Here is the Dialogue immediately preceding this extract (conversational context):

“Attorney: Do you know that SWAT officers often have night vision goggles?

Witness (Officer Scott Weimerskirch): I, in fact, also do have night vision, yes.

Attorney: And those allow you to see in the night, don't they?

Witness (Officer Scott Weimerskirch): You can see things in the night, yes.

Attorney: You also have a dog who can see in the dark, right?

Witness (Officer Scott Weimerskirch): They can see, but not as well.

Attorney: They can see much better than human beings, can't they?

Witness (Officer Scott Weimerskirch): That's not totally correct.

Attorney: They can see in the night better than a human being can see in the night, can't they?

Witness (Officer Scott Weimerskirch): They pick up different, their eyesight's different than ours.

Witness (Officer Scott Weimerskirch): They see two-dimensional, they might pick up movement better, but...

Witness (Officer Scott Weimerskirch): If someone's standing perfectly still, if they can't make out the form, they're not going to see exactly what we see.

Attorney: You ever take pictures of your dogs?

Attorney: Yes.

Attorney: I'm going somewhere with this, Your Honor.

SPEAKER\_04: Well, I'd like to know where you're going.

Attorney: If you could tell me.

Attorney: Your Honor, dogs have a special layer in their eye that allows them to pick up greater levels of ambient light.

Attorney: It's the reason why a dog's eyes turn yellow when you take a picture of them with the flash on.

Attorney: And I'm sure this officer is familiar with that, having worked with dogs for 23 years.

SPEAKER\_04: Well, the question I have is how is this relevant?

SPEAKER\_04: I mean...

Attorney: Again, these officers have all testified that a huge concern for them was the level of light out there in the night.

Attorney: And this is all going to show that they had tools, in addition to lights, that allow them to apprehend Mr. Boyd and maintain the carefully constructed perimeter they had.

Attorney: Again, it shows that they didn't have to escalate this encounter the way that they did.

SPEAKER\_04: Well, I'm going to sustain the objection as we...

SPEAKER\_04: is my understanding what the officer's belief is how a dog can see or not see at night.

SPEAKER\_04: All right, fair enough.

Attorney: Maybe we'll ask the dog.

Attorney: Speaking of your dogs, there are rules when you're allowed to use your dog on someone.

Attorney: Is that correct?

Witness (Officer Scott Weimerskirch): That is correct.

Attorney: You have to have what you call charges, right?

Witness (Officer Scott Weimerskirch): That is correct.

Attorney: And what you mean by that is you have to know that they have an outstanding felony that you have the authority to arrest them for or something to that effect?

Witness (Officer Scott Weimerskirch): We weigh the fact on felony-type charges, yes.

Attorney: And you always want to try and find that out before you end up using the dog on the person, is that correct?

Witness (Officer Scott Weimerskirch): That is correct.

Witness (Officer Scott Weimerskirch): Give us a legal reason to be there.

Attorney: We've seen some portion of your lapel camera footage where you talked to officers to get that information, but at one point you actually radioed and made that request to find that out over the air, didn't you?

Witness (Officer Scott Weimerskirch): That is correct.

Attorney: Let's play a portion of that lapel camera, which has already been admitted as the defense exhibit here.

Attorney: This is your lapel camera.

Unknown Speaker: 754 to 755, I'm 74, we have felony aggravated assault on 34 charges.

Attorney: In that portion of your lapel camera, when you're approaching a situation that you might have to use something as dangerous as your dog on, you shouldn't be excited about that opportunity, right?

Witness (Officer Scott Weimerskirch): No.

Witness (Officer Scott Weimerskirch): Obviously, our goal in the end is to have a peaceful resolution.

Attorney: Even so, when you asked over the radio if there were charges on Mr. Boyd that would authorize you using the dog, there's a portion on there where it appears that you say, save for the tape.

Witness (Officer Scott Weimerskirch): That is correct.

Attorney: And you knew Mr. Boyd was mentally ill, didn't you?

Witness (Officer Scott Weimerskirch): I didn't have the exact thing, but based on his comments in my...

Witness (Officer Scott Weimerskirch): interaction with him.

Witness (Officer Scott Weimerskirch): He was saying things that concern me, yes.

Attorney: In fact, a few times over the radio, you described some of the statements he was making as, is it 1070?

Witness (Officer Scott Weimerskirch): Actually, it would be 1040.

Unknown speaker: 1040?

Witness (Officer Scott Weimerskirch): Okay.

Attorney: 1040 means mentally ill?

Witness (Officer Scott Weimerskirch): Yes.

Witness (Officer Scott Weimerskirch): Or mental patient is the exact thing we're taught in the academy.

Attorney: He had tried to come down from that mountain several times, hadn't he?

Witness (Officer Scott Weimerskirch): He'd always agree to walk down.

Witness (Officer Scott Weimerskirch): That's correct.

Attorney: In fact, most of the time you were there, you believed he did want to come down.

Attorney: Under his own accord.

Witness (Officer Scott Weimerskirch): Sure.

Attorney: Whenever you or other officers got closer to him as he tried to come down, his behavior would change, right?

Witness (Officer Scott Weimerskirch): Yes.

Attorney: And that's part of the reason why you maintained a safe distance most of the time you're interacting with Mr. Boyd, right?

Witness (Officer Scott Weimerskirch): That is correct.

Attorney: You've been trained that keeping a safe distance helps keep you and the subject safe, right?

Witness (Officer Scott Weimerskirch): Yes, I can.

Attorney: There are many times that he pulled out his knives, but because of that distance, you weren't in any danger, right?

Witness (Officer Scott Weimerskirch): I disagree.

Attorney: You're saying that you were in danger even though he was, for example, 40 feet away?

Witness (Officer Scott Weimerskirch): If he closed distances, it's alarming to me that I'm in a uniform and he's making threats and pulling out knives.

Witness (Officer Scott Weimerskirch): There's always danger there because I'm still dealing with a human being that's making threats toward us.

Attorney: Okay, well, at least by maintaining that distance, you were never close enough that he could actually reach out to you unless he closed the distance, right?

Witness (Officer Scott Weimerskirch): That's correct, not at that time.

Attorney: But it wasn't just the distance in that scene of the shooting that you thought made you safe.

Attorney: You've actually said that you believed the terrain out there was difficult for him to navigate to.

Witness (Officer Scott Weimerskirch): When he was up above and we're down below to come down, yes, in fact, it would cause him to delay coming down the hill if you're referring to that portion.

Attorney: Yeah, he was on what you've described as a small game trail with loose rocks is where he would have had to come to get to you at some point?

Witness (Officer Scott Weimerskirch): At some point, are you talking when I was down below or actually closer?

Attorney: Yes.

Witness (Officer Scott Weimerskirch): When I was down below?

Witness (Officer Scott Weimerskirch): Yes, he'd have to negotiate rocks and distance and come around.

Witness (Officer Scott Weimerskirch): It appeared to me it was like a rock face.

Witness (Officer Scott Weimerskirch): He'd have to maneuver around those rocks and come down to his cell.

Attorney: So in this demonstration, Mr. Bregman, you're representing the entire elevation.

Attorney: There are no loose rocks or boulders in front of it, right?

Witness (Officer Scott Weimerskirch): There's still rocks and cactus up on the upper level.

Attorney: I mean, in Mr. Brightman's demonstration here in the courtroom, there are no loose rocks or boulders, right?

Witness (Officer Scott Weimerskirch): There's nothing here, no.

Attorney: But at some point, you and the team group you're with moved closer to him.

Witness (Officer Scott Weimerskirch): Yes, to effect an arrest.

Attorney: You told us that you take full responsibility for this plan, so let's talk about the plan.

Attorney: You've been a canine handler, as you said, for about 29 years now.

Witness (Officer Scott Weimerskirch): That's incorrect.

Attorney: I'm sorry, 23 years, sorry.

Witness (Officer Scott Weimerskirch): Yes.

Attorney: Okay.

Attorney: Now, you know that some of these dogs are trained using shock collars?

Witness (Officer Scott Weimerskirch): They're trained to give a stimulus through what we call an electronic collar.

Attorney: Okay, so an electronic collar gives a stimulus, is that right?

Attorney: That is correct.

Attorney: Is that stimulus a shock?

Witness (Officer Scott Weimerskirch): It could be similar to, say, if you go to a chiropractor.

Witness (Officer Scott Weimerskirch): Have you ever been to a chiropractor?

Witness (Officer Scott Weimerskirch): I'm just trying to give you an analogy.

Attorney: Sure.

Witness (Officer Scott Weimerskirch): And you have the electric stimulus.

Witness (Officer Scott Weimerskirch): It's the same kind of stimulus, and some of them are actually patterned after similar things.

Attorney: Okay.

Attorney: So it's an electric stimulus of some sort.

Attorney: And you know that there's a possibility of a dog...

Attorney: feeling that same kind of electric stimulus they've been trained on and reacting to it, right?

Witness (Officer Scott Weimerskirch): That's correct.

Attorney: Or even hearing that electric stimulus might impact the way that the dog reacts.

Witness (Officer Scott Weimerskirch): Yes, it could.

Attorney: So what you're telling us here today is that even with your 23 years of experience handling dogs, you were the one that came up with the plan that involved shooting an electronic stimulus device at the same person you were going to

Attorney: send a dog that's been trained not to bite when they hear an electric stimulus device?

Witness (Officer Scott Weimerskirch): Ideally, if you allow me to answer,

Witness (Officer Scott Weimerskirch): In this case, before Mr. Boyd put on an additional sweatshirt, I thought it was a great, viable, less lethal tool because if it functions as designed, it gives us 20 seconds in which to take Mr. Boyd into custody.

Attorney: So at least at one point, you were the one that came up with the plan of combining those two elements.

Attorney: Is that fair to say?

Witness (Officer Scott Weimerskirch): Ideally, like I said, the tool works as designed, then we'd use a taser shotgun because that gives us a standoff ability in 20 seconds to take Mr. Boyd into custody.

Attorney: Taser shotgun plus dog.

Witness (Officer Scott Weimerskirch): Dog only if we employed the taser shotgun because of distance issues.

Witness (Officer Scott Weimerskirch): If he moved and ran, that would be what I perceive as an opportunity for there to actually deploy the dog after the fact.

Attorney: We've all seen the video, so we know that you and Detective Sandy and Sergeant Ingram approached Mr. Boyd.

Attorney: He doesn't approach you.

Attorney: At some point as you all are approaching him, he pulls out the knives, right?

Witness (Officer Scott Weimerskirch): That is correct.”

Here is the conversation between Witness Officer Scott Weimerskirch and the judge/attorney that you are supposed to analyze for factuality:

“Attorney: Now, at one point, you saw him turning, and then you heard shots after you saw him turning.

Witness (Officer Scott Weimerskirch): From my recollection, as I saw him pull out the two knives, and then they go back, I'm going down, and all I can see is basically, from my vantage point, is his feet is just turning to what appears to be possibly to the east.

Attorney: So you saw him turning and then you heard the shots, right?

Witness (Officer Scott Weimerskirch): At that point, I was just looking at his feet, so I'm assuming he was turning and went down to the ground.”