17 went through and didn't post?

18 A. An authorization, as to my knowledge, I'm not
19 able to pull. For example, that other page that showed
20 pending transactions, if those were to fall off and not
21 be processed, I would not be able to recreate that.

22 Q. Would somebody else be able to recreate that?

23 A. Not to my knowledge.

24 Q. So, in a fraud investigation you really
25 wouldn't know whether a card was used or not if the

1 authorization didn't actually go through?

2 A. If the card was used or not?

3 Q. Correct.

4 A. I would not.

5 Q. So, when they do these screen-shots, is there a
6 file that they put them in to show where the card was
7 being used?

8 A. I would not be able to answer that question
9 because I'm not sure who even performed that
10 screen-shot.

11 Q. Do you even know where this screen-shot came
12 from?

13 A. I do not.

14 Q. It is possible it could have been created by
15 somebody other than a Woodforest representative?

16 A. I would not be able to -- I can only attest to
17 it looks like a -- one of our screen-shots based off of
18 our system.

19 Q. But we don't know if an actual Woodforest
20 employee even pulled this up?

21 A. I do not. I do not.

22 Q. Now, times listed on these authorizations, is
23 that -- does it go with like the atomic clock or is it
24 just whatever your computer is set up as?

25 A. It's when the file is received, when the card

1 is processed or swiped and once that -- by a merchant,
2 then when it's sent over, it's uploaded to the system.

3 Q. So, I guess, my question is, like, my cell
4 phone probably shows a different time than my watch,
5 shows a different time than my computer. What time is
6 this coming from, the merchant, or is this coming from
7 your system when it's received?

8 A. Our system when it's received.

9 Q. So, it's possible that the dates and times
10 could even be off from what a video would show?

11 A. It is possible, yes.

12 MR. NEYLAND: Nothing further, Your Honor.

13 THE COURT: Ms. Mance.

14 MS. MANCE: Very briefly, Your Honor.

15 **REDIRECT EXAMINATION**

16 **BY MS. MANCE:**

17 Q. The "DB" transactions that we were looking at,
18 do your debit cards at Woodforest Bank allow you just to
19 hit your debit card and run it as a credit card?

20 A. To be able to sign your signature on it?

21 Q. Yes.

22 A. It does.

23 Q. And so, would that also post as "DB"?

24 A. I would not be able to confirm that with a
25 hundred percent certainty.

1 Q. But it's not outside the realm of possibility?

2 A. No.

3 Q. And your debit cards allow for you to select
4 run as credit?

5 A. Debit or credit, correct.

6 Q. And the time stamp that we talked about,

7 1:35:05 p.m. on 9-12-11 --

8 A. Uh-huh.

9 Q. -- do you have that?

10 A. I don't have that one. Is that the screen-shot
11 one?

12 Q. Yes, the screen-shot.

13 A. Okay.

14 Q. Does that appear to be the exact same time on
15 this particular photo?

16 A. That is correct.

17 MS. MANCE: Pass the witness.

18 THE COURT: Mr. Neyland.

19 MR. NEYLAND: Nothing further, Your Honor.

20 THE COURT: You may step down, sir.

21 Let's go to lunch. Please retire to the
22 jury room.

23 (Lunch recess)

24 (Open court, defendant and jury present)

25 THE COURT: All right. Be seated.

1 Ms. Mance.

2 MS. MANCE: Your Honor, the State would
3 call Derick Fuentes.

4 THE COURT: Okay. All right. Ms. Mance.

5 MS. MANCE: Thank you, Your Honor.

6 Permission to approach the witness?

7 THE COURT: Okay.

8 **DERICK FUENTES,**

9 having been first duly sworn, testified as follows:

10 **REDIRECT EXAMINATION**

11 **BY MS. MANCE:**

12 Q. Mr. Fuentes, I'm handing you what's been marked
13 as State's Exhibits No. 3 through 10. Can you just flip
14 through these for a moment and tell me if you recognize
15 those (indicating)?

16 A. Yes, I recognize these.

17 Q. Are these video stills of the video that you
18 watched at Foot Locker that day?

19 A. Correct.

20 Q. Now, in these photographs as well as the video
21 that you observed, can you identify the individual using
22 your card?

23 A. Correct.

24 Q. Okay. And who is that individual?

25 A. Dustin.