No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

RAYMOND GLENN JOHNSON,

Petitioner

vs.

WILLIAM "CHRIS" RANKINS, WARDEN,

Respondent

On Petition For Writ Of Certiorari
To The United States Court of Appeals for the Tenth Circuit

APPENDIX

Raymond G. Johnson
Pro se Litigant

OSR • A-3-11
POB 514
Granite, OK 73547

September 15, 2026

INDEX TO APPENDICES

Appendix A: Decision of the Tenth Circuit Court of Appeals

Johnson v. Rankins, No. 26-7002, U.S. Court of Appeals for the Tenth Circuit. Order Denying Certificate of Appealability filed June 2, 2026; Motion to take judicial notice denied.

Appendix B: Decision of the U.S. District Court, E.D. Oklahoma

Johnson v. Rankins, No. 6:25-CV-004-RAW-DES, U.S. District Court for the Eastern District of Oklahoma. Opinion and Order dated December 16, 2025.

Appendix C: Decision of the Tenth Circuit denying rehearing/enbanc

Johnson v. Rankins, No. 26-7002, U.S. Court of Appeals for the Tenth Circuit. Order denying panel rehearing and rehearing en banc, "Entered for the Court" July 6, 2026; Docket Text: "Order filed by Judges Moritz, Baldock and Eid denying renewed [sic] motion to take judicial notice filed by Appellant Raymond Johnson. Served on 7/14/2026."[1]

Appendix D: Decision of the Oklahoma Court of Criminal Appeals (OCCA)

Johnson v. Oklahoma, No. F-2020-180 (Okl. Cr. August 12, 2021) (not for publication): Summary Opinion affirming the judgment and sentence. Opinion filed August 12, 2021; Motion for evidentiary hearing Denied.

Appendix E: Decision of OCCA denying rehearing

Johnson v. Oklahoma, No. F-2020-180 (Okl. Cr. September 14, 2021) (not for publication): Order Denying Petition for Rehearing. Order filed September 14, 2021.

Appendix F: Petitioner's Evidence showing law enforcement planted evidence, i.e., Copy of Affidavit of Digital Video Technologist with in color video-screen shots of crime scene

Screenshots produced by technologist showing individual retrieve object from vehicle at 10: 09: 19.8; showing individual drop the plastic bottle at 10:09: 21.9.

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[1] To date, Petitioner has not received a copy of the Order described in the circuit court's docket text.

FILED
United States Court of Appeals
Tenth Circuit

June 2, 2026

Christopher M. Wolpert
Clerk of Court

UNITED STATES COURT OF APPE

FOR THE TENTH CIRCUIT

RAYMOND JOHNSON,

Petitioner - Appellant.

v.

WILLIAM "CHRIS" RANKINS, Warden,

Respondent - Appellee,

No. 26-7002
(D.C. No. 6:25-CV-00004-RAW-DES)
(E.D. Okla.)

ORDER DENYING CERTIFICATE OF APPEALABILITY*

Before **MORITZ**, **BALDOCK**, and **EID**, Circuit Judges.

Raymond Johnson, an Oklahoma prisoner proceeding pro se, seeks a certificate of appealability (COA) to challenge the district court's order dismissing his 28 U.S.C. § 2254 habeas petition as untimely.[1] Because reasonable jurists could not debate the district court's determination that Johnson failed to satisfy the actual-innocence exception to the relevant timeliness rules, we deny a COA and dismiss this matter.

Background

Johnson is serving a 40-year sentence for armed robbery. According to the

* This order is not binding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel. But it may be cited for its persuasive value. *See* Fed. R. App. P. 32.1(a); 10th Cir. R. 32.1(A).

[1] We liberally construe Johnson's pro se filings, but we do not act as his advocate. *See Yang v. Archuleta*, 525 F.3d 925, 927 n.1 (10th Cir. 2008).

Oklahoma Court of Criminal Appeals (OCCA), Johnson robbed a convenience-store clerk at gunpoint after he entered the store and purchased a bottle of soda, went outside for about 20 minutes, and then returned and pulled out a gun to force the clerk to turn over the contents of the register. Video footage of the robbery was admitted at trial, but the perpetrator's face wasn't visible. However, an investigating officer retrieved a soda bottle from the parking lot that tested positive for Johnson's DNA (as well as a cigarette butt that likewise contained Johnson's DNA).

In Johnson's direct appeal, he advanced due-process and ineffective-assistance-of-counsel claims premised on the theory that the investigating officer had planted the soda bottle at the scene of the robbery. In support, Johnson submitted screenshots pulled from a video admitted at trial. The OCCA focused on the video itself, rather than the screenshots, and concluded that Johnson's theory was "patently false" because "[t]he video does not show the detective planting evidence" but instead "shows that the bottle was in the parking lot prior to the detective's arrival." R. 132. The OCCA affirmed Johnson's conviction and sentence on August 12, 2021, and denied his petition for rehearing on September 14, 2021.

On January 6, 2026, Johnson filed his federal habeas petition, asserting claims of actual innocence and ineffective assistance of counsel, again premised on the alleged planting of evidence. The State moved to dismiss his petition as untimely. Johnson replied that his petition's untimeliness was excused by actual innocence, pointing to the same screenshots that he submitted on direct appeal.

The district court rejected Johnson's actual-innocence argument for several reasons: Johnson failed to submit his purportedly new evidence to the district court; the evidence was not, in fact, new; and Johnson failed to rebut by clear and convincing evidence the OCCA's factual finding that law enforcement had *not* planted evidence. The district court therefore dismissed Johnson's petition as untimely and denied a COA.

Johnson now requests a COA from this court. *See* 28 U.S.C. § 2253(c)(1)(A).

Analysis

To obtain a COA, Johnson must make "a substantial showing of the denial of a constitutional right." § 2253(c)(2). "That standard is met when 'reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner.'" *Welch v. United States*, 578 U.S. 120, 127 (2016) (quoting *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)). So we will grant a COA if Johnson can "show[], at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right *and* that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Slack*, 529 U.S. at 484 (emphasis added). And if we conclude that reasonable jurists would not debate the district court's procedural ruling, we need not address the constitutional question. *Id.* at 485.

Here, as below, Johnson implicitly concedes that his petition is untimely unless he can show actual innocence.[2] The actual-innocence exception, sometimes referred to as a

[2] As the district court reasoned, Johnson's conviction became final for federal habeas purposes on December 13, 2021, "the date on which the judgment became final

"gateway," is a function of "the equitable discretion of habeas courts to see that federal constitutional errors do not result in the incarceration of innocent persons." *Fontenot v. Crow*, 4 F.4th 982, 1029–30 (10th Cir. 2021) (cleaned up) (quoting *Herrera v. Collins*, 506 U.S. 390, 404 (1993)). If satisfied, it operates as an "equitable exception" to the one-year filing deadline and permits courts to reach constitutional claims asserted in an untimely habeas petition. *Id.* at 1030.

A petitioner asserting actual innocence "must establish that, in light of new evidence, it is more likely than not that no reasonable juror would have found petitioner guilty beyond a reasonable doubt." *Id.* (cleaned up) (quoting *House v. Bell*, 547 U.S. 518, 537–38 (2006)). This is a "demanding" standard, satisfied only in "rare" and "extraordinary" cases. *Id.* at 1031 (first quoting *McQuiggin v. Perkins*, 569 U.S. 383, 386, 401 (2013), and then quoting *Murray v. Carrier*, 477 U.S. 478, 496 (1986)). "To be credible, a claim of actual innocence requires a petitioner to present 'new reliable evidence—whether it be exculpatory scientific evidence, trustworthy eyewitness accounts, or critical physical evidence—that was not presented at trial.'" *Id.* (quoting *Schlup v. Delo*, 513 U.S. 298, 324 (1995)). Additionally, "when a state court has made a factual determination bearing on the resolution of a[n actual-innocence] issue, the petitioner bears the burden of rebutting this presumption by clear and convincing

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by . . . the expiration of the time for seeking [Supreme Court] review." 28 U.S.C. § 2244(d)(1)(A). His one-year deadline to file a federal habeas petition began to run on December 14, 2021, was extended by 15 days of statutory tolling under § 2244(d)(2), and expired on December 29, 2022. *See* § 2244(d)(1).

evidence." *Id.* at 1034–35 (cleaned up) (quoting *Teleguz v. Pearson*, 689 F.3d 322, 331 (4th Cir. 2012)); *see also* § 2254(e)(1).

Johnson suggests that reasonable jurists could debate whether his actual-innocence evidence was new. Yet he offers no reason to question the district court's straightforward conclusion that "the evidence [he] points to is not new" because it "was presented at trial." R. 259. At best, Johnson suggests that appellate counsel was the first to present the theory of evidence being planted. Yet appellate counsel expressly acknowledged both that trial counsel at least partially raised the issue and that the screenshots submitted on direct appeal were taken "from the surveillance footage" admitted at trial. *Id.* at 78. Thus, Johnson's purportedly new evidence is simply a portion of the old evidence—screenshots pulled from a video submitted at trial. It's therefore not debatable that this evidence isn't the "newly presented evidence" required for actual innocence. *Fontenot*, 4 F.4th at 1032–33 (quoting *Cleveland v. Bradshaw*, 693 F.3d 626, 633 (6th Cir. 2012)); *see also Pemberton v. Miller*, No. 24-7027, 2024 WL 4891560, at *3 (10th Cir. Nov. 26, 2024) (unpublished) (noting that evidence was not new because it "was presented at [defendant's] state and federal trials").[3] As such, reasonable jurists could not debate the district court's ruling that Johnson failed to show actual innocence to excuse the untimeliness of his petition.[4]

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[3] We cite unpublished decisions for their persuasive value. *See* 10th Cir. R. 32.1(A).

[4] We therefore do not reach Johnson's argument that reasonable jurists could debate whether he could rebut the OCCA's factual finding on his evidence-planting theory. Nor do we consider Johnson's argument that the district court should have permitted him to amend his petition and submit the screenshots.

Conclusion

We deny Johnson's COA request and dismiss this appeal. We also deny his motion to take judicial notice. But we grant his motion to proceed in forma pauperis.

Entered for the Court

Nancy L. Moritz
Circuit Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA

RAYMOND JOHNSON,	
Petitioner,	
v.	**Case No. 25-CV-004-RAW-DES**
WILLIAM "CHRIS" RANKINS, Warden,	
Respondent.	

OPINION AND ORDER

Petitioner Raymond Johnson ("Johnson"), an Oklahoma prisoner appearing pro se, seeks federal habeas relief under 28 U.S.C. § 2254, asserting he is in state custody in violation of federal law pursuant to the criminal judgment entered against him in Bryan County District Court Case No. CF-2017-402. *See* Dkt. 1. Specifically, Johnson contends he is "actually innocent, the suppressed evidence proves this" and his trial counsel was ineffective for failing to discover the planted evidence. *Id.* at 5-6. Having considered Johnson's Petition for Writ of Habeas Corpus ("Petition") (Dkt. 1), Respondent William "Chris" Rankins's ("Rankins") Pre-Answer Motion to Dismiss Petition for Writ of Habeas Corpus as Time Barred by the Statute of Limitations ("Motion") (Dkt. 9), Respondent's Brief in Support of Pre-Answer Motion to Dismiss Petition for Writ of Habeas Corpus as Time-Barred (Dkt. 10), the record of state-court proceedings provided by Rankins (Dkts. 10-1 through 10-18), Johnson's Reply to Rankins's Motion (Dkts. 12 and 13) and applicable law, the Court finds and concludes that Rankins's Motion shall be GRANTED.

BACKGROUND

On February 4, 2020, a Bryan County jury found Johnson guilty robbery with a weapon after former conviction of two or more felonies. Dkt. 10-1 at 7; *see also* Dkt. 10-2. Following the entry of the Judgment and Sentence, the following post-conviction proceedings ensued:

Date	Case No.	Event	Citation
February 28, 2020	Bryan Cnty. Dist. Ct. CF-2017-402	Sentenced.	Dkt. 10-2
August 12, 2021	Okla. Crim. App. F-2020-180	Judgment and sentence affirmed.	Dkt. 10-8
September 14, 2021	Okla. Crim. App. F-2020-180	Petition for Re-hearing denied.	Dkt. 10-10
October 12, 2021	Bryan Cnty. Dist. Ct. CF-2017-402	Pro Se Motion for Suspended Sentence filed.	Dkt. 10-11
December 28, 2021	Bryan Cnty. Dist. Ct. CF-2017-402	Motion for Suspended Sentence denied.	Dkt. 10-12
May 1, 2024	Bryan Cnty. Dist. Ct. CF-2017-402	Application for Post-Conviction Relief filed.	Dkt. 10-13
June 5, 2024	Bryan Cnty. Dist. Ct. CF-2017-402	Application for Post-Conviction Relief denied.	Dkt. 10-14
August 7, 2024	Okla. Crim. App. PC-2024-591	Petition in Error appealing denial of Application for Post-Conviction Relief filed.	Dkt. 10-15
September 9, 2024	Okla. Crim. App. PC-2024-591	OCCA declined jurisdiction and dismissed the Petition in Error.	Dkt. 10-16 at 2.
October 16, 2024	Bryan Cnty. Dist. Ct. CF-2017-402	Johnson filed a Motion for Referral requesting his case be referred to the Oklahoma Indigent Defense System.	Dkt. 10-17
January 6, 2025	E.D. Okla. Case No. 25-CV-004-RAW	Petition filed.	Dkt. 1
February 27, 2025	Bryan Cnty. Dist. Ct. CF-2017-402	Motion for Referral denied.	Dkt. 10-18

Based upon the above-described procedural history, Rankins, by and through the Attorney General of the State of Oklahoma, Gentner F. Drummond, contends Johnson's Petition is time-barred. Dkts. 9 and 10. Specifically, Rankins argues Johnson's Petition is untimely pursuant to 28 U.S.C. § 2244(d), Johnson is not entitled to equitable tolling, and Johnson does not satisfy the actual innocence gateway. *See* Dkt. 10. The court agrees.

DISCUSSION

Under the Antiterrorism and Effective Death Penalty Act ("AEDPA"), state prisoners have one (1) year from the latest of four (4) triggering events in which to file a federal habeas petition. 28 U.S.C. § 2244(d)(1). These events include:

> (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
>
> (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;
>
> (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; [and]
>
> (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

28 U.S.C. § 2244(d)(1)(A)-(D). The one-year limitations period generally runs from the date the judgment became "final" under § 2244(d)(1)(A), unless a petitioner alleges facts that implicate § 2244(d)(1)(B), (C), or (D). *See Preston v. Gibson*, 234 F.3d 1118, 1120 (10th Cir. 2000).

I. 28 U.S.C. § 2244(d)(1)(A)

Johnson failed to initiate the instant Petition within the time mandated by 28 U.S.C. § 2244(d)(1)(A). As detailed above, Johnson's judgment and sentence was affirmed August 12, 2021. Dkt. 10-8. The OCCA denied his Petition for Re-Hearing on September 14, 2021. Dkt. 10-

10. Johnson did not seek a writ of certiorari from the United States Supreme Court within ninety days after the OCCA denied his Petition for Re-Hearing. Sup. Ct. R. 13. Therefore, Johnson's criminal judgment became final on December 13, 2021, ninety days after September 14, 2021. *Locke v. Saffle*, 237 F.3d 1269, 1273 (10th Cir. 2001) ("[P]etitioner's conviction is not final and the one-year limitation period for filing a federal habeas petition does not begin to run until—following a decision by the state court of last resort—after the United States Supreme Court has denied review, or, if no petition for certiorari is filed, after the time for filing a petition for certiorari with the Supreme Court has passed." (internal citations and quotations omitted)); *see also Weibley v. Kaiser,* 50 F. App'x 399, 402 (10th Cir. 2002)[1] ("For purposes of § 2244(d)(1)(A), [petitioner's] conviction became final . . . ninety days after the OCCA denied his petition for rehearing."). Johnson's one-year period to file a petition for writ of habeas corpus began December 14, 2021, and absent statutory tolling, expired December 14, 2022. The court therefore finds, absent any tolling events, the Petition, filed January 6, 2025 (Dkt. 1) is untimely under 28 U.S.C. § 2244(d)(1)(A).[2]

II. 28 U.S.C. § 2244(d)(2)

Pursuant to § 2244(d)(1)(A), the limitations period is statutorily tolled during the pendency of any "properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim." 28 U.S.C. § 2244(d)(2). This statutory tolling provision, however, does not apply to applications for state postconviction or other collateral review filed beyond the one-year limitations period prescribed by the AEDPA. *Clark v. Oklahoma*,

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[1] The court cites all unpublished decisions herein as persuasive authority. Fed. R. App. P. 32.1(a); 10th Cir. R. 32.1(A).

[2] Johnson did not allege any facts triggering 28 U.S.C. §§ 2244(d)(1)(B), (C) or (D). Therefore, the court does not analyze these subsections.

468 F.3d 711, 714 (10th Cir. 2006) ("Only state petitions for post-conviction relief filed within the one year allowed by the AEDPA will toll the statute of limitations."); *Anderson v. Cline*, 397 F. App'x 463, 464 (10th Cir. 2010) ("[I]t is long settled that a state court motion for collateral relief cannot restart the clock on a limitations period that has already expired.").

To the extent Johnson's Motion for Suspended Sentence (Dkt. 10-11) was properly filed and entitles him to any statutory tolling, his Petition is still untimely. The Motion for Suspended Sentence was filed October 12, 2021, his conviction became final on December 13, 2021, and his Motion for Suspended Sentence was denied December 28, 2021. Dkts. 10-11 and 10-12. Therefore, Johnson is only afforded fifteen days of statutory tolling from December 13, 2021, to December 28, 2021. *Vickers v. Bear,* Case No. CIV 14-528-RAW-KEW, 2016 WL 1032817, at *2 (E.D. Okla. Mar. 15, 2016) (noting that a post-conviction application filed before conviction was final "had no tolling effect until . . . the first day of the statutory year.") Therefore, giving Johnson the benefit of these fifteen days of statutory tolling, or until December 29, 2022, still does not render his January 6, 2025 Petition timely.

Further, his Application for Post-Conviction Relief relief was not filed until May 1, 2024. Dkt. 10-13. Therefore, the Application for Post-Conviction Relief did not provide Johnson any statutory tolling. *Clark*, 468 F.3d at 714. Accordingly, Johnson's January 6, 2025 Petition, filed well beyond the December 2022 deadline, is untimely under 28 U.S.C. § 2244(d)(1)(A).[3]

III. Equitable Tolling

While the one-year statute of limitations may be subject to equitable tolling, equitable tolling "is only available when an inmate diligently pursues his claims and demonstrates that the

[3] Importantly, Johnson appears to concede his Petition is untimely pursuant to 28 U.S.C. § 2244(d). *See* Dkt. 13 at 6 ("neither § 2244(d)(1)(A) nor § 2244(d)(2) apply in the instant case where Mr. Johnson presents credible evidence of actual innocence.").

failure to timely file was caused by extraordinary circumstances beyond his control." *Marsh v. Soares*, 223 F.3d 1217, 1220 (10th Cir. 2000). Moreover, a petitioner's "burden in making this demonstration is a heavy one: [federal courts] will apply equitable tolling only if he is able to show specific facts to support his claim of extraordinary circumstances and due diligence." *Vigil v. Jones*, 302 F. App'x 801, 804 (10th Cir. 2008) (internal quotations and citations omitted).

Rankins argues Johnson is not entitled to any equitable tolling. *See* Dkt. 10 at 18-22. In his Reply, Johnson states, "he does not seek equitable tolling[.]" Dkt. 13 at 7. Therefore, the court accepts Johnson's representation and concludes Johnson is not entitled to equitable tolling.

IV. Actual Innocence

While Johnson did not directly address the timeliness of his Petition (*see* Dkt 1, generally), Johnson does raise actual innocence within the grounds he presents. *See* Dkt. 1 at 5-6. Further, Johnson extensively addresses the actual innocence gateway in his Reply. *See* Dkt. 13. Affording Johnson the benefit of liberal construction, the court analyzes whether Johnson can pass through the actual innocence gateway. Rankins contends Johnson has not presented any new evidence to support his assertion. *See* Dkt. 10 at 24-26.

The Tenth Circuit recognizes the "fundamental miscarriage of justice exception" is "commonly known as a showing of actual innocence[.]" *Fontenot v. Crow*, 4 F.4th 982, 1028 (10th Cir. 2021). To avail himself to this exception a petitioner must make a colorable showing of factual innocence, not legal innocence. *Beavers v. Saffle*, 216 F.3d 918, 923 (10th Cir. 2000); *Klein v. Neal*, 45 F.3d 1395, 1400 (10th Cir. 1995). Successful actual innocence claims are rare due to the demanding evidentiary requirements for such claims. *McQuiggin v. Perkins*, 569 U.S. 383, 386 and 401 (2013); *House v. Bell*, 547 U.S. 518, 538 (2006). "[P]risoners asserting innocence as a gateway to defaulted claims must establish that, in light of new evidence, 'it is more likely than

not that no reasonable juror would have found petitioner guilty beyond a reasonable doubt.'" *House*, 547 U.S. at 536-37 (quoting *Schlup v. Delo*, 513 U.S. 298, 327 (1995)); *accord McQuiggin*, 569 U.S. at 399 (applying the same standard to petitions asserting actual innocence as a gateway to raise habeas claims that are time-barred under § 2244(d)(1)). "To be credible, a claim of actual innocence requires a petitioner to present 'new reliable evidence—whether it be exculpatory scientific evidence, trustworthy eyewitness accounts, or critical physical evidence—that was not presented at trial.'" *Fontenot*, 4 F.4th at 1031 (quoting *Schulp*, 513 U.S. at 324).

A. Presumption of correctness

First, Johnson failed to rebut the presumption of correctness of the OCCA's factual findings. 28 U.S.C. § 2254(e)(1). Johnson argues he is actually innocent, has never been to the gas station where the robbery took place and Detective Laxton planted the Mountain Dew bottle with his DNA at the crime scene. Dkt. 1 at 5-6. Johnson contends video evidence supports his position. *Id.* Johnson presented this contention to the OCCA on direct appeal. Dkt. 10-4. The OCCA considered Johnson's argument and explained:

> A recitation of the facts is necessary here. The clerk at the E-Z Mart in Durant, Oklahoma was robbed at gunpoint on January 4, 2016. The robber came in and purchased a Mountain Dew White-Out soda at about 9:00 a.m. He then went outside for about twenty minutes, stood at the far side of the ice cooler, then re-entered the store. He brought more merchandise to the counter and pulled out a pistol. The clerk gave him the contents of the register. All of this was caught on multiple cameras but the robber could not be identified because he was wearing a cap and a covering over his nose and mouth.
>
> The investigating detective arrived and retrieved a Mountain Dew White-Out soda bottle from the parking lot. The bottle had been smashed and was right next to the detective's vehicle. Appellant claims that the video shows the detective reaching into his vehicle and dropping the bottle next to his vehicle. The bottle was tested and contained Appellant's DNA.
>
> The video from the various cameras was introduced as evidence. The video of the parking lot shows a bottle move from where Appellant was standing into the parking lot. The bottle is visible near where it is collected by the detective before

> the detective arrives at the scene. At one point a vehicle pulling into the parking spot, where the detective would later park, runs over the bottle.
>
> In viewing the video, **we find that Appellant's claim is patently false. The video does not show the detective planting evidence as he claims**. On the contrary, the video shows that the bottle was in the parking lot prior to the detective's arrival. Appellant cannot show that plain error occurred because there is no error that is plain or obvious.
>
> ***
>
> **The assessment of the video on appeal is, again, patently false. The video is clear there is no evidence planting. The bottle is there before the detective arrives.**

Dkt. 10-8 at 2-5 (emphasis added, footnote omitted).[4]

To overcome the OCCA's factual findings, Johnson must rebut the factual findings by "clear and convincing evidence." *Fontenot*, 4 F.4th at 1018. "Clear and convincing is an intermediate standard of proof satisfied by evidence that would place in the ultimate factfinder an abiding conviction that the truth of its factual contentions are highly probable." *Id.* (internal quotations and citations omitted). "[T]his standard is demanding[.]" *Id.* (internal quotations and citations omitted).

Johnson argues, "the OCCA's adjudication of Mr. Johnson's claim of actual innocence, where he presented new evidence of material fact, resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding." Dkt. 13 at 12. However, this assertion is insufficient to meet the demanding standard

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[4] The state district court has subsequently reiterated the falsity of Johnson's position. The state district court denied Johnson's motion for suspended sentence noting, "the Defendant repeats this falsehood to this Court seeking relief in the form of a suspended sentence. The Defendant's false claim . . . and his request for relief are offensive to this Court and to the integrity of the officer about whom the Defendant has now repeated this fabricated claim. The evidence absolutely does not show what the Defendant claims it shows, and the Defendant's assertion that it does has now been rejected by the Trial and Appellate Courts." Dkt. 10-12 at 1.

required to rebut the OCCA's factual finding by clear and convincing evidence. For this reason, Johnson cannot avail himself to the actual innocence gateway.

B. New, reliable evidence

As noted above, to utilize the actual innocence gateway, Johnson must present "new reliable evidence—whether it be exculpatory scientific evidence, trustworthy eyewitness accounts, or critical physical evidence—that was not presented at trial.'" *Fontenot*, 4 F.4th at 1031. First and foremost, Johnson provides no evidence with his Petition. *See* Dkt. 1. Johnson alleges pictures and video evidence prove his innocence. *Id.* at 5-6. However, Johnson did not provide the court with this evidence. For this reason, Johnson has failed to carry his burden.

Further, the evidence Johnson points to is not new. In his brief on direct appeal, his appellate counsel conceded, "[t]rial counsel confronted Laxton with screenshots showing no bottle was present either before or after the robbery (TrI 232-234; D Exh 1, 2)." Dkt. 10-4 at 10. The OCCA noted, "[t]he video from the various cameras was introduced as evidence." Dkt. 10-8 at 3. Accordingly, this evidence was presented at trial and cannot be utilized to access the actual innocence gateway. For all these reasons, Johnson failed to satisfy the demanding evidentiary requirements necessary to prevail on his actual innocence gateway claim.

CONCLUSION

The court finds and concludes Johnson's Petition (Dkt. 1) is time-barred and Johnson has not satisfied the requirements to pass through the actual innocence gateway. The court therefore dismisses the Petition. The court further concludes that no certificate of appealability shall issue because no reasonable jurists would debate the dismissal of the Petition on statute-of-limitations grounds. 28 U.S.C. § 2253(c); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

Furthermore, having dismissed Johnson's Petition as time-barred, the court declines to appoint Johnson counsel. *See* Dkt. 4 (Motion for Appointment of Counsel); *see also Swazo v. Wyo. Dep't of Corr. State Penitentiary Warden*, 23 F.3d 332, 333 (10th Cir. 1994) ("[G]enerally appointment of counsel in a § 2254 proceeding is left to the court's discretion.").

IT IS THEREFORE ORDERED that the Motion to Dismiss (Dkt. 9) is **GRANTED**; a certificate of appealability is **DENIED**; and a separate judgment shall be entered in this matter.

IT IS FURTHER ORDERED that Johnson's Motion for Appointment of Counsel (Dkt. 4) is **DENIED**.

DATED this 16th day of December, 2025.

Ronald A. White

RONALD A. WHITE
UNITED STATES DISTRICT JUDGE

FILED
United States Court of Appeals
Tenth Circuit

July 6, 2026

Christopher M. Wolpert
Clerk of Court

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

RAYMOND JOHNSON,

Petitioner - Appellant.

v.

WILLIAM "CHRIS" RANKINS, Warden,

Respondent - Appellee,

No. 26-7002
(D.C. No. 6:25-CV-00004-RAW-DES)
(E.D. Okla.)

ORDER

Before **MORITZ**, **BALDOCK**, and **EID**, Circuit Judges.

Appellant's petition for panel rehearing is denied.

The petition for rehearing en banc was transmitted to all of the judges of the court who are in regular active service. As no member of the panel and no judge in regular active service on the court requested that the court be polled, that petition is also denied.

Entered for the Court

Per Curiam

Appendix C

NOTE TO PUBLIC ACCESS USERS Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing.

Tenth Circuit Court of Appeals

Notice of Docket Activity

The following transaction was entered on 07/14/2026 at 5:16:29 PM Mountain Daylight Time and filed on 07/14/2026

Case Name: Johnson v. Rankins
Case Number: 26-7002

Docket Text:
[11298702] Order filed by Judges Moritz, Baldock and Eid denying renewed motion to take judicial notice filed by Appellant Raymond Johnson. Served on 07/14/2026. Text only entry - no attachment. [26-7002] (ART)

Notice will be electronically mailed to:

Breanna Glover: breanna.glover@oag.ok.gov, fhc.docket@oag.ok.gov
Tessa L. Henry: tessa.henry@oag.ok.gov, fhc.docket@oag.ok.gov

Notice will not be electronically mailed to the following as the Court does not have a valid email address on file or the person has not consented to service via email. If appropriate, notice will be delivered by other means to:

Raymond Johnson
#855050
Oklahoma State Reformatory
P.O. Box 514
Granite, OK 73547-0514

The following information is for the use of court personnel:

DOCKET ENTRY ID: 11298702
RELIEF(S) DOCKETED:
take judicial notice
DOCKET PART(S) ADDED: 5588977, 5588978, 5578082

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CLIENT'S COPY

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA

AUG 12 2021

JOHN D. HADDEN
CLERK

IN THE COURT OF CRIMINAL APPEALS
OF THE STATE OF OKLAHOMA

RAYMOND GLENN JOHNSON,

Appellant,

v.

THE STATE OF OKLAHOMA,

Appellee.

NOT FOR PUBLICATION



Case No. F-2020-180

SUMMARY OPINION

LEWIS, JUDGE:

Raymond Glenn Johnson, Appellant, was tried in a two-stage trial by jury and found guilty of robbery with a weapon, after former conviction of two or more felonies, in violation of 21 O.S.2011, § 801, in Case No. CF-2017-402, in the District Court of Bryan County. The jury set punishment at forty (40) years imprisonment and the Honorable Mark R. Campbell, District Judge, pronounced judgment and sentenced accordingly.[1] Mr. Johnson appeals in the following propositions of error:

1. Detective Laxton violated Appellant's right to due process by planting DNA evidence at the crime scene;

[1] Appellant must serve 85% of his sentence before being eligible for consideration for parole. 21 O.S.Supp.2015, § 13.1(8).

2. Trial counsel was ineffective for failing to discover that Detective Laxton planted DNA evidence.

In Proposition One, Appellant claims his right to due process was violated because the detective who investigated this crime planted DNA evidence at the scene. Appellant's failure to object on this ground at trial waives all but plain error. *Simpson v. State*, 1994 OK CR 40, ¶¶ 2, 23, 876 P.2d 690, 692-93, 698. To obtain relief, Appellant must show that a plain or obvious error affected the outcome of the proceeding. *Hogan v. State*, 2006 OK CR 19, ¶ 38, 139 P.3d 907, 923. The Court will then correct plain error only where it seriously affects the fairness, integrity, or public reputation of the proceeding. *Simpson*, 1994 OK CR 40, ¶ 30, 876 P.2d at 701.

A recitation of the facts is necessary here. The clerk at the E-Z Mart in Durant, Oklahoma was robbed at gunpoint on January 4, 2016. The robber came in and purchased a Mountain Dew White-Out soda at about 9:00 a.m. He then went outside for about twenty minutes, stood at the far side of the ice cooler, then re-entered the store. He brought more merchandise to the counter and pulled out a pistol. The clerk gave him the contents of the register. All of this was caught on multiple cameras but the robber could not be

identified because he was wearing a cap and a covering over his nose and mouth.

The investigating detective arrived and retrieved a Mountain Dew White-Out soda bottle from the parking lot. The bottle had been smashed and was right next to the detective's vehicle. Appellant claims that the video shows the detective reaching into his vehicle and dropping the bottle next to his vehicle. The bottle was tested and contained Appellant's DNA.[2]

The video from the various cameras was introduced as evidence. The video of the parking lot shows a bottle move from where Appellant was standing into the parking lot. The bottle is visible near where it is collected by the detective before the detective arrives at the scene. At one point a vehicle pulling into the parking spot, where the detective would later park, runs over the bottle.

In viewing the video, we find that Appellant's claim is patently false. The video does not show the detective planting evidence as he claims. On the contrary, the video shows that the bottle was in the parking lot prior to the detective's arrival. Appellant cannot show that

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[2] The detective also retrieved a cigarette near where Appellant was standing outside that also contained Appellant's DNA.

plain error occurred because there is no error that is plain or obvious. This proposition is denied.

Appellant claims in Proposition Two that he was denied the effective assistance of counsel because trial counsel failed to discover that the investigating detective planted DNA evidence at the crime scene. We review this claim under *Strickland v. Washington*, 466 U.S. 668 (1984), requiring that Appellant show not only that counsel performed deficiently, but that Appellant was prejudiced by it. *Id.*, 466 U.S. at 687. In this "highly deferential" inquiry, evidence of deficient performance must overcome a strong presumption that counsel's actions constituted sound trial strategy. *Id.*, 466 U.S. at 689. Prejudice to the defense occurs when counsel's deficient performance creates a reasonable probability that the result of the proceeding would have been different. "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Id.*, 466 U.S. at 694.

Appellant also submits his application to supplement the record or for evidentiary hearing to support his Sixth Amendment claims. To obtain an evidentiary hearing and supplement the record on appeal with additional evidence of ineffective counsel, Appellant must

present clear and convincing evidence that there is a strong possibility trial counsel was ineffective for failing to identify or utilize the available evidence. Rule 3.11(B)(3)(b). This burden is less onerous than *Strickland's* required showing of deficient performance by counsel and resulting prejudice. *Simpson v. State,* 2010 OK CR 6, ¶ 53, 230 P.3d 888, 905-06. The grant of an evidentiary hearing is *not* a finding that defense counsel actually was ineffective, but a preliminary finding of a strong possibility that warrants a further opportunity to support the claim. Conversely, the *denial* of a request for evidentiary hearing under Rule 3.11(B) necessarily embraces this Court's finding that Appellant has not shown a violation of Sixth Amendment under *Strickland. Simpson, id.*

The assessment of the video on appeal is, again, patently false. The video is clear there is no evidence planting. The bottle is there before the detective arrives. This proposition is denied.

DECISION

The judgment and sentence is **AFFIRMED.** The motion for an evidentiary hearing is **DENIED.** Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals,* Title 22, Ch.18, App. (2021), the **MANDATE** is **ORDERED** issued upon the delivery and filing of this decision.

APPEAL FROM THE DISTRICT COURT OF BRYAN COUNTY
THE HONORABLE MARK R. CAMPBELL, DISTRICT JUDGE

APPEARANCES AT TRIAL

D. MICHAEL HAGGERTY, II
716 W. EVERGREEN STREET
DURANT, OK 74701
ATTORNEY FOR DEFENDANT

TIM WEBSTER
FIRST ASSISTANT
DISTRICT ATTORNEY
117 NORTH THIRD STREET
DURANT, OK 74701
ATTORNEY FOR THE STATE

APPEARANCES ON APPEAL

CHAD JOHNSON
P. O. BOX 926
NORMAN, OK 73070
ATTORNEY FOR APPELLANT

MIKE HUNTER
ATTORNEY GENERAL
KEELEY L. MILLER
ASST. ATTORNEY GENERAL
313 N.E. 21ST STREET
OKLAHOMA CITY, OK 73105
ATTORNEYS FOR APPELLEE

OPINION BY: LEWIS, J.
ROWLAND, P.J.: Concur
HUDSON, V.P.J.: Concur
LUMPKIN, J.: Concur

ORIGINAL



IN THE COURT OF CRIMINAL APPEALS
OF THE STATE OF OKLAHOMA

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STATE OF OKLAHOMA
SEP 14 2021
JOHN D. HADDEN
CLERK

RAYMOND GLENN JOHNSON,	)	
	)	
Appellant,	)	
	)	
v.	)	Case No. F-2020-180
	)	
THE STATE OF OKLAHOMA,	)	
	)	
Appellee.	)	

ORDER DENYING PETITION FOR REHEARING

Raymond Glenn Johnson, Appellant, was tried in a two-stage trial by jury and found guilty of robbery with a weapon, after former conviction of two or more felonies, in violation of 21 O.S.2011, § 801, in Case No. CF-2017-402, in the District Court of Bryan County. The jury set punishment at forty (40) years imprisonment and the Honorable Mark R. Campbell, District Judge, pronounced judgment and sentenced accordingly.[1] Mr. Johnson's appeal of the conviction was denied on August 12, 2021. He has now filed a motion for rehearing. We find that the motion should be denied.

A petition for rehearing shall only be filed for the following reasons:

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[1] Appellant must serve 85% of his sentence before being eligible for consideration for parole. 21 O.S.Supp.2015, § 13.1(8).

1. Some question decisive of the case and duly submitted by the attorney of record has been overlooked by the Court; or

2. The decision is in conflict with an express statute or controlling decision to which the attention of this Court was not called either in the brief or in oral argument.

Rule 3.14(B), *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch. 18, App. (2021). After thoroughly reviewing Petitioner's claims, we find that he is not entitled to rehearing under Rule 3.14.

Petitioner has neither cited any question decisive of the case overlooked by this Court nor has he cited an express statute or controlling decision which was not brought to the attention of this Court.

THEREFORE, BY ORDER OF THIS COURT, the Motion for Rehearing is hereby **DENIED**.

IT IS SO ORDERED.

WITNESS OUR HANDS AND THE SEAL OF THIS COURT this 14th day of September, 2021.

Scott Rowland

SCOTT ROWLAND, Presiding Judge

ROBERT L. HUDSON, Vice Presiding Judge

GARY L. LUMPKIN, Judge

DAVID B. LEWIS, Judge

ATTEST:

John D. Hadden
Clerk

AFFIDAVIT

STATE OF OKLAHOMA)
)
COUNTY OF Cleveland)

I, Bob Stovall, being of legal age and sound mind, state as follows:

- My name is Bob Stovall, and I specialize in digital video technology. Chad Johnson with the Oklahoma Indigent Defense System hired me to review and produce images from the surveillance footage in State's Exhibit 1, Case No. F-2020-180, *Johnson v. Oklahoma*.

- On September 29-30, 2020, I reviewed the video exhibit marked as State's Exhibit 1, security footage from the morning of December 4, 2016. I captured nine screenshots, attached hereto as Exhibit A-1, without using any enhancement technology (I added the images in the bottom right-hand corners, close-ups of the area where the bottle ultimately rested). The screenshots include the following: at 10:08:20.9, showing that the plastic bottle was not present in the parking lot before the white Toyota 4Runner arrived; at 10:08:23.4, showing the 4Runner arrive; at 10:09:19.8, showing the individual retrieving something from the SUV's backseat; at 10:09:20.9 and 10:09:21.9, showing the individual drop the plastic bottle; at 10:09:23.8 showing the bottle rolling to a stop where it remained in the parking lot thereafter; and at 10:09:33.0, showing the individual turning back around and photographing the same bottle.

- From my review of the video, it is apparent that the individual placed the plastic soda bottle in the parking lot after retrieving it from the white Toyota 4Runner.

Further, affiant saith not.

Bob Stovall
BOB STOVALL

I state under penalty of perjury under the laws of Oklahoma that the foregoing is true and correct. *See* 12 O.S.2011, § 426; Rule 1.13(L), *Rules of the Court of Criminal Appeals*, Title 22, Ch. 18, App. (2020).

10-1-2020
(Date and Place)
Cleveland. County

(Signature: Bob Stovall)

Exhibit A

Appendix F

Bob Stovall

Specializing in all things digital for the greater good!

visiondigital@me.com | 405-210-7993 | Norman, Oklahoma

WORK EXPERIENCE

Visual Media Manager
Arm Dynamics

06/2010 – Present *Redondo Beach, California*

The world's leading upper extremity prosthetic rehabilitation specialists

Achievements/Tasks

- Responsible for all photography, videography, editing, collateral print design and website development for 8 centers.

Owner
Vision Digital LLC

06/1990 – Present *Norman, Oklahoma*

Shoot. Edit. Design. Inspire!

Achievements/Tasks

- A Full-service company equipped with the latest digital technology for on-site production or in our own studio.

Chief Videographer
University of Oklahoma

06/2001 – 06/2010 *Norman, Oklahoma*

Providing educational video production using satellite technology for transmission.

Achievements/Tasks

- Responsible for all field videography and studio photography production services for state contract clients.

CERTIFICATES

Lighting for Digital Cinematography Masterclass (06/2002 – Present)
The Maine Workshops, Rockport Maine

Stedicam Master Workshop (02/2003 – Present)
Certificate in Steadicam at the Malibu Steadicam Workshop

Digital Cinematography Masterclass (06/2002 – Present)
The Maine Workshops, Rockport Maine

EDUCATION

Bachelor of Fine Arts
University of Oklahoma

01/1988 – 06/1992 *Norman, Oklahoma*

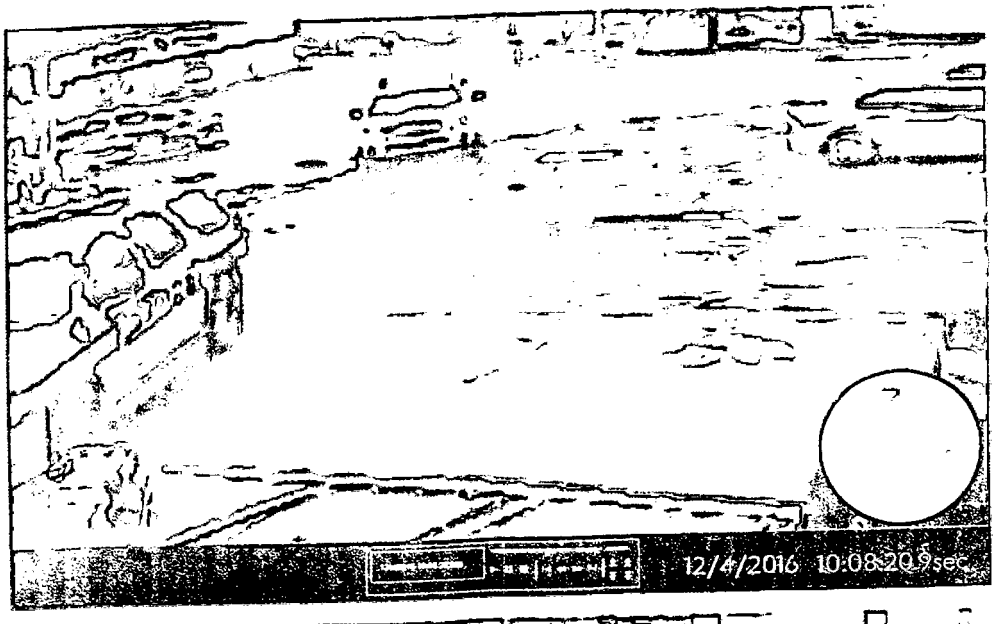
Courses

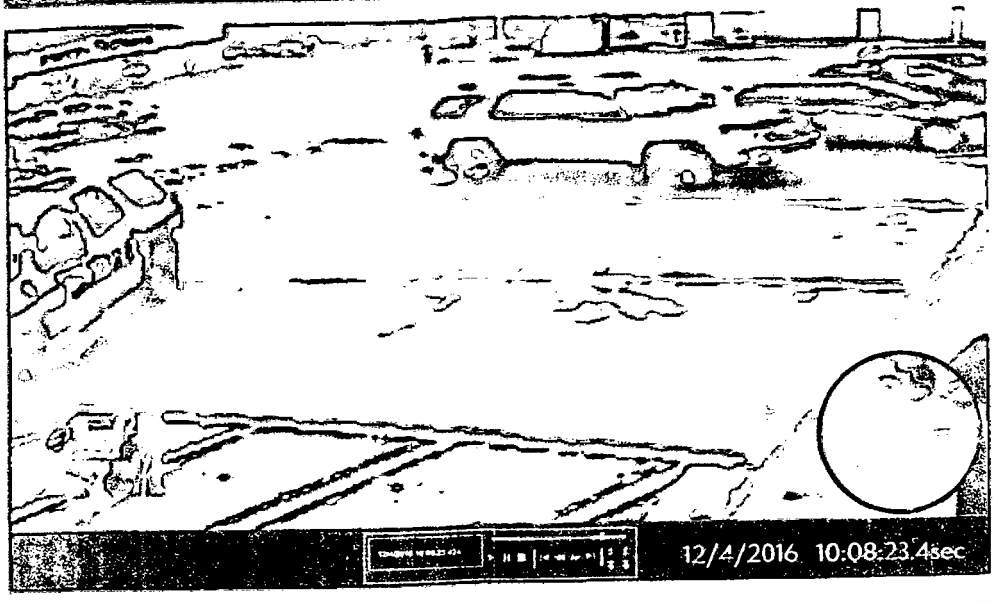
- Photography, Film, and Video

SKILLS

Adobe Photoshop | Adobe InDesign | Adobe Illustrator | Final Cut Pro X | Sony Digital Imaging | Microsoft Word | Microsoft PowerPoint | Microsoft Excel | Adobe Lightroom | Capture One Pro | Digital Forensics | Lighting Design | Director of Photography | Motion Graphics Creation | Live Event Production | Adobe XD | Professional Photography | Videography | Production Design | Website Development | HubSpot Certified | Collateral Design | Video Editing | Digital Touch Up Expert | Studio Operations | HTML Coding | Apple Computer Specialist | Licensed FCC Drone Pilot

Exhibit B


12/4/2016 10:08:20.9sec


12/4/2016 10:08:23.4sec

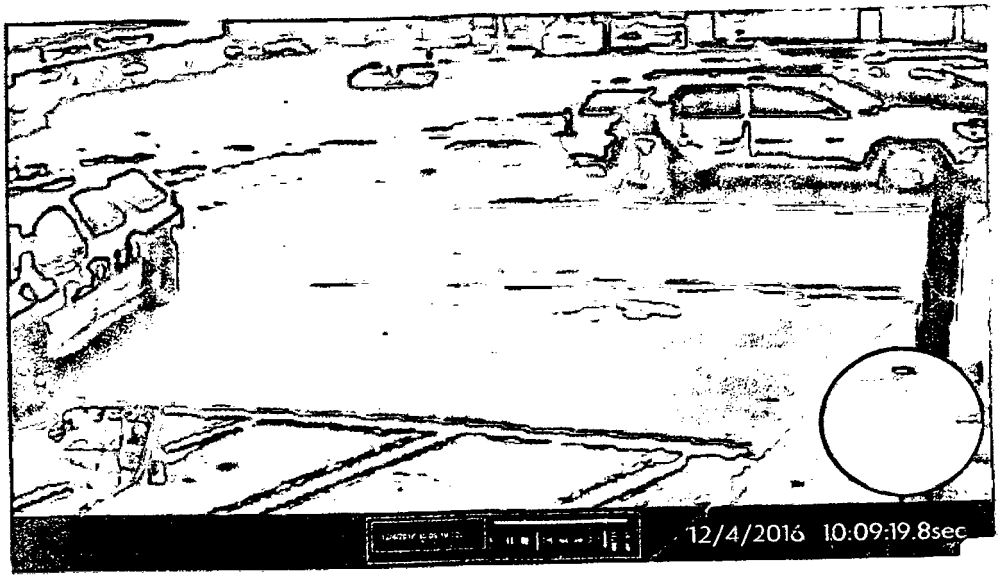
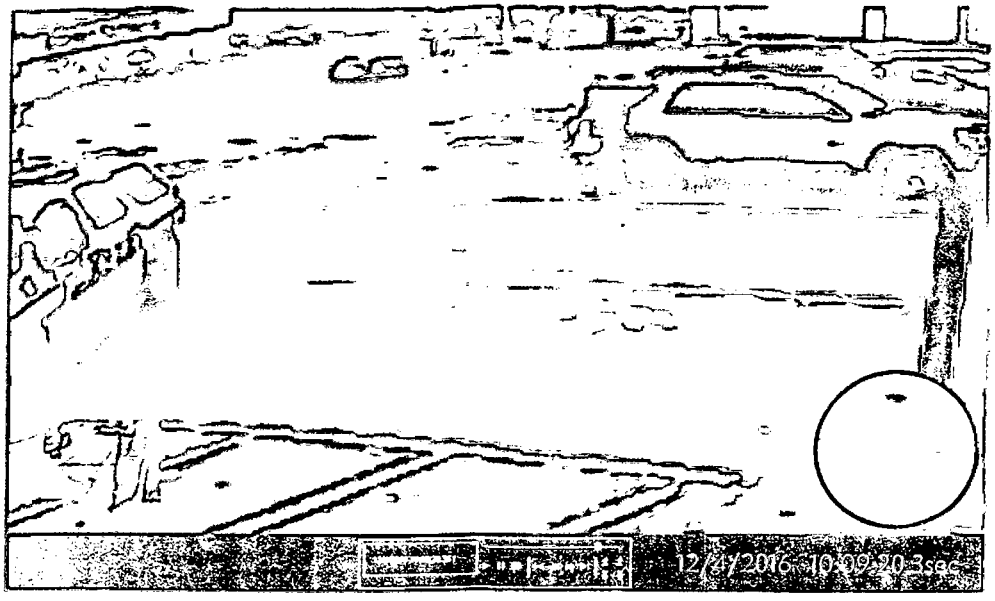
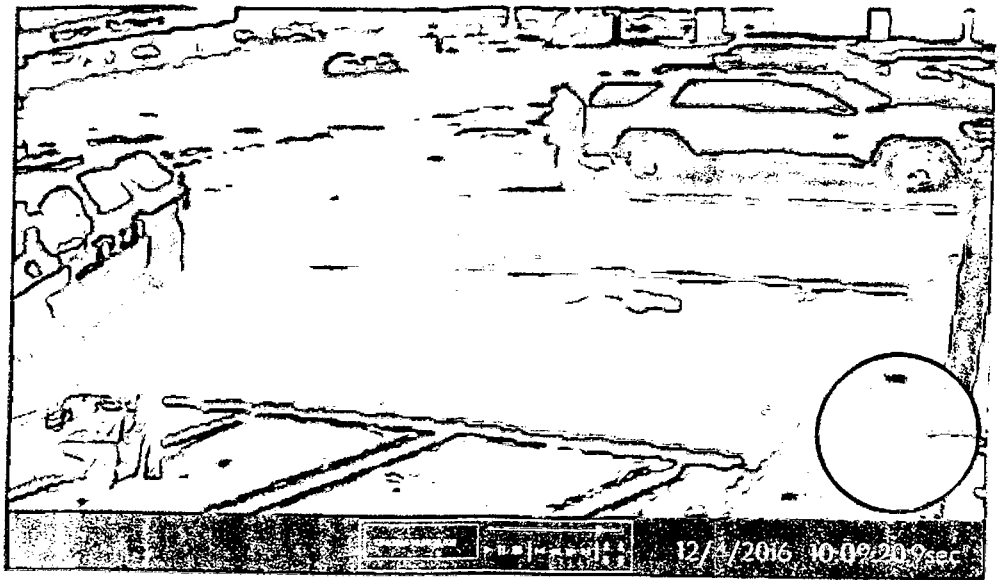
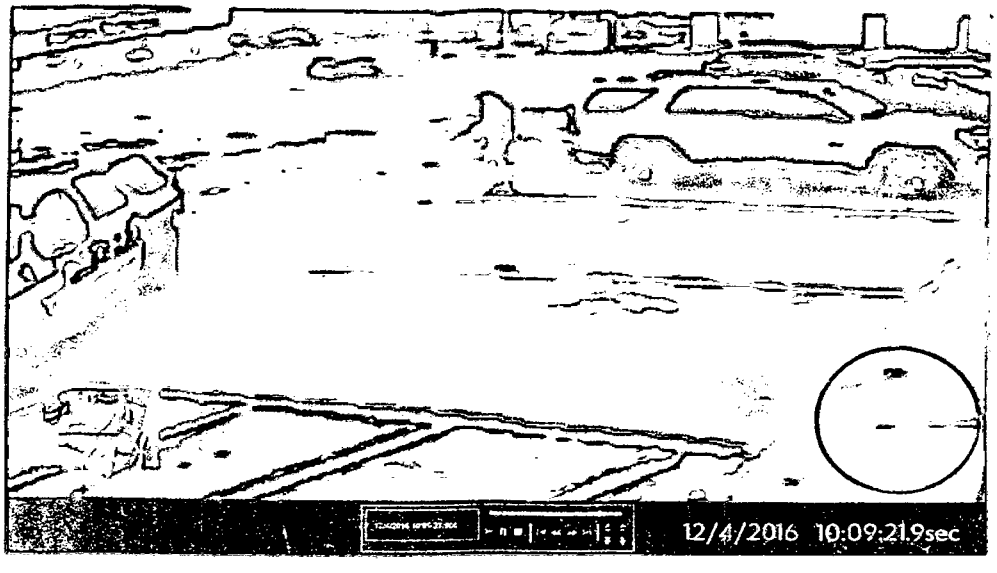
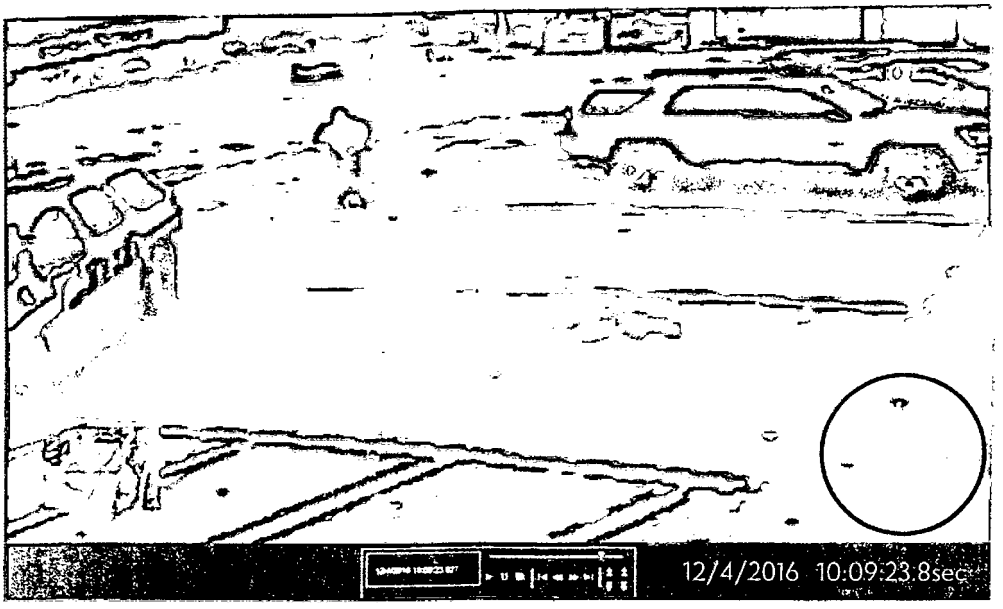

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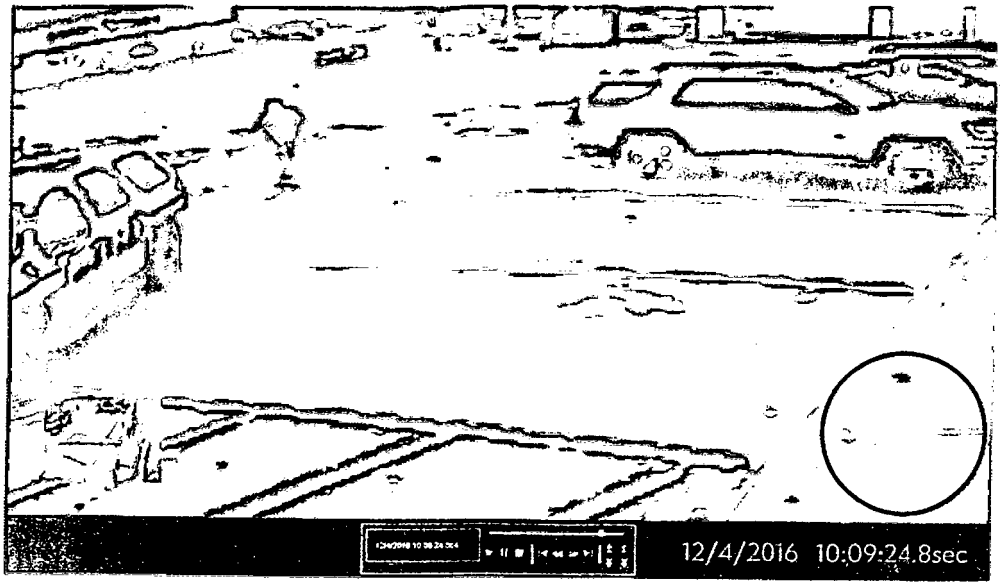
Exhibit A – 1

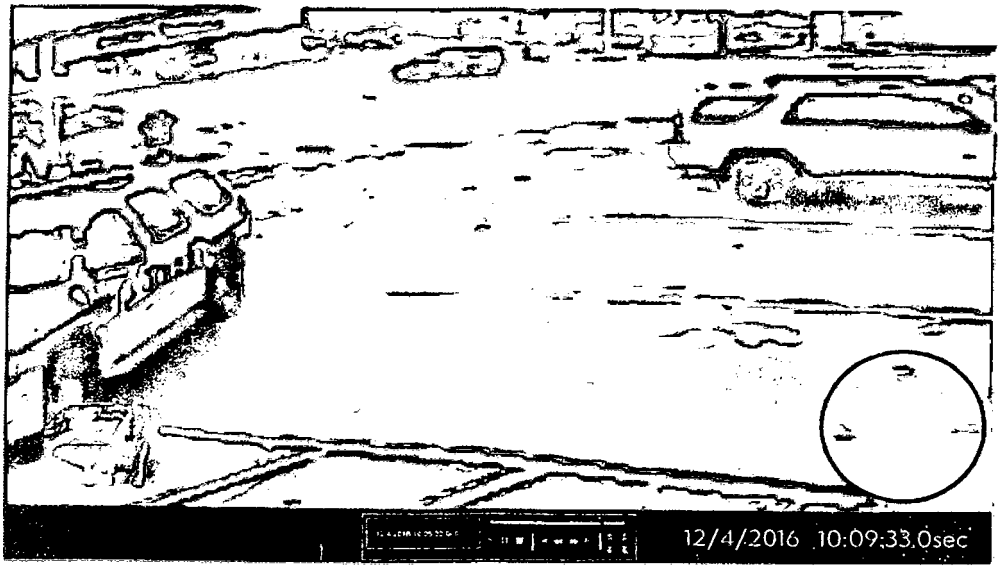

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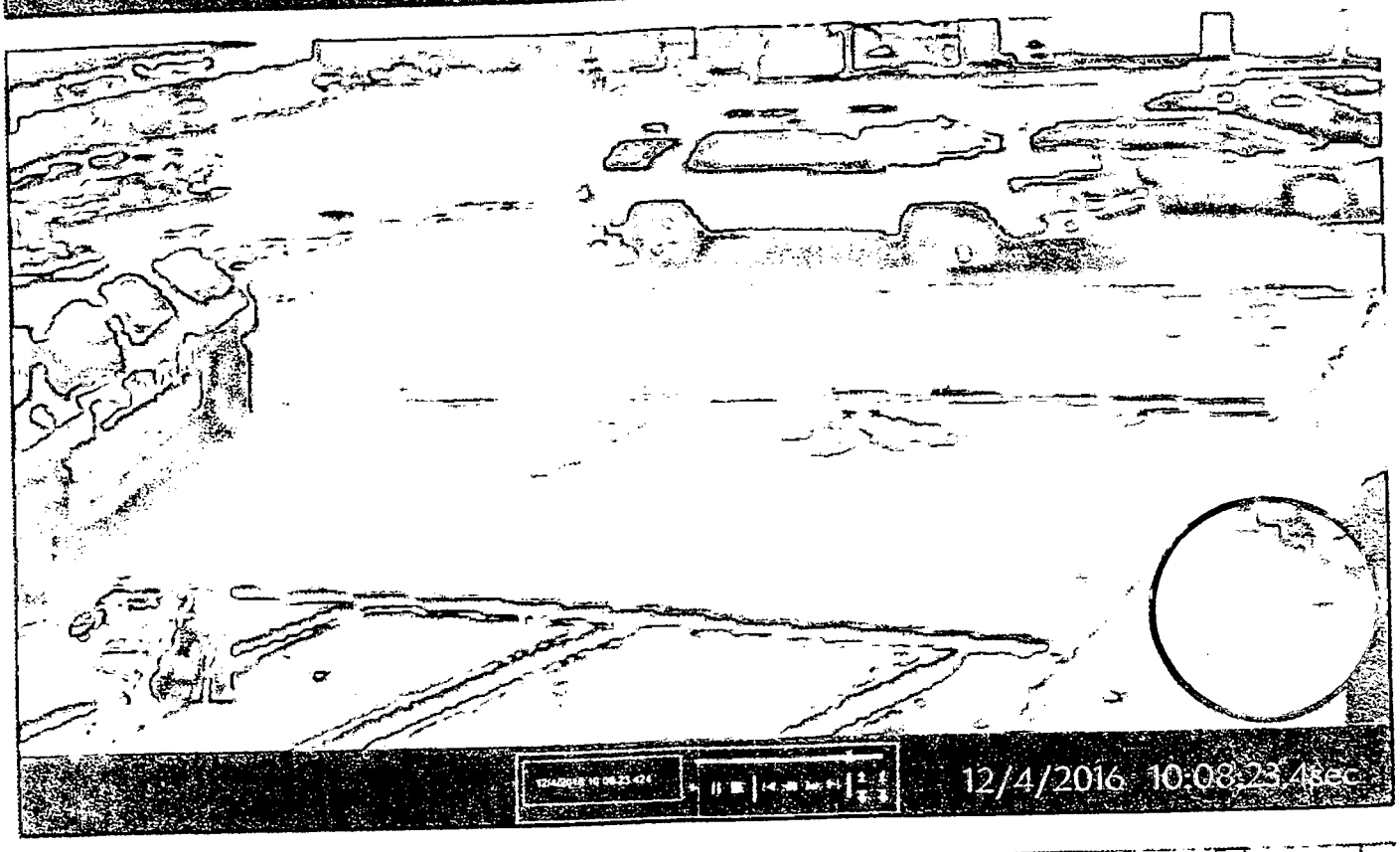

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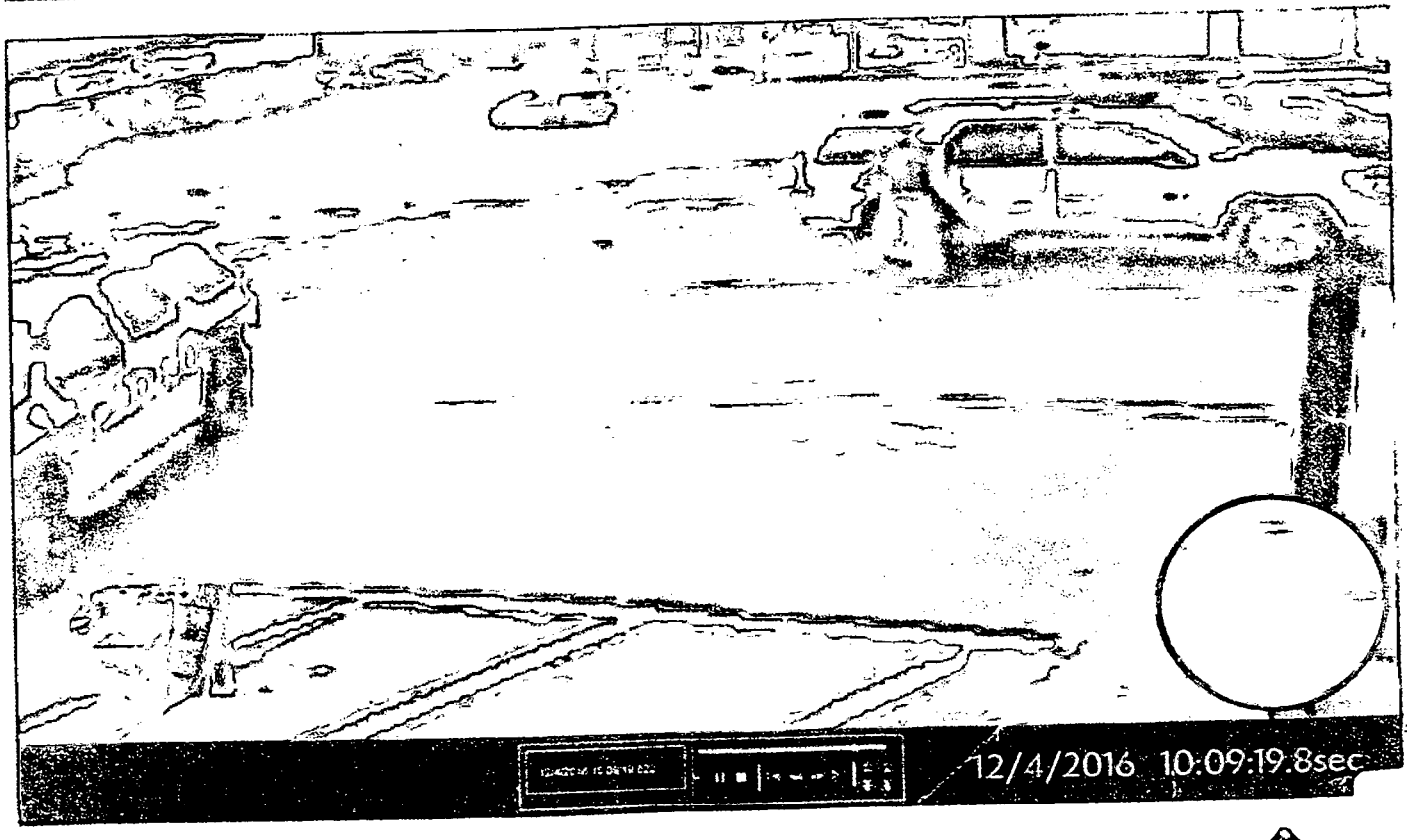

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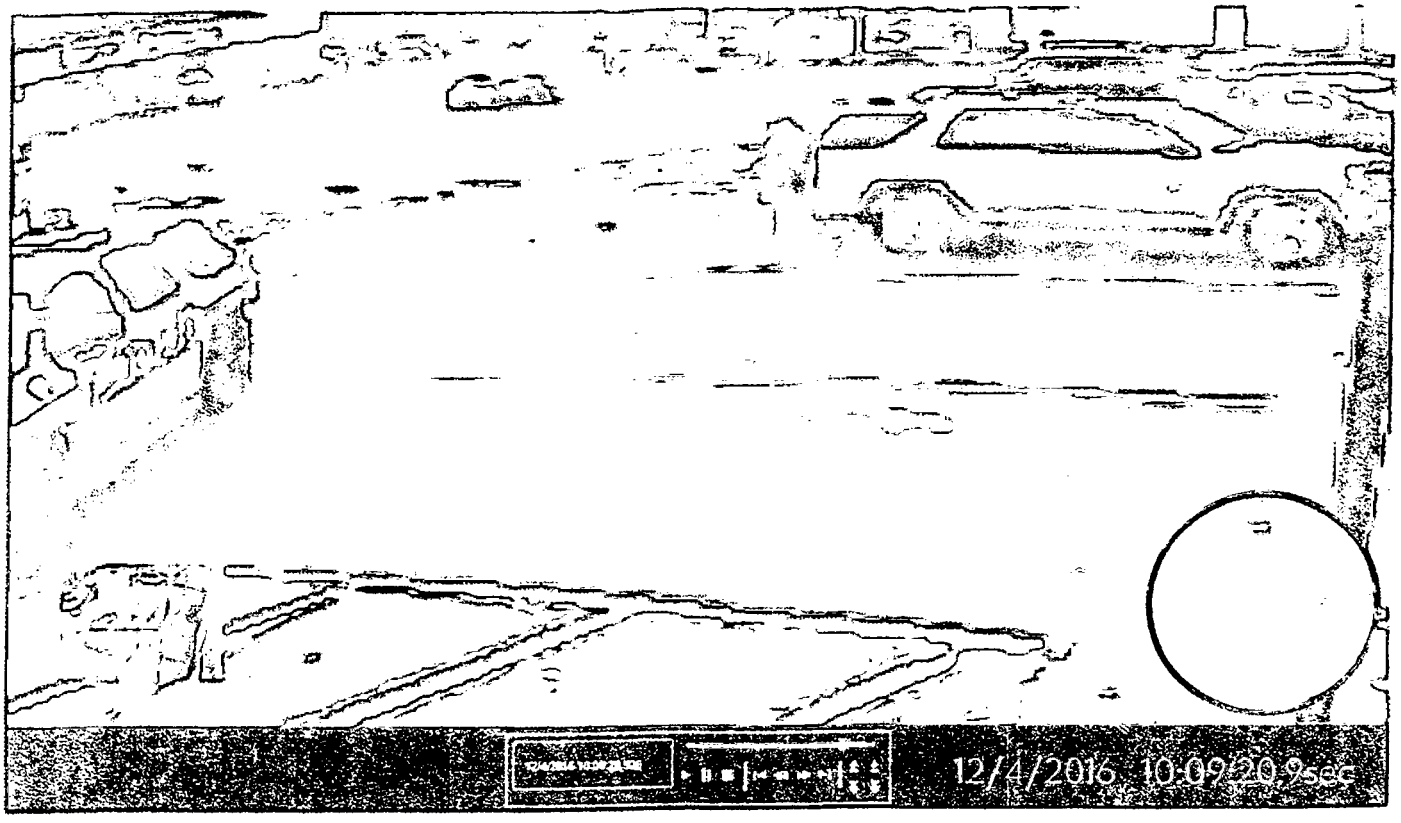

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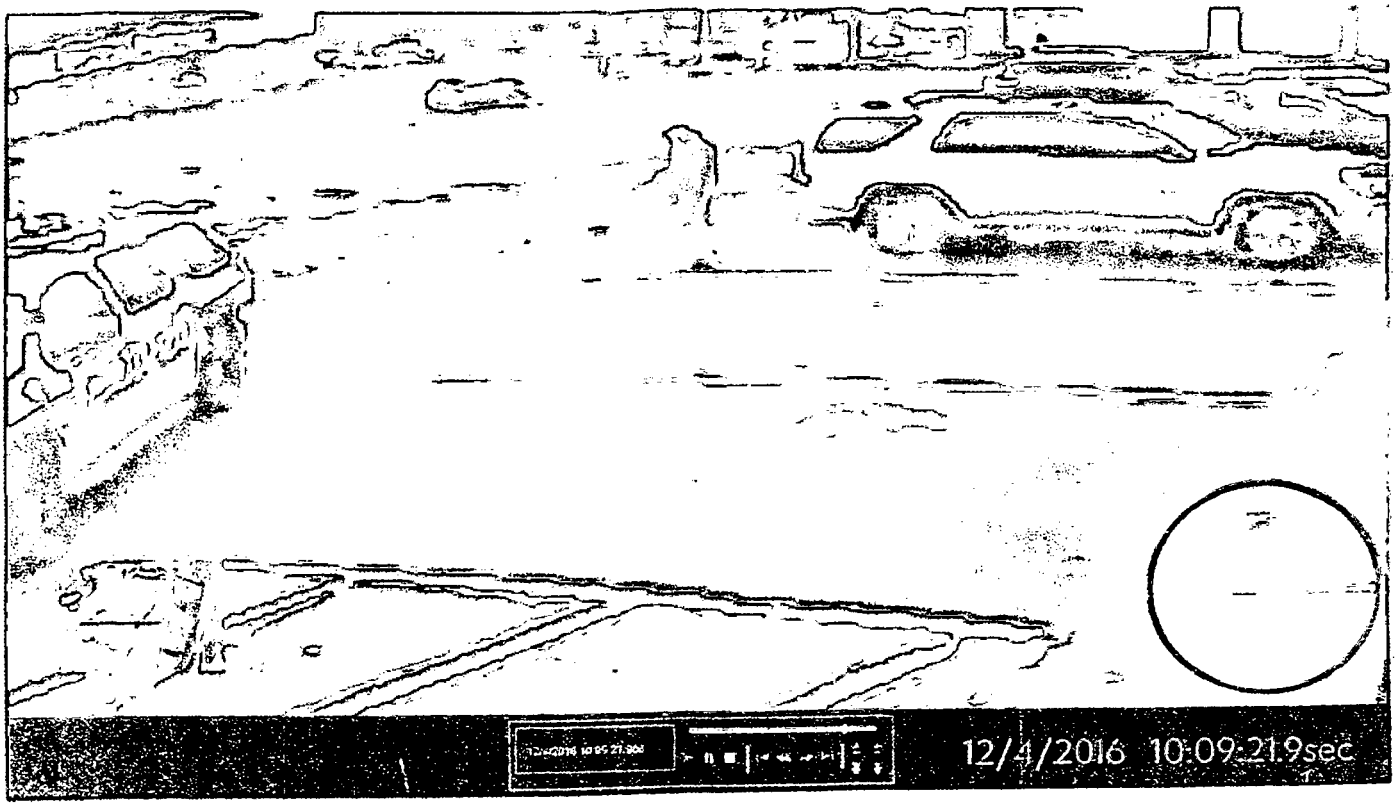

12/4/2016 10:08:20.9sec


12/4/2016 10:08:23.4sec


12/4/2016 10:09:19.8sec


12/4/2016 10:09:20.3sec


12/4/2016 10:09:20.9sec


12/4/2016 10:09:21.9sec