

PREPARED BY THE COURT

STATE OF NEW JERSEY

Plaintiff,

v.

PAUL J. CANEIRO

Defendant.

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION: CRIMINAL PART
MONMOUTH COUNTY

INDICTMENT No. 19-02-0283-I
CASE No. 18-4915

ORDER

THIS MATTER having been opened to the Court on April 8, 2025, April 9, 2025, and April 10, 2025 for purposes of conducting a testimonial hearing concerning the State's motion to admit narration testimony pursuant to State v. Watson, 254 N.J. 558 (2023), and said hearing having been conducted on application of Raymond S Santiago, Monmouth County Prosecutor, by Christopher J Decker, Deputy First Assistant Prosecutor, and Nicole Wallace, Assistant Prosecutor, for the State of New Jersey, upon notice to and in the presence of defendant Paul J. Caneiro, represented by Monica Mastellone, Esq. and Victoria Howard, Esq.; and the Court having heard the credible testimony of Detective Ryan Mahoney, Captain Brian Weisbrot, and Lieutenant Patrick Petruzziello, and the Court having reviewed all items marked into evidence during the hearing, and having incorporated all submitted briefs into the record in accordance with Rule 2:6-1(a)(2), and for reasons stated in the written decision accompanying this order, and for good cause shown;

IT IS on this 6th day of May, 2025;

ORDERED that the State's Motion to allow Detective Ryan Mahoney, Captain Brian Weisbrot, and Lieutenant Patrick Petruzzello to offer narration testimony as to certain video evidence submitted by the State is **Granted** as delineated in this order and decision, and as stated on the record. The court specifically finds that the testimony is rationally based on the witness' perception and will assist in understanding the witness' testimony or determining a fact in issue; and it is further

ORDERED that narration testimony, subject to proper foundation, is permitted to describe the location and orientation of all the cameras in question. Observations that vehicles seen travelling between the visual fields of cameras connected to the same system, or with fields of view immediately adjacent or overlapping one another, are the same vehicle are permitted. There will be no witness testimony suggesting that vehicles depicted on cameras that are geographically or temporally separated from one another are the same vehicle or concerning other facts reasonably in dispute. Discrepancies between times displayed on video feeds and actual time can be explained once proper foundation is established. Statements suggesting a specific color of vehicle is shown in the video are not permissible, but factual statements of lighter or darker areas and specific factual statements as to visible features of a vehicle are permitted to the extent they are consistent with this decision; and it is further

ORDERED that the State shall provide a list of focused questions designed to elicit helpful and permissible responses to opposing counsel and this Court, as well as a proposed jury instruction that shall at a minimum inform the jury that "they, and not a narration witness, are to decide what a video shows, and that they may reject any narration testimony." Watson, 254 N.J. at 605. Both the list of questions and the proposed jury instruction shall be provided by May 30, 2025; and it is further

ORDERED that parties are to meet and confer to determine that all facts in reasonable dispute are known and understood by all parties, and the Court is to be advised if any portion of this order requires clarification or fails to address a pending issue; and it is further

ORDERED that nothing in this court's decision limits the State from making certain arguments before the jury in summation that are rationally based on the evidence; and it is further

ORDERED that a copy of this order shall be served upon all counsel of record via e-courts.



Hon. Marc C. Lemieux, A.J.S.C.

See Statement of Reasons dated May 6, 2025

NOT FOR PUBLICATION WITHOUT THE APPROVAL OF THE COMMITTEE ON OPINIONS

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SUPERIOR COURT OF NEW JERSEY

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STATEMENT OF REASONS

Lemieux, A.J.S.C.

INTRODUCTION

On November 20, 2018, authorities discovered Keith Caneiro deceased outside his burning home in Colts Neck, New Jersey. After firefighters extinguished the fire, they found his wife, Jennifer Caneiro, and the couple's two children deceased inside. Investigators later determined that all four family members died as a result of homicide. Earlier that same day, police and fire personnel responded to a fire at the Defendant's residence in Ocean Township, New Jersey, which investigators later ruled suspicious. Authorities have charged the Defendant with murdering all four members of the Caneiro family and committing arson at both homes.

During the investigation, the State uncovered home security footage from both burned residences and additional footage from five neighboring properties. Law enforcement personnel reviewed video from the early morning hours of November 20, 2018, and reconstructed a proposed timeline of events. According to the State, the footage depicts a vehicle traveling from the Defendant's home to Keith Caneiro's residence and returning approximately one hour and twenty minutes later. In several videos, the State claims that it can identify the vehicle's make and model.

Detectives also examined footage from inside Keith Caneiro's garage, which they claim shows a figure's silhouette moving outside the translucent garage door. Additionally, they reviewed footage from the Defendant's home, which the State believes shows the Defendant deactivating his own security cameras.

The State has filed this motion to admit lay witness testimony from investigators who reviewed the surveillance footage after the events occurred. The State submitted proffer testimony of three witnesses in preparation for an N.J.R.E. 104 hearing.

SUMMARY OF ARGUMENTS:

The State argues that the proposed testimony includes specific observations that will assist the jury in determining key facts. The State plans to call Detective Ryan Mahoney, who participated in the initial crime scene investigation at 15 Willow Brook Road. Detective Mahoney reviewed security footage from several properties between 15 Willow Brook and the Defendant's home. He will testify about the reconstructed route and timeline that the Defendant's vehicle allegedly followed on the morning of November 20, 2018.

Captain Brian Weisbrot will testify about video clips taken from the Defendant's garage security cameras, as well as still images that the Defendant's home security system sent to his email. Captain Weisbrot also reviewed footage from a neighboring property. The State seeks to have him testify about how the fire at the Defendant's home progressed and about brief moments in the footage that they allege show vehicles entering and exiting the Defendant's driveway.

Lieutenant Patrick Petruzzielo will testify about interior garage camera footage from Keith Caneiro's home. He reviewed the footage and noted several periods of movement and sounds of off-camera activity. The State wants him to explain the significance of those events and describe

the camera's orientation relative to the garage layout and key features like the home's electrical panel and generator.

The Defendant concedes that some testimony explaining the cameras' positioning and the roads or properties in view could help the jury understand the footage. However, the Defendant objects to testimony that ventures beyond this, claiming it would be speculative, prejudicial, and unhelpful. The Defendant argues that such testimony could interfere with the jury's role in drawing conclusions. He further contends that some of the video footage lacks sufficient clarity to support the State's claims, and that the jury alone should determine what weight to assign to these nighttime videos. The Defendant also asserts that testimony regarding vehicle features or make and model determinations would require expert qualifications.

Both parties agree that, when a nearby security camera provides an uninterrupted view of a vehicle, it is reasonable to infer that the same vehicle appears across frames. However, this logic does not apply when cameras are set several hundred yards, or several miles apart.

Regarding footage from the Defendant's home, the Defendant opposes any testimony that identifies individuals or narrates activity beyond basic information about camera angles and fields of view. He insists that the jury should interpret the rest independently. The Defendant raises even more substantial objections to the footage from Keith Caneiro's garage, maintaining that commentary beyond the basic layout and visible area outside the frosted window would be speculative.

In this motion, the court will first evaluate the general scope of each witness's proposed testimony. It will then assess each surveillance camera individually, summarizing the narration topics both parties have agreed upon and those still in reasonable dispute. The court will provide guidance on what topics and levels of detail each witness may address. It will also require the State

to draft appropriately limited questions and direct all counsel to meet and confer before jury selection to resolve any outstanding objections. The court acknowledges that while some topics fall outside the scope of proper lay witness testimony, they may still be appropriate for closing arguments.

LAW

“[N]o single rule is a perfect fit for narration evidence by a witness who did not observe events depicted in a video in real time. To resolve the issue of admissibility, [courts must] borrow from key aspects of Rules 701, 602, and 403.” State v. Watson, 254 N.J. 558, 599 (2023).

A. N.J.R.E. 701 and N.J.R.E. 602.

The admissibility of lay opinion testimony in general is governed by N.J.R.E. 701. N.J.R.E. 701 requires that a lay witness’s testimony is “(a) rationally based on the witness’s perception and (b) will assist the jury in understanding the witness’s testimony or determining a fact in issue.”

The first prong of N.J.R.E. 701 requires that lay opinion testimony be based on the witness’s “perception,” which ‘rests on the acquisition of knowledge through the use of one’s sense of touch, taste, sight, smell or hearing.’” Watson, 254 N.J. at 592 (quoting State v. Higgs, 253 N.J. 333, 363 (2023)). The Watson Court has determined that the analysis as to whether a witness who was not present at an event has nonetheless acquired knowledge of it based on their direct perception is governed by N.J.R.E. 602:

Underlying Rule 701 is a basic principle set forth in N.J.R.E. 602: A witness may testify to a matter only if evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the witness’ own testimony.

[Watson, 254 N.J. at 591.]

“This ‘requirement of firsthand knowledge … represents a most pervasive manifestation of the common law insistence upon the most reliable sources of information....’” State v. Chen, 402 N.J. Super. 62, 79 (App. Div. 2008), aff’d as modified, 208 N.J. 307 (2011) (quoting Daubert v. Merrell Dow Pharmas., 509 U.S. 579, 592 (1993)). “[F]irsthand knowledge [is] that which comes to the witness through his own senses, mostly sight and hearing. The threshold showing is low, requiring only enough to support a finding by some rational juror of personal knowledge.” Watson, 254 N.J. at 592 (internal citations omitted).

For narration testimony, the perception in question is not a firsthand account. “The witness is instead commenting on an independent source of evidence -- an objective recording of the event. And the testimony offered is based on the witness's direct perception of the video.” Watson, 254 N.J. at 601. Although their testimony is subject to limitations beyond those of an eyewitness, “[a]n investigator who has carefully reviewed a video a sufficient number of times prior to trial can [] satisfy the rules' ‘perception’ and ‘personal knowledge’ requirements as to what the video depicts.” Ibid.

In State v. Sanchez, the Supreme Court held that a “witness need not have witnessed the crime or been present when the photograph or video recording was made in order to offer admissible testimony.” 247 N.J. 450, 469 (2021). There, a probation officer was permitted to identify a defendant from a surveillance video based on prior knowledge of the defendant's appearance. Ibid.

In Sanchez, the probation officer “had met with the defendant on many occasions” and “the officer's contacts with the defendant ‘enable[d] her to identify him … more accurately than a jury could[.]’” Watson, 254 N.J. 593–94 (quoting Sanchez, 247 N.J. at 474–75). These multiple in-person meetings formed a sufficient basis of knowledge for the witness to apply to their

identification of the defendant through a surveillance photo. “[T]he quality of the surveillance photo in [Sanchez] -- neither too blurry nor too clear -- also weighed in favor of admitting the testimony.” Watson, 254 N.J. at 594.

In State v. Lazo, however, a detective’s testimony that he had selected the defendant’s photo from an array after viewing a composite sketch was based on a secondhand description and thus impermissible. 209 N.J. 9, 23 (2012). The identification of the defendant by comparing a photograph to a drawing was not rationally based on the detective’s acquisition of knowledge through his own senses, since there was no firsthand meeting with the defendant to form the necessary foundation of perception. Even commentary on the similarities between the composite sketch and the photo of the defendant “intruded on the jury’s role” since the witness had “no personal knowledge of that critical, disputed factual question.” Id. at 22.

The Court also found the identification in Lazo did not satisfy the second prong of Rule 701 and did not assist the jury, since “when there is no change in a defendant’s appearance, juries can decide for themselves—without identification testimony from law enforcement—whether the person in a photograph is the defendant sitting before them.” Ibid.

N.J.R.E. 701’s second prong requires testimony to “assist the trier of fact . . . by shedding light on the determination of a disputed factual issue.” State v. Singh, 245 N.J. 1, 15 (2021). Applying this prong to “whether narration evidence is helpful turns on the facts of each case.” Watson, 254 N.J. at 558.

“Rule 701’s helpfulness prong can be satisfied when an investigator draws attention to key details that might be missed, or helps jurors follow potentially confusing, complex, or unclear videos that may otherwise be difficult to grasp.” Ibid. There may be “other reasons to allow limited narration testimony,” but courts must consider any offered purpose “with care.” Ibid.

“There is no requirement in N.J.R.E. 701 that the testifying lay witness be superior to the jury in evaluating an item. The Rule simply states, in subsection (b), that the witness's testimony must assist in understanding the witness' testimony or determining a fact in issue.” Singh, 245 N.J. at 19 (internal citations omitted). Helpfulness “does not require the lay witness to offer something that the jury does not possess.” Ibid.

In Singh, a detective testified “as to the similarity between the sneakers he observed on [a] surveillance video and the sneakers he observed defendant wearing when [detective apprehended] defendant.” Ibid. The witness “had first-hand knowledge of what the sneakers looked like Therefore, his lay witness opinion as to the similarities between the sneakers from the surveillance footage and the sneakers he saw that night was rationally based on his perception . . . and assisted the jury in determining the [defendant's] identity.” Id. at 20. That testimony did not “usurp[] the jury's role” because the witness “never stated that the sneakers seen in the surveillance footage were the sneakers he saw defendant wearing that night.” Ibid. It was only a helpful comparison and was based in part on the witness's firsthand observation of the shoes in question.

Narration testimony was not found helpful in State v. Higgs, where a police detective testified to a portion of dashcam footage that showed a bulge in the defendant's waistband and noted that it “appeared to be a firearm based on his 27 years of law enforcement experience” State v. Higgs, 253 N.J. 333, 365 (2023). The Court ruled that to be impermissible lay opinion testimony as “the jury was able to view the video and determine for themselves what the video showed.” Id. at 366.

In contrast with Singh, the officer in Higgs had not personally examined the firearm in question, and the ultimate fact in dispute was “the important issue of the gun's placement” rather than merely identifying whether a gun was present in the video. Id. at 366. The video “was not

overly complex and did not involve a lot of activity or a chaotic scene that the jury needed assistance viewing" and determining where the gun was located at a specific moment was a "task [] for the jury alone." Ibid.

When testimony is based solely off the review of surveillance footage, there is a delicate balance between assisting a jury and intruding "on a matter . . . as to which the jury is as competent as he to form a conclusion." Ibid.

B. N.J.R.E. 403

In light of the holdings in Higgs and Singh, and considering whether narration testimony satisfies the helpfulness prong, the Watson Court also found the principles of N.J.R.E. 403 relevant.

N.J.R.E. 403 reads: "Except as otherwise provided by these rules or other law, the court may exclude relevant evidence if its probative value is substantially outweighed by the risk of: (a) Undue prejudice, confusing the issues, or misleading the jury; or (b) Undue delay, wasting time, or needlessly presenting cumulative evidence."

Ordinarily, "[e]vidence should be barred under N.J.R.E. 403 if the probative value of the evidence is so significantly outweighed by [its] inherently inflammatory potential as to have a probable capacity to divert the minds of the jurors from a reasonable and fair evaluation of the issues." State v. Santamaria, 236 N.J. 390, 406 (2019). Repetitive testimony should also be avoided. See State v. Conyers, 58 N.J. 123, 135 (1971) (noting general rule against repetitive testimony but finding that rebuttal by earlier witness was not prejudicial error).

However, not every presentation of cumulative or potentially inflammatory evidence runs afoul of Rule 403. In State v. Feaster, illustrative evidence in the form of a mannequin with a knitting needle stuck through its head to show the trajectory of a bullet through the victim's skull,

while “[u]ndoubtedly . . . potentially inflammatory and cumulative to the photos and videotape already presented to the jury[,”] was nevertheless admissible and was not more shocking than the crime scene photos themselves. State v. Feaster, 156 N.J. 1, 84 (1998).

In the context of narration testimony, the concerns listed in Rule 403 require even more caution to prevent intrusion on the jury’s fact-finding role and every effort must be made to avoid “subjective interpretations.” Watson, 254 N.J. at 603. “Placing appropriate limits on narration testimony can help avoid [Rule 403] problems.” Id. at 602.

C. Application of N.J.R.E. 701, 602, and 403 in narration testimony.

Synthesizing the provisions of Rules 701, 602, and 403 into a framework for evaluating lay opinion testimony based on the viewing of surveillance video, the Watson Court identified four non-exhaustive factors for trial courts to consider when determining admissibility of narration testimony:

First, neither the rules of evidence nor the case law contemplates continuous commentary during a video by an investigator whose knowledge is based only on viewing the recording. To avoid running commentary, counsel must ask focused questions designed to elicit specific, helpful responses. “What do you see?” as an introductory question misses the mark.

[254 N.J. at 603.]

Second, investigators can describe what appears on a recording but may not offer opinions about the content. In other words, they can present objective, factual comments, but not subjective interpretations. The “individual opened the door with his elbow” can be allowed if not reasonably disputed; he did so “to avoid leaving fingerprints” cannot. The former comment appropriately sets the stage for the factfinder to reach its own conclusion.

[Ibid.]

Third, investigators may not offer their views on factual issues that are reasonably disputed. Those issues are for the jury to decide. So a witness cannot testify that a video shows a certain act when the opposing party reasonably contends that it does

not. We include a reasonableness requirement to prevent a party from disputing all facts in a recording in a manner that does not reflect good faith.

[Ibid. (emphasis added)]

Fourth, although lay witnesses generally may offer opinion testimony under Rule 701 based on inferences, investigators should not comment on what is depicted in a video based on inferences or deductions, including any drawn from other evidence. That type of comment is appropriate only for closing argument. . . .

Consistent with those principles, an investigator who carefully reviewed a video in advance could draw attention to a distinctive shirt or a particular style of car that appear in different frames, which a jury might otherwise overlook.

[Id. at 604]

“The above examples are illustrative; they are not a comprehensive list.” Id. at 605. They must be considered in conjunction with the well-established “boundary line that separates factual testimony by police officers from permissible expert opinion testimony.” State v. McLean, 205 N.J. 438, 460 (2011). Fact testimony has always consisted of a description of what the officer did and saw, . . . includes no opinion, . . . and does not convey information about what the officer “believed,” “thought” or “suspected,” but instead is an ordinary fact-based recitation . . .” Ibid.

LEGAL ANALYSIS

As a preliminary matter, the State has met their responsibility, under Watson, to “provide a written summary of proposed narration testimony to defense counsel,” 254 N.J. at 605. The principles of Rule 403 generally require “the party seeking to preclude the admission of evidence [to] convince the court that the factors favoring exclusion substantially outweigh the probative value of the contested evidence.” State v. Carter, 91 N.J. 86, 106 (1982). Applying that principle to the more expansive restrictions governing narration testimony, namely, that reasonably disputed facts should not be commented upon, means that the Defendant should show an actual, good faith dispute as to any objected fact, not merely a claimed dispute. Watson, 254 N.J. at 603. Which

portions of the narration testimony are “reasonably in dispute” can be identified by reference to the Defendant’s written objections to the proffer and further raised during the hearing.¹

The Defendant challenges the admissibility of testimony which suggests that the same or a similar vehicle appears on every exterior camera. He asserts that many of the camera angles are poor, and that low visibility prevents reliable identification. However, the Defendant concedes that, in areas where the camera angles overlap, it is reasonable to conclude that the same vehicle appears in each camera’s field of vision.

The Defendant also highlights the use of opinion-based language in the State’s proffered testimony. For example, the proffer for Detective Mahoney states that he “will testify that the surveillance footage shows ‘a flickering of lights indicative of vehicle flashers (possibly unlocking of vehicle doors)’ followed by ‘headlights coming from the area of Paul Caneiro’s home.’”. The Defendant argues that such testimony introduces adjectives and qualifying language that imply speculation rather than fact. He maintains that the testimony must remain limited to objective observations. See McLean, 205 N.J. at 460.

The Defendant further argues that whether the taillight and brake light configuration in the videos matches a Porsche Macan remains a factual dispute. He notes that many of the videos appear blurry or too dark, with lights that are either too faint, blurred together, or otherwise indistinct.

In those cases, he contends that any testimony beyond identifying the general location of lights on the screen would amount to speculation. Nonetheless, he acknowledges that some videos show a clear light configuration that is not reasonably disputed. While the jury must ultimately

¹ The court will incorporate both the State’s brief and proffered testimony, as well as the Defendant’s brief, as if they were read onto the record.

decide whether those lights belong to a Porsche Macan, the Defendant agrees that pointing out the positioning and configuration of brake lights constitutes a permissible factual observation. This type of detail, subtle, easily overlooked, yet clear once highlighted, falls within the scope of testimony contemplated in State v. Watson.

The Defendant argues that investigators must not claim that a vehicle's lights are "consistent with" or "indicative of" a particular make or model. He maintains that investigators may identify and highlight light configurations for the jury, but they must not assert conclusions such as "this is the same car" or "this is definitely a Porsche Macan." When that fact remains disputed, such conclusions would be improper. See Watson, 254 N.J. at 604.

In Watson, the court noted that narration testimony may be admissible when video footage is "neither too blurry nor too clear." Watson, 254 N.J. at 594. If the video is very clear, the jury does not need assistance interpreting it. Conversely, if the footage is so unclear that its contents remain in dispute, narration will not aid the jury. Id. at 602. Ultimately, the court must determine whether narration testimony is helpful by evaluating the specific circumstances of the case. Id. at 602–03.

After reviewing the State's proffering testimony, comparing it to the testimony presented at the hearing, and considering all the Defendant's objections and reasonably disputed issues, the court limits the scope of permissible testimony as follows:

Detective Ryan Mahoney

The court finds that Detective Mahoney personally reviewed the relevant surveillance footage from the locations described below multiple times and in sufficient detail to meet the perception requirements of N.J.R.E. 701 and 602. His proposed narration testimony would assist the jury. While the videos are not lengthy, chaotic, or confusing, they contain subtle details that

Detective Mahoney can highlight to help the jury notice potentially significant facts. Subject to the limitations outlined in this opinion, which bar subjective interpretations and comments on disputed facts, the proffered testimony remains factual. The court also finds that the testimony satisfies N.J.R.E. 403, as it does not merely repeat other evidence and poses no risk of unfair prejudice or confusion. Rather, it offers a clear and helpful account of vehicles captured on exterior security cameras and points out small but meaningful light patterns.

30 Tilton Drive, Channel 7:

At 02:07:22, the video shows flickering lights further down Tilton Drive, in the direction of the Defendant's home. Detective Mahoney may point out these lights to the jury or circle them on the screen. At 02:07:33, the video again shows lights in the same area.

At 02:07:37, a vehicle's headlights appear as the vehicle enters the frame. The footage then shows the vehicle traveling along Tilton Drive toward Green Grove Road. Detective Mahoney may explain the layout of the area, including the positions of homes on Tilton Drive and their relationship to Green Grove Road.

He must use daytime footage or reference photographs to orient the jury, as the exact location of the driveway at 27 Tilton Drive cannot be determined from the night footage alone.

At 04:08:34, the video shows the same vehicle that earlier entered Tilton Drive and remained visible on several other cameras. At approximately 04:08:39, the vehicle appears to slow down and activate its brake lights as it passes 30 Tilton Drive and continues along the road. Detective Mahoney may point out the number and configuration of taillights visible in the footage. However, he may not offer any commentary about whether the lights match a specific vehicle make or model.

30 Tilton Drive, Channel 5:

Detective Mahoney establishes that this camera belongs to the same system as the previous one and will direct the jury's attention to the video timestamp. At 2:27:40 AM, he highlights a reflection of light on a pickup truck parked in the driveway of 30 Tilton Drive. At 2:07:46 AM, a vehicle enters the frame. He orients the jury to the relative positions of this camera and the previous one and points out the timestamps to show that the same vehicle has been under continuous observation.

The footage shows the vehicle traveling along Tilton Drive toward Green Grove Road. As it moves through the frame and approaches the stop sign at Tilton Drive and Green Grove Road, the brake lights activate. The vehicle then makes a right turn onto Green Grove Road, and Detective Mahoney may direct the jury's attention to the brake lights.

At 4:08:22 AM, Detective Mahoney repeats his observations regarding overlapping camera views and timestamps; this time referencing both this camera and the 308 Green Grove cameras. He observes a vehicle turning onto Tilton Drive from Green Grove Road. While he cannot state that this vehicle is the same one seen on this camera two hours earlier, he may testify that the uninterrupted footage from the 308 Green Grove camera supports his conclusion that it is the same vehicle that turned onto Tilton Drive.

308 Green Grove Rd, Channel 3:

Detective Mahoney testifies that 308 Green Grove Road sits at the corner of Green Grove Road and Tilton Drive, with the front of the home facing Green Grove Road and the driveway located on Tilton Drive. At 2:07:47 AM, based on the continuous observation of the vehicle traveling on Tilton Drive, he testifies that the same vehicle enters the frame and approaches the stop sign at the intersection of Green Grove Road and Tilton Drive.

As the vehicle passes the driveway, the camera captures a clear side-profile view of the entire vehicle. Because this footage is “neither too blurry nor too clear,” narration testimony becomes particularly useful at this point. Watson, 254 N.J. at 594. The witness may describe the silhouette and body style of the vehicle and highlight visible features, such as the configuration of the front and rear lights. The dark area seen on the vehicle, whether a stripe, shadow, or smudge, is indisputably present on the surface, as indicated by the contrast with the lighter-colored areas on either side.

While Detective Mahoney may not definitively identify the vehicle’s make and model, he may rely on his familiarity with the specific vehicle in the Defendant’s possession during the relevant time frame and his personal observations of that vehicle to lay the foundation for the jury to make a side-by-side visual comparison with reference photographs of the Porsche Macan associated with the Defendant.

As summarized in State v. Allen, 254 N.J. 530, 545 (2023), and echoed in State v. Singh, the witness may state that the vehicle in the frame “looked similar” to another vehicle only when identifying specific, visible features. Any comparison must be limited to a vehicle the witness knows personally.

In the second clip from this camera, captured at 4:08:23 AM, Detective Mahoney may testify that the vehicle shown is the same one seen a few moments earlier from 308 Green Grove Road, based on the continuity of the footage and the timestamps. However, Detective Mahoney may not testify that the vehicle in this clip is the same one seen by this camera several hours earlier. The witness may describe a “light-colored vehicle” entering the frame and direct the jury’s attention to visible characteristics such as areas of light and shadow, the curvature of the vehicle’s

frame, and any specific distinguishing marks visible in both the current and earlier profiles. The jury must ultimately determine whether these similarities indicate the same vehicle.

308 Green Grove Rd, Channel 4:

At 2:07:49 AM, the vehicle appears on Tilton Drive and makes a right turn onto Green Grove Road. The vehicle's taillights and brake lights are visible. The witness may direct the jury's attention to the overlapping timestamps and viewing angles of this camera and the previous one, and may confirm that both cameras belong to the same surveillance system. This information sufficiently establishes that the same vehicle appears in both frames. As a result, Detective Mahoney need not offer conclusions regarding whether the taillight configuration matches that of the earlier footage; such commentary would be unnecessary and unhelpful, particularly since both the State and the defense agree that the positioning and timing confirm the vehicle's continuity.

At 4:08:18 AM, a vehicle is observed turning left onto Tilton Drive, traveling in the opposite direction of the earlier path. Using the same rationale, the witness may rely on the timestamps and overlapping coverage areas to show that the same vehicle appears across the relevant camera feeds. However, the witness may not testify that this is the same vehicle as the one observed at 2:07:49 AM. That determination remains within the jury's purview.

85 Willow Brook Road:

Det. Mahoney may not testify to a three-minute discrepancy between the 2:23:57 AM timestamp on this video and the actual time unless he first lays a proper foundation. If he establishes that foundation, then he may note the discrepancy. He may testify regarding the camera's orientation and its position relative to the property's gate. He may also direct the jury's attention to the vehicle's taillights visible in the footage but shall not comment on whether they

resemble those in other clips. Describing the vehicle's profile beyond calling it a "light-colored vehicle" is not appropriate.

Because of the time gap between this video and earlier footage, Det. Mahoney has no factual basis to suggest that this is the same vehicle previously observed. In the second portion of the video, at 3:45:55 AM, he may highlight variations in the vehicle's shading and pause the footage to allow the jury to view its general profile. However, he may not compare this vehicle to the one in the earlier video from this address, nor may he comment on its similarity to vehicles shown in other clips.

44 Willow Brook Road:

The poor image quality of this video limits the testimony that Detective Mahoney can provide. Using daylight reference photos, he can orient the camera's viewing area. However, he cannot determine whether any vehicles shown in this video match those in other videos, due to time discrepancies, the distance between cameras, and the overall image quality. He may direct the jurors' attention to the front and rear lights of a passing vehicle but should not suggest the number of lights visible, as the details are unclear.

Captain Brian Weisbrot

The Defendant argues that Captain Weisbrot's attempts to identify individuals seen on the Tilton Drive surveillance cameras are improper, as there is no indication that Captain Weisbrot has any familiarity with the occupants of that home. This argument is valid; the witness does not possess any special familiarity that would assist the jury in identifying a person on the screen. The jury can view the video and form their own opinions on the identification. The court finds that Captain Weisbrot has not met the perception prong of N.J.R.E. 701 to the extent necessary to offer identification testimony.

Regarding the general orientation of the interior and exterior surveillance cameras at 19 Oxford Drive, the court finds that Captain Weisbrot has reviewed the relevant footage from the described locations sufficiently and in enough detail to meet the perception requirements of N.J.R.E. 701 and 602. His proposed narration testimony will assist the jury.

Although the videos are not long or chaotic, they are dark enough to cause disorientation without proper guidance and contain nuanced details. Captain Weisbrot can draw the jury's attention to facts they might otherwise overlook.

Subject to the limitations of this opinion, his testimony is factual. The proffered testimony also meets N.J.R.E. 403, as it is not cumulative of other evidence and will not prejudice the jury or confuse the issues. The exterior views are the only evidence showing the fire progressing at the Defendant's house.

27 Tilton Drive, Garage Video:

Captain Weisbrot may testify to the camera's orientation in the garage and the accuracy of the timestamp, provided his personal knowledge or other foundation evidence supports those facts. He may also explain the location of the garage entrances and exits relative to the camera view, as well as describe what lies outside the frame based on personal observation, as this information would help the jury understand the footage.

When an individual appears in the lower portion of the frame, Captain Weisbrot may note the timestamp and identify the general area of the garage but may not identify the person, describe clothing, or comment on any distinguishing features beyond a basic outline of arms and legs. The parties may argue during summation about who they believe is depicted, and both sides have notice of the other's intent to do so. However, Captain Weisbrot may not make any identification

statements, given his limited interaction with the defendant and the jury's ability to evaluate the footage independently.

27 Tilton Drive, Basement Still Photos:

Captain Weisbrot may identify the timestamps on the emails containing the still photographs, with proper authentication. If the witness can explain the vantage point of the images and describe where the depicted areas are located relative to other landmarks inside the home, based on his investigation, then that testimony is rationally based on his perception, relevant, and helpful to the jury. However, any interpretation beyond that would exceed the scope permitted under Watson, as the jury can evaluate still photographs independently.

19 Oxford Drive, Channel 5:

Using daylight reference photos, Captain Weisbrot may orient the jury to the area of the screen that shows the Caneiro property, identify which parts of the property are visible, and describe any objects or obstructions in front of or behind the property from the camera's vantage point. At 2:06 a.m., Captain Weisbrot may point out the appearance of a light near the Caneiro's driveway. He may also highlight the pattern of lights moving from left to right and then back from right to left on the screen, as well as the factual conclusions that follow from those observations.

At approximately 4:08:47 a.m., Captain Weisbrot may direct the jury's attention to lights appearing near the Caneiro driveway. Both the Defendant and the State agree that this footage shows a vehicle pulling into the driveway and parking. The jury must determine what the remainder of the footage depicts. Both parties remain free to argue their respective interpretations during summation.

Captain Weisbrot may testify that further review of Camera 5 reveals illumination at the rear of the Caneiro residence at 4:55:04 a.m., a large flash at 4:57:08 a.m., a vehicle reversing out

of the driveway at 4:59:56 a.m., and another flash in the B/C corner of the Caneiro residence at 5:01:25 a.m.²

Without providing a “play-by-play,” the witness may guide the jury’s attention to small and subtle changes in lighting that precede or follow these events, citing appropriate timestamps, but must allow the jury to view the footage without additional narration.

19 Oxford Drive, Channel 7:

The witness may explain the orientation of the cameras and identify the Caneiro’s house’s location on the screen. Captain Weisbrot may also direct the jury’s attention to approximately 04:55:06, when the fire first becomes visible near the C/D corner of the home.

Lieutenant Patrick Petruzzielo

Defendant does not dispute that Lt. Petruzzielo’s testimony is relevant and helpful under Watson, so long as it remains “limited to only testimony necessary to orient a juror’s view.” Db14. Defendant also acknowledges that directing a juror’s attention to faint but discernable sounds, without describing those sounds, is appropriate. Defendant concedes that the footage contains other “small or nuanced detail[s]” (Db14) but objects to testimony that provides a full “play by play” of the video. Db15. At the hearing, all parties agreed that general descriptions of the area outside the garage are proper, but those claims suggesting a subject is moving to or from a specific landmark are too speculative.

To the limited extent Lt. Petruzzielo’s testimony addresses facts not reasonably in dispute, the court finds that he has reviewed the footage a sufficient number of times to satisfy the perception requirements of N.J.R.E.’s 701 and 602. His narration of the garage camera footage is

² The terminology of A/B/C/D sides and corners as they describe a home is used consistent with Captain Weisbrot’s explanation of the terminology during testimony. The front door of a home is on the “A” side, and the exterior walls are assigned letters in a clockwise order.

helpful under N.J.R.E. 701 because the video is lengthy and contains only a few moments of activity. It includes both obscured images of a subject that are difficult to follow without orientation to external landmarks and faint sounds that a jury could easily miss without assistance. His testimony is not prejudicial or cumulative under N.J.R.E. 403, as it relates to a sequence of events not shown elsewhere in the evidence and does not reveal facial features, voices, or other identifying elements that could unfairly prejudice the Defendant.

15 Willow Brook Road, Garage Camera:

Lieutenant Petruzzello may describe the camera's location and orientation within the garage, as well as the general surroundings visible in the footage, such as what lies beside the garage door both inside and outside, and where exterior light fixtures are positioned, even if they fall outside the camera's view. However, he may not claim that any off-camera light fixture is the source of illumination.

When a human silhouette appears in the frame, Lieutenant Petruzzello must limit his testimony to identifying areas of light and dark, noting shading variations, and outlining the figure's general shape, without speculating whether specific clothing or features account for those variations. He may not suggest that the figure focuses on a particular object or moves toward or away from any specific outdoor landmark. The testimony must remain confined to noting when the silhouette enters or exits the frame and drawing the jury's attention to any audible sounds that might otherwise go unnoticed, without interpreting or identifying those sounds.

CONCLUSION

The guiding principle of Watson holds that narration testimony should focus on factual details that are visible in the offered videos or photos, rather than on inferences drawn from them. This principle is firmly grounded in the rules of evidence. Watson, 254 N.J. at 604, 607. Such

testimony must not encroach upon the jury's role in deciding the facts. Id. at 577. Much of the video footage presented by the State is well-suited for narration testimony; while it may not be perfectly clear, it contains enough details to highlight, is full of subtle nuances that a jury could see but may benefit from being pointed out, and features lights and locations that can be explained without infringing on the jury's responsibility to determine the ultimate facts. However, caution is necessary to ensure witnesses refrain from offering inferences.

The court grants the State's motion to admit narration testimony, subject to the limitations outlined in the record and the following additional requirements: First, the State must provide a list of proposed questions for eliciting testimony at least 45 days before the trial. Second, the State must provide a proposed jury instruction before jury selection, informing the jury that they—not the narration witness—are responsible for deciding what a video shows and that they may reject any narration testimony. Watson, 254 N.J. at 605.

Lastly, the parties must review this decision, the court's order, and the State's proposed list of questions. They are also directed to meet and confer to resolve any remaining factual disputes concerning the proposed narration testimony. Any unresolved areas of dispute or changes to the State's proposed questions, which cannot be resolved in good faith, shall be addressed in motions in limine.