

1 end. I guess you had asked earlier and that still is
2 correct, he didn't move 180 degrees upside down type of
3 thing.

4 Q Well as you walked in the front door of the station,
5 you didn't see a shoe sticking out from behind the counter,
6 did you?

7 A No, I didn't -- wasn't paying any attention, no,
8 sir.

9 MR. PICL: I have nothing else. Thank you.

10 THE COURT: Miss Griffin?

11 MS. GRIFFIN: Nothing.

12 THE COURT: You may step down. Thank you.

13 THE WITNESS: Thanks.

14

15 (Witness excused.)

16

17 (Witness sworn.)

18

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19 D A N N Y M A R T I N E Z

20 called as a witness on behalf of the plaintiff herein, being
21 first duly sworn, was examined and testified as follows:

22

23 DIRECT EXAMINATION BY MS. GRIFFIN:

24 Q Would you state your name, please?

2

1 A My name is Danny Martinez.

2 Q And, Mr. Martinez, will you spell your last name,
3 please?

4 A M A R T I N E Z.

5 Q And you live here in Bloomington?

6 A That's correct.

7 Q Are you married?

8 A Yes, I am.

9 Q Have any children?

10 A Two girls.

11 Q And are you employed?

12 A Yes, I am.

13 Q Where do you work at?

14 A I work at Mitsubishi Motors of America.

15 Q How long have you worked there?

16 A Going on four years.

17 Q I want to ask you about the time frame of March
18 31st, 1991 and ask you where were you living at that time.

19 A I was living in 806 East Empire, Bloomington.

20 Q And who were you living there with at that time?

21 A My wife.

22 Q Did you have any children?

23 A Yes, I had one daughter at that time.

24 Q Now, where your residence was there on East Empire

1 Street, where was that in relation to the Clark gas station?

2 A That was east of the gas station.

3 Q And would it be accurate to say that Empire Street
4 is a one way street?

5 A That's correct.

6 Q One way going west?

7 A That's correct.

8 Q And is the Clark station -- was it at the
9 intersection of Linden and Empire Street?

10 A That's correct.

11 Q And where would you have been in relation to the
12 Clark station in terms of was there anything in between your
13 house and the Clark station?

14 A Yes, a fence there, a four foot length chain fence.

15 Q And so you were immediate neighbor to the Clark
16 station?

17 A That's correct.

18 Q Same side of the street?

19 A That's correct.

20 Q You're familiar with that station I presume having
21 lived next to it for some period of time?

22 A That's correct.

23 Q I want to direct your attention specifically to the
24 evening of March 31st, 1991 and ask you if you'd been

1 somewhere else that day and then returned to your home?

2 A That's correct, we had just came back from my
3 mother-in-law's in Peoria, Illinois, and we arrived at the
4 house between 7:30, eight o'clock.

5 Q And do you recall that that day was a holiday?

6 A That's correct. It was Easter Sunday.

7 Q And when you arrived back to your residence there
8 was your wife and your child with you?

9 A That's correct.

10 Q And did you do some things with them initially when
11 you got back?

12 A Yes, we arrived and pulled up and I had told my wife
13 that I was going to take my daughter into the house and take
14 a couple stuff out of the car at that time.

15 Q Okay. So you kind of unloaded a little bit?

16 A That's correct.

17 Q Now, at some point did you decide to go to the Clark
18 station?

19 A That's correct. I would go over there quite often
20 and get drinks over there.

21 Q Did your family have any kind of a particular ritual
22 or tradition on Sunday nights?

23 A Yeah, we would always sit down and watch TV together
24 and I would go over there and get the pops and my wife would

1 make the pop corns.

2 Q So it would have been sometime after eight o'clock
3 then that night when you went to the Clark station?

4 A That's correct.

5 Q And when you went to the Clark station, how did you
6 get there?

7 A I had a work car that the tire would go low and I
8 would -- I told my wife I was going to go and put air in the
9 tire and then grab the pops and so I pulled the -- my car
10 into the -- into the parking lot there at the Clark gas
11 station.

12 Q Now, what kind of car did you have at that time?

13 A I had a 74 Nova.

14 Q Okay. And did you keep it parked any particular
15 place?

16 A Yes, right across the street from the residence.

17 Q Okay. There on Empire Street?

18 A That's correct.

19 Q So when you pulled into the Clark station, what did
20 that require you to do?

21 A Well, I had jumped in -- got in the car and I pulled
22 into the parking lot there next door to the air pump, and I
23 got out of the car and went to the tire that would always go
24 low; and I started putting air in the tire at that time.

1 Q So since your car is already parked out on Empire
2 Street it's just a question of making a right turn into the
3 lot. Is that correct?

4 A That's correct.

5 Q Okay. Now, when you went into the lot, did you
6 actually put air in your tire?

7 A That's correct.

8 Q Okay. And as you were doing that, did you notice
9 anything, hear anything?

10 (A) Well, at that time when I was putting air in the
11 tire, I heard two bangs, and I thought maybe it was my car
12 backfiring at that time. And at that time I -- I got up
13 after I put air in the tire and I started walking towards
14 the gas station. *HE CAN'T TELL IF THAT WAS HIS
CAR, OR GUN SHOTS?! PLEASE!*

15 Q And as you walked towards the gas station, do you
16 notice anything, observe anything?

17 A Well, when I was putting air in the tire I saw a
18 gentleman coming out the door backwards, and I didn't notice
19 anything, you know, it just -- I started walking towards the
20 gas station, and I heard my car was about to die so I turned
21 around. And when I turned back around, I ran -- didn't run
22 into a person but I just was maybe a foot, three foot apart
23 from the gentleman that was there. *walked 16-20 feet
but guy still coming
out of door,*

24 Q Okay. So when you initially saw this individual

1 they were backing out of the door?

2 A That's correct.

3 Q And then you turned around to look at your car and
4 then you turned back around to go back into the station and
5 were you kind of face-to-face for awhile?

6 A That's correct.

7 Q And as you were face-to-face, what did you notice
8 about this individual?

9 (A) I noticed his eyes. His eyes was wide open like if
10 he was out the whole night, and I'll never forget those
11 eyes. *just + right to correct himself after with 85/135*
without out of his mind & other things.

12 Q Did that person react to you at all?

13 A He was shocked the same as I.

14 MR. PICL: I'm going to object to that. He is not
15 competent to testify to that.

16 THE COURT: Hold on. The objection is sustained.
17 The jury is ordered to disregard that.

18 MS. GRIFFIN:

19 Q Could you just say what did you observe about that
20 person do, what did they do?

21 A The person stopped the same as I did. We were both
22 surprised. It's just like if you're about to run into
23 someone and you turn around and --

24 MR. PICL: I'm going to object as to the

1 speculation. As if is not a proper subject for him to be
2 volunteering things about. I think he can make a
3 comment -- expression that's a common situation and that's
4 what he is pointing that to. It's common characterization.

5 THE COURT: Okay. I'm going to sustain the
6 objection.

7 MS. GRIFFIN:

8 Q So you looked at him and he looked at you?

9 A That's correct.

10 Q And what did you notice then?

11 A I noticed that his, like his facial remarks, his
12 eyes was wide open like he was surprised like I was there.

13 MR. PICL: Going to object again and ask that that
14 be stricken. He couldn't have read the man's mind. Your
15 Honor, I think he's giving a characterization that anyone
16 could describe and relate to.

17 THE COURT: He is. The objection is sustained and
18 it's stricken. Let's move on.

19 MS. GRIFFIN:

20 Q So after you noticed that about this individual,
21 what did you do?

22 A Well, I start walking towards the gas station. At
23 that time I heard somebody says hey, holdup or stop. *trying to
correct me
PF-10*

24 MR. PICL: I'm sorry, I didn't hear that.

1 THE WITNESS: I said I started walking towards the
2 gas station, and I heard someone says stop or holdup.

3 MS. GRIFFIN:

4 Q Now, did you see where this individual that you saw
5 come out of the station go?

6 A That's correct, gentleman had just walked right
7 around the corner and headed north towards the alley. It
8 was an alley that ran north and -- up north and east and
9 west.

10 Q Just to orient ourselves, there was an alley
11 directly behind the Clark station?

12 A That's correct.

13 Q And it ran?

14 A East and west.

15 Q Would that be between Linden and Eastholme?

16 A That's correct.

17 Q Did it also run north and south?

18 A That's correct.

19 Q Were there garages and things back there by that
20 alley?

21 A That's correct.

22 Q And when you saw that individual, that individual
23 first walked towards the east?

24 A That's correct and then went around the corner.

1 There was a piece of grass area that was from the gas
2 station to the fence that you could walk through back to the
3 alley.

4 Q And you didn't see or pay any attention to where the
5 person went once they started headed towards the alley?

6 A No, that's correct.

7 Q And then you heard an officer say stop or holdup?

8 A Right, that's correct.

9 Q What happened then?

10 A I had turned around, and I had saw an officer across
11 the street. At that time there was a pickup that had pulled
12 up into the gas station and that officer had said to the
13 person in the pickup to get out of here or take off, and
14 then I don't know if he recognized me from being the
15 neighbor next door. He asked me if I had saw anything; and
16 I told him, yeah, I just saw a gentleman go around the
17 corner.

18 Q And what did you do or where did you go then?

19 A Well, at that time he asked me, I don't know if
20 he -- like I said, if he recognized me from being the next
21 door neighbor he asked me if that was my vehicle. I said
22 yes. He said could you pull it out and go on home. So I
23 jumped in the car and pulled out backwards and just parked
24 it right across the street.

as pelo story

1 Q So when you say you pulled out backwards, you just
2 backed your car back up on to Empire Street?

3 A That's correct, that's correct.

4 Q And parked back across from your house like you said
5 where you usually park. Is that correct?

6 A That's correct.

7 Q I'm showing you what's been marked as State's
8 exhibit number one, ask you if you recognize what's in that
9 photograph.

10 A Yes, that's the Clark gas station.

11 Q Okay. And is your residence depicted there in that
12 area?

13 A Well, it's right off this area. You can't see my
14 home at that time.

15 Q Okay. The fence that you talked about, is that
16 depicted there?

17 A No.

18 Q Okay. That all would be just a little bit farther
19 to the right of this photograph. Is that correct?

20 A That's correct.

21 Q And what about the air pump, air hose that you
22 talked about?

23 A That's correct, that's right there on the right of
24 the picture.

1 Q Okay. And that's the area where you pulled your
2 vehicle up to?

3 A That's correct.

4 Q And when you pulled your vehicle up in there, how
5 was your vehicle facing?

6 A Facing north and south.

7 Q Okay. I'm showing you what's now marked as People's
8 exhibit number ten, ask you if you recognize what's in that
9 photograph.

10 A That's a picture of my home and an empty parking
11 lot.

12 Q And the fence, the chain-link fence, is that
13 depicted there as well?

14 A That's correct.

15 Q Okay. Does this photograph fairly and accurately
16 depict where your residence was in relation to the station?

17 A That's correct.

18 MS. GRIFFIN: I'd move to admit ten and ask to
19 publish.

20 THE COURT: Any objection to ten?

21 MR. PICL: Can I see that once again? I'm sorry.
22 I didn't get a chance. I have no objection. Now that is
23 not how the station looked back in 91, right?

24 MS. GRIFFIN: That's where I'm going next.

1 MR. PICL: Okay.

2 THE COURT: All right then, ten is admitted.

3 MS. GRIFFIN:

4 Q Mr. Martinez, as this photo is depicted there,
5 that's your house up in the top left-hand corner. Is that
6 correct?

7 A That's correct.

8 Q And is this a photograph that would have been taken
9 after the Clark station was not in operation?

10 A That's correct.

11 Q Okay. And that's not how the station itself
12 appeared back on March 31st, 1991. Is that correct?

13 A That's correct.

14 Q But it does show your house in relation to the
15 station. Is that correct?

16 A That's correct.

17 Q And still standing there I believe kind of in the
18 middle of the picture is the white area which I believe
19 is --

20 A The air pump.

21 Q The same pump that you pointed out in People's
22 exhibit number one. Is that correct?

23 A That's correct.

24 Q I'm showing you what's marked as State's exhibit

1 number 14, ask you if you recognize what's depicted there?

2 A That's the gas station and the area between the gas
3 station and the grassy area I was talking about.

4 Q Okay. And does that photograph fairly and
5 accurately depict how the station appeared on March 31st,
6 1991?

7 A That's correct.

8 MS. GRIFFIN: Ask to admit that and publish that.

9 THE COURT: Any objection to 14?

10 MR. PICL: 14, no objection.

11 THE COURT: All right. That's admitted.

12 MS. GRIFFIN:

13 Q And when you previously had testified about this
14 individual you saw going to the east and then to the north,
15 is that shown at all -- is that the area that's shown at all
16 in People's exhibit number 14?

17 A That's correct.

18 Q This would be an east side view?

19 A That's correct.

20 Q Would that be correct, of the station?

21 A Yes.

22 Q And showing you what's marked as State's exhibit
23 number 12, do you recognize what's shown there in that
24 photograph?

1 A That's the front of the gas station.

2 Q And does that picture fairly and accurately reflect
3 how that station appeared back on March 31st, 1991?

4 A Yes.

5 MS. GRIFFIN: Move to admit and ask to publish
6 that.

7 THE COURT: Any objection to 12?

8 MR. PICL: 12, no objection.

9 THE COURT: That's admitted.

10 MS. GRIFFIN:

11 Q Now, Mr. Martinez, using People's exhibit number
12 one, number 12 and number 14, do any of those photographs
13 help identify approximately the area you would have been at
14 when you came face-to-face with this individual that exited
15 the station that day?

16 A Yes.

17 Q Which photograph best showed that area?

18 A It would be this photo.

19 Q Okay. And that would be State's exhibit number 12,
20 is that correct?

21 A That's correct.

22 Q Now, can you indicate approximately where and if you
23 need to step down to do that, I would ask the court's
24 permission to allow that, to show on that photo

1 approximately where it would have been that you came near
2 this individual?

3 A Yes, it was on the right side corner of the gas
4 station, almost.

5 THE COURT: He can have leave to step down if he
6 wants to show.

7 MR. PICL: Have we got a pointer by any chance we
8 can use?

9 THE COURT: I guess we don't, right? We don't
10 have a pointer.

11 THE WITNESS: This area right here.

12 MS. GRIFFIN: Vince? Thank you.

13 Q Now, Mr. Martinez, did you have a chance later on
14 there while you were at your residence that evening to talk
15 with officers in more detail about what you saw?

16 A That's correct.

17 Q And did they actually ask you to come down to the
18 police department, the Bloomington Police Department?

19 A Yes, they did.

20 Q And did you go down there with them?

21 A Yes, I did.

22 Q And spend sometime down there with them telling you
23 what you've seen?

24 A That's correct.

1 Q And did you give them a description of the suspect
2 you had seen?

3 A That's correct.

4 Q Could you describe for us what you recall about the
5 individual you saw there at the station that night?

6 (A) He was wearing a light jacket. He was maybe five
7 seven, five eight, with a ball cap on. And like I said,
8 what I recognized the most was his eyes, I mean his face,
9 like he was surprised when I, you know, saw him, he saw me.

10 MR. PICL: Objection, ask that that be stricken.

11 THE COURT: Okay. It's -- the part about him
12 being surprised is stricken.

13 THE WITNESS: And it just -- I mean that's what --

14 MS. GRIFFIN:

15 Q Do you recall anything in terms of --

16 A He had -- look like he hadn't shaved, well, he just
17 got done shaving with a goatee and his beard wasn't out, but
18 it was just like a stubble of whiskers on the side of his
19 face and front.

20 Q Did you notice anything in terms of the color of the
21 hair or the length of the hair?

22 (A) It was shoulder length hair, and it was kind of like
23 a brownish.

24 Q Now, when you indicate that it appeared to be a

1 light colored jacket, are you talking about the type of
2 weight or are you talking about the color or --

3 A It was like a spring jacket at that time. It was,
4 you know, down to his almost past his pockets. I
5 didn't -- he had his hands in his pockets and looked like he
6 was holding something and at that time and he walked, you
7 know, like I said -- he walked around the corner.

8 Q Now, you indicated you gave that description to the
9 police of what you saw?

10 A That's correct.

11 Q And did they work and try to draw up what you were
12 describing?

13 A Yes.

14 Q And did they come up with a composite?

15 A Yes.

16 Q I want to show you what's marked as State's exhibit
17 number 21, ask if you recognize what that is.

18 A That is the picture that the officer had drawn up.

19 Q Okay. Based on what you were describing to him?

20 A That's correct.

21 Q And did you believe that this composite fairly and
22 accurately represented as best you could the features that
23 you saw on that individual on March 31st, 1991?

24 A That's correct.

1 Q And aside from me putting the evidence sticker on
2 here is there anything different about this composite than
3 when you saw it back on it would have been April 1st, 1991?

4 A No, not at all.

5 MS. GRIFFIN: I'd move to admit and ask to
6 publish, Your Honor.

7 THE COURT: Any objection to 21?

8 MR. PICL: No objection.

9 THE COURT: Okay. That's admitted.

10 MS. GRIFFIN: Thank you.

11 Q Now that night and the early morning of the next day
12 when you were at the police department you had a chance to
13 look at some photographs?

14 A That's correct.

15 Q Several photographs, would that be correct?

16 A That's correct.

17 Q And were you able to positively identify anybody as
18 the person that you had seen at the Clark station?

19 A No. ---

20 Q Later on did you have a chance to view what's called
21 an in person lineup down in the McLean County jail?

22 A Yes, I did.

23 Q And at that time do you recall how that was done in
24 terms of what was presented to you?

1 A The officer had took me into a room that was kind of
2 dim, dark and a group of gentlemen had came in in the
3 lineup, and he asked me if I recognized any of the
4 gentlemen. I couldn't tell because of the darkness in that
5 room and the distance from where we were from.

6 Q So in that in person lineup did you identify anybody
7 positively as the person you'd seen at the Clark station on
8 March 31st, 1991?

9 (A) No, not at that time.

10 Q Now, a few months ago, I believe back in July, did
11 you have a chance to see a photograph of the People that
12 were in that in person lineup?

13 A That's correct.

14 Q Okay. And was that the first time you'd ever seen a
15 photograph of that in person lineup?

16 A That's correct.

17 Q Where was it that you were at when you saw that?

18 (A) It was here at your office. *

19 Q Okay. And when you saw that photograph, whose idea
20 was it to look at a photograph? Did anybody ask you to look
21 at a photograph?

22 A No, it was -- I had asked if you had a picture of
23 the lineup at that time and you said you did. And I asked
24 you if I could see it and you went and had gotten a picture

How would HE EVER know to ask for a picture. Also, compare to HEARING.
173

1 for me.

2 Q Okay. Now, would it be fair to say that we were
3 doing trial preparation when we were meeting in my office?

4 A That's correct. *His name not in indictment*
And he knows single on 9 that he
just assumed he would be a witness - so
what trial preparations if he was not even

5 Q When you saw the photograph that I handed to you did
6 you recognize anyone in that photograph?

7 A Yes, when I looked at the photograph I recognized
8 the person, the number six in that picture, and I said this
9 is him, isn't it, this is him. I know this is him. And I
10 had mentioned to you, I said this is him.

11 MR. PICL: I'm going to object to his continuing
12 testimony without a pending question concerning dialogue.
13 The question was did he pick anybody out of the photo I
14 think.

15 THE COURT: The objection is overruled.

16 MS. GRIFFIN:

17 Q So you did, in fact, recognize somebody in that
18 photograph?

19 A That's correct.

20 Q And that would be number six. Is that correct?

21 A That's correct.

22 Q I'm going to show you what's marked as State's
23 exhibit number 11, ask you if you recognize what that is?

24 A That is the photograph that I had asked for in your
How big is this photo?

1 office.

2 Q Okay. That would be a photograph of the lineup of
3 the individuals you saw in person?

4 A That's correct.

5 Q And those individuals are holding up numbers. Is
6 that correct?

7 A That's correct.

8 Q Okay. And does that photograph fairly and
9 accurately reflect the people that you looked at there in
10 person on June 21st?

11 A That's correct.

12 Q Excuse me, in 1991?

13 A That's correct.

14 MS. GRIFFIN: I'd move to admit and ask to publish
15 it.

16 THE COURT: Any objection to 11?

17 MR. PICL: No.

18 THE COURT: All right. That's admitted.

19 MS. GRIFFIN:

20 Q And the person that you identified as the person you
21 saw at the Clark gas station on March 31st, 1991, where
22 would that be in that photograph?

23 A It would be that number six, the last person.

24 Q Pointing to the left-hand side of that, is that

1 correct?

2 A That's correct.

3 Q Now, was there anything in particular that got your
4 attention when you looked at that?

5 (A) It was his eyes, like I -- like I had mentioned
6 before, his eyes that I'll never forget, and it's just
7 caught my attention right away.

8 (Q) Now, prior to your viewing that photograph in my
9 office in July, 2000 --

10 A Yeah.

11 Q -- had you seen a photograph of that individual
12 before?

13 (A) Yes, I had. I saw a photograph of a picture in the
14 Pantagraph that was posted when they had arrested the
15 gentleman for the incident. *Doesn't this point his Id. in the line-up photo?*

16 Q I'm showing you what's marked as State's exhibit
17 number 36, ask you if you recognize that?

18 A That's correct, that's what I saw in the Pantagraph.

19 Q Okay. And does that photograph fairly and
20 accurately depict the photograph that you recall seeing in
21 the Pantagraph?

22 A That's correct.

23 Q Shortly after that person was arrested?

24 A Yes, that's correct.

1 MS. GRIFFIN: Move to admit and ask to publish.

2 MR. PICL: No objection. What's that number again
3 though?

4 MS. GRIFFIN: 36.

5 THE COURT: Okay then, 36 is admitted.

6 MS. GRIFFIN:

7 Q Now, when you saw that photograph in the Pantagraph,
8 what was it that caught your attention at that time?

9 (A) It was the eyes of the person in the photograph that
10 caught my attention.

11 Q As you sit here in the courtroom today, *JIN-COURT*
12 Mr. Martinez, do you see anyone in the courtroom, are you *IK*
13 able to identify anyone in the courtroom that you saw at the *AA*
14 Clark gas station on March 31st, 1991?

15 A That's correct.

from LI, Co - No objection was printed by out of court Id.

16 Q Okay. Could you point that person out and describe
17 what that person is wearing?

18 A The gentleman right over there with the black suit,
19 gray tie, white shirt on.

20 MS. GRIFFIN: Would the record reflect he's
21 identified the defendant?

22 THE COURT: Where is he at on the table?

23 THE WITNESS: He's on the left side of the table.

24 THE COURT: All right. The record will reflect

1 the witness has identified the defendant.

2 MS. GRIFFIN:

3 Q Now, as you looked at the photograph back in July,
4 2000 and as you see the defendant here in this courtroom
5 today, do you have any idea in terms of how sure you are
6 that this is the person that you saw?

7 (A) Yes, I was 85 percent sure, but now I'm a hundred
8 percent sure. *was 85% the same as I was
in the C. for not identifying*

9 Q Now, were you shown photographs of people by the
10 police over the first year, year and a half after the murder
11 occurred?

12 A That's correct.

13 Q And were you ever able to positively identify anyone
14 from those photographs?

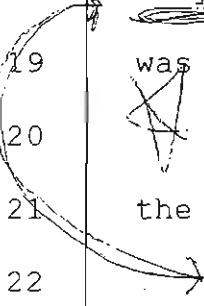
15 (A) No.

16 (Q) When was the first time that you saw the person that
17 you saw at the gas station on March 31st, 1991 and you said
18 to yourself, that's them, I know that's the person? When
19 was the first time that ever happened?

20 (A) That was at your office when I saw the photograph of
21 the lineup. *cops! HE WAS SUPPOSE TO SIT
in the lineup photo - but SHE HELPS
him out below. Compare also hearing.*

22 Q And even though you might have not have said
23 anything, had you also noticed it in the Pantagraph that you
24 talked about?

same question



1 A That's correct, yes, that's correct.

2 Q Did anyone in my office on July of this year, excuse
3 me, July of 2000, ever ask you to make an identification of
4 anyone in the lineup or tell you to pick anyone out of the
5 lineup?

6 A No.

7 Q When you saw that picture in the paper and
8 recognized the eyes, you thought this was the one, did you
9 tell anybody about that?

10 A No, the only person I told was my spouse.

Spot 9/9

11 Q So the first time you told anybody connected to this
12 case about it would have been in my office in July?

*How come
not call
on 7/12/00
later?*

13 A That's correct.

14 MS. GRIFFIN: I don't believe I have any other
15 questions. Thank you, Mr. Martinez.

16 THE COURT: Okay. Mr. Picl?

17 MR. PICL: Thank you, Judge.

18

19 CROSS EXAMINATION BY MR. PICL:

20

21 Q Okay, Mr. Martinez, I've got a few questions for
22 you. Number one, when did you arrive here at the courthouse
23 today to testify?

24 A Around 3:15.

2000

1 Q And was that in response to what, a call you
2 received from the prosecution?

3 A That's correct.

4 Q Who called you?

5 A A young lady named Mary Kay.

6 Q And when did she call you?

7 A She called me a few times today.

8 Q Asking you to be here at 3:15?

9 A No, the first time was at quarter to four.

10 Q The first time she called you was at quarter to
11 four --

12 A No, she called me, the first time she called me to
13 be here at quarter to four.

14 Q About what time was that?

15 A It was between -- this morning, between nine and
16 noon.

17 Q And she called several other times between nine and
18 noon. Is that right?

19 A Just once after that.

20 Q All right. Where do you work?

21 A I work at Mitsubishi Motors of America.

22 Q What do you do there?

23 A I'm an associate.

24 Q Associate what?

1 A We're considered all associates there at factory
2 plant.

3 Q You work on an assembly line?

4 A That's correct.

5 Q All right. Do you watch television?

6 A That's correct.

7 Q Do you watch, you know, late, the last few years
8 there have been a lot of courtroom dramas and crime shows,
9 law and order, that sort of stuff, ever watch any of those?

10 A That's correct, I'm sure I have.

11 Q Okay. Are you interested at all in that type of
12 program? You must be if you watch it.

13 A Yes, if it's interesting.

14 Q Okay. You didn't make your identification of
15 Mr. Snow as the man you saw in the Clark station parking lot
16 until July of this year. Is that correct?

17 A That's correct.

18 Q Now, perhaps based -- by the way -- strike that.
19 Have you ever had any law enforcement training?

20 A No.

21 Q But I bet you're aware from watching the crime shows
22 that you watch on television that an identification by you
23 under these circumstances could be pretty powerful evidence
24 in a trial of this type, correct?

1 A Guess so.

2 Q Well, you figured that coming in, didn't you?

3 A I'm sure.

4 Q Okay. Good. Have you followed the investigation
5 and reports of the investigation and the crime as published
6 in the Pantagraph over the years?

7 (A) I think I read a couple articles.

8 Q Do you read the Pantagraph on a regular basis?

9 A I don't describe [sic] to it, but, yes, I have.

10 Q All right. You did see the photograph of Jamie Snow
11 when he was arrested. Is that correct?

12 A That's correct.

13 Q Now that photograph I believe has been run in the
14 Pantagraph more than once. Have you seen it more than once?

15 A No.

16 (Q) Just that time when he was first arrested?

17 A That's correct.

18 Q Would that have been back in November or December of
19 1999?

20 A I think maybe earlier than that.

21 Q And at that time upon seeing that photograph you
22 recognized his eyes?

23 A That's correct.

24 Q As matching those of the man you saw in the parking

2

1 lot at the gas station, right?

2 A That's correct.

3 Q And you realized at that time that they had
4 arrested, in fact, the man that you saw in the parking lot
5 that night, right?

6 A That's correct.

7 Q Now, did you believe at the time that you recognized
8 that photograph in the Pantagraph that the man you had
9 bumped into or encountered in the Clark station parking lot,
10 did you believe that that was the shooter?

11 A Yes.

12 Q Why did you believe that?

13 A Because I recognized his eyes, and his eyes is the
14 ones that --

15 Q Well, what I'm asking you is why do you believe that
16 the man that you saw in the parking lot of the Clark station
17 was the man who shot Bill Little?

18 A Well, that's the gentleman I saw coming out of the
19 gas station.

20 Q Oh, so you don't know whether the gentleman you saw
21 coming out of the gas station shot Bill Little, do you?

22 A No.

23 Q You didn't see anyone shoot Bill Little, did you?

24 A No.

1 Q And, in fact, you're not even certain that the two
2 sounds you heard were shots, are you?

3 A That's correct.

4 Q Your car apparently was having some mechanical
5 trouble at the time?

6 A No, just, you know, low tire.

7 Q Okay. Well, but you thought it might have been
8 backfiring, correct?

9 A That's correct.

10 Q All right. And you had left your car running when
11 you put the air in the tires, right?

12 A That's correct.

13 Q Why were you walking to the gas station? Were you
14 going to pay for the air in your tires or buy drinks?

15 A No, I was going to buy drinks.

16 Q You, as I recall your testimony, then saw a man
17 backing out of the gas station. Is that correct?

18 A That's correct.

19 Q And about the same time he turned around is when you
20 were about three feet from him and looked into his eyes,
21 correct?

22 A No, I stated that I was going -- when I was pumping
23 air in the tire I saw a gentleman coming out of the gas
24 station. I started walking to the gas station. I heard my

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1 vehicle was about to die. I turned around. When I turned
2 back around I saw a gentleman there that was surprised the
3 same as I was surprised that we were both there.

4 Q You're determined to tell us that this guy you think
5 was surprised, aren't you?

6 A That's where -- it's just like if me and you would
7 bump in public, right before we going to bump.

8 Q Right.

9 A And we're both surprised that we're going to bump
10 and you're going to say excuse me.

11 Q Okay. So in other words, that's why you think he
12 was surprised. Is that correct?

13 A No, I think we were both surprised because I turned
14 around and I didn't expect to get so close to the person.

15 Q And up to that point he was walking backwards
16 towards you. Is that right?

17 A No, he had come out backwards and had turned around,
18 and when I was going towards the gas station I turned around
19 real quick because my car was about to die and I turned
20 around again.

21 Q Well, now wait a second. I don't recall you telling
22 us on direct that you saw him turn around after he backed
23 out of the gas station. Is that what you're telling us now?

24 A No, I was saying he was backing out and he was

1 turning around at the same time I was coming up.

2 Q All right. And you were coming up after having
3 turned back around from looking at your car. Is that right?

4 A Yes.

5 Q And the reason you had turned around to look at your
6 car was that you heard two sounds that might have been
7 backfires, correct?

8 A No, I heard my car, it was about to die.

9 Q Oh, okay. So it was while you were putting air in
10 the tires that you heard the two sounds. Is that correct?

11 A That's correct, two bangs.

12 Q You thought maybe it was your car backfiring,
13 correct?

14 A That's correct.

15 Q Now, when you heard those two bangs, had you
16 finished putting air in your tires?

17 A I -- at the same time when I was putting air in the
18 tire, that's when I heard the two bangs.

19 Q That's what I mean. Did you then finish putting air
20 in your tires?

21 A That's correct.

22 Q Okay. So you weren't done putting air in your tires
23 when you heard the two bangs, right?

24 A That's correct.

1 Q Okay. So I take it you then went on and finished
2 putting the air in your tires?

3 A That's correct.

4 Q Got up and started walking towards the station?

5 A That's correct.

6 Q Right? Okay. And you then see a man backing out of
7 the gas station?

8 A No. When I was putting air in the tire, at that
9 time, when I heard the two bangs, kept on putting air in the
10 tire, I saw a gentleman backing out of the gas station.

11 Q Why were you looking at the gas station if you
12 thought your car was backfiring?

13 A I was not leaning over, but I was putting air and I
14 looked towards the gas station.

15 Q Not leaning over, you mean you were filling your
16 tires standing up?

17 A No, I mean kneeling down.

18 Q You were crouching down by the tires on your car,
19 right?

20 A That's correct.

21 Q You heard your car backfire and you looked at the
22 gas station. Is that what you're saying?

23 A No, I was surprised that I heard my car backfire,
24 and I looked up.

1 Q You looked up at your car or at the gas station?

2 A At the gas station.

3 Q Because you thought your car had backfired?

4 A No, after my car backfired.

5 Q All right. At any rate, you look at the gas station
6 and you see a man backing out of the gas station?

7 A That's correct.

8 Q What did you then do?

9 A I got up and started walking towards the gas
10 station.

11 Q And at some point did you see him turn around?

12 A Yes, that's correct.

13 Q And at that point you guys were about three feet
14 from each other and looked surprised? You surprised each
15 other?

16 A One to three feet.

17 Q One to three feet, all right. Well, while you were
18 walking to the gas station, did you have your eyes open?

19 A Yes.

20 Q Why did you walk to within one to three feet of some
21 guy walking backwards out of a gas station if your eyes were
22 open?

23 A No, I said he had turned around coming out of the
24 gas station.

1 Q I understand that. But didn't you just say that
2 when he turned around you were one to three feet away from
3 him?

4 A That's correct.

5 Q Why did you walk that close to a man walking
6 backwards? Why did you do that?

7 A He wasn't walking backwards when he ran into me. He
8 had turned around already. He was walking towards --

9 Q No, wait a second. He ran into you. Do you mean he
10 made physical contact with you?

11 A No, by, like I said one to three feet, I mean we
12 didn't run into each other. We were just like if we would
13 bump into each other, but we didn't make contact.

14 Q I understand that. But you were -- you were walking
15 forward looking where you were going as you went to the gas
16 station, right?

17 A That's correct.

18 Q Well then why did you allow yourself to get so close
19 to this man who was walking backwards towards you?

20 A Well, I had turned around cause my car had sounded
21 like it as going to die; and I turned around, and he was
22 there.

23 Q Oh, okay. And when you turned around you found
24 yourself one to three feet from this man who by then had

1 turned around and was looking at you?

2 A That's correct.

3 Q And you looked him right in the eye, right?

4 A That's correct.

5 Q Okay. Now how tall are you?

6 A Five seven.

7 Q So you would assume that this guy was about five
8 seven also?

9 (A) Five seven, five eight.

10 Q Why are you adding an inch?

11 A Well, sometimes I say five seven, five eight,
12 myself.

13 Q What do you make of this fact? My client is six
14 foot one inches tall. What do you make of that fact?

15 MS. GRIFFIN: Objection, Your Honor, counsel is
16 not here to testify as a witness in this case.

17 MR. PICL: I'm asking him what he thinks of that
18 fact.

19 MS. GRIFFIN: He's stating a fact that's not in
20 evidence.

21 THE COURT: The objection is sustained.

22 MR. PICL:

23 Q When was the in person lineup held?

24 A I'd say about maybe two to three months after the

1 incident.

2 Q Now, I think we've already established through the
3 State's testimony that my client, Jamie Snow, was in that
4 lineup, correct?

5 A That's correct.

6 Q And yet you not only did not identify him at the
7 time, you picked out the wrong person altogether, didn't
8 you?

9 A No.

10 MS. GRIFFIN: Objection, Your Honor.

11 MR. PICL: Did you pick out number three?

12 THE COURT: Hold it. What's the objection?

13 MS. GRIFFIN: Asking questions that is not even in
14 evidence at all. There has been no evidence at all.

15 THE COURT: The objection is overruled.

16 MR. PICL:

17 Q You did pick someone out of the lineup, didn't you?

18 (A) No.

19 Q Did you, in fact, tell the officers running the
20 lineup that, in fact, one of the persons in the lineup
21 looked like the person you encountered in the parking lot
22 but you were not positive?

23 (A) No, I think I had spoken to the officer there and
24 asked if two persons could come forward in the lineup.

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Q Do you remember their numbers?

A Four and five I think it was or three and four.

Q ~~Three and four.~~

A Okay.

Q And they did that, is that correct?

A That's correct.

Q Did you say anything about either one of them to the officers present?

(A) No.

Q You're sure of that?

(A) Probably could have said, you know, it looks like them but it wasn't them. *BLACK HAIR*
Black and Hair

Q So you think you may have told one of the officers conducting the lineup that one of the either three or four looked like the person but you're not sure? You think you may have said that?

(A) No, I probably could have said, you know, the hair is the kind of the looks but it can't be them.

Q Now, you indicated to us I believe that the thing that sticks in your mind about the man you encountered in the parking lot were his eyes?

A That's correct.

Q Describe what was unusual about his eyes.

A It looked like he had been out all night to like if

But saying out
at night: in direct,

M. M. J. (H. J. J.)
F. U. I. T. E. N. L. E.
Trying to camouflage
↑ OTHER
WITNESSES

1 you were under the influence of alcohol, drugs.

2 Q Do you see a lot of people like that?

3 A No.

4 Q Well, had you ever seen this man in the parking lot
5 before?

6 A No.

7 Q So if, in fact, the man in the parking lot were the
8 type to stay out all night and use alcohol or drugs, never
9 having seen him before, you don't know what his eyes would
10 have looked like under those circumstances, would you?

11 A That's correct.

12 Q Well, describe -- describe the eyes. In other
13 words, you're saying his eyes were red?

14 A No, they were wide open bright white, I mean, you
15 know, like if you were surprised if me and you were
16 surprised that we were there and we didn't know that we were
17 there.

18 Q Right. So his eyes were wide open and there -- they
19 were white, correct, you saw the whites of his eyes?

20 A That's correct.

21 Q And you thought that that was either because he had
22 been using drugs or out all night or was simply surprised to
23 see you. Which was it?

24 A Well, both I suppose.

Both combined
circumstances
would not be
EYES WIDE
OPEN.

How about
red?

1 Q Both? All right. Other than the fact that his eyes
2 were wide open when you saw him, was there anything else
3 unusual about his eyes?

4 A No, not really.

5 Q Well, tell me what color the pupils of his eyes
6 were, please.

7 A It's just, like I said, the eyes were all, I mean
8 like you were surprised --

9 Q You don't know what color his eyes were, do you?

10 A No, I don't.

11 Q Other than they were wide open?

12 A That's correct.

13 Q For some reason you don't know what it is, right?

14 A That's correct.

15 Q All right. How about his eyebrows, anything unusual
16 about them?

17 A No, but his face was like if he hadn't shaved in a
18 couple of days, stubble and like a goatee.

19 Q Now, you went down to the police station and put
20 together a composite of the man you saw in the parking lot?

21 A That's correct.

22 Q And I think we just looked at that up on this big
23 screen, right?

24 A That's correct.

1 Q What did you do, forget to tell the cops to put a
2 goatee on the man? There was no goatee on that man.

3 A It looked like he had just got done shaving, you
4 know, how you get done shaving and your whiskers if --

5 Q Now wait a second. When you're done shaving as a
6 man, you don't have any whiskers. When you haven't shaved
7 you have whiskers. Now which is it?

8 A Well --

9 Q Did the man you saw in the parking lot have whiskers
10 or did he look like he had just shaved?

11 A It looked like he had shaved a couple days, like I
12 said, and it was coming out.

13 Q Okay. It was a noticeable stubble. Is that
14 correct?

15 A That's correct.

*What about Remondy Howard?
The 4 of them were at the
Bill Richard area first and all?*

16 Q Did he also have a goatee. That's what you've told
17 us.

18 A Well, like he just, like I say, he hadn't shaved in
19 a couple of days.

20 Q So he didn't have a goatee?

21 A I mean, no.

22 Q What's a goatee?

23 A Well, right here in the chin.

24 Q You got hair on your chin, right?

1 A That's correct.

2 Q Now, when you and the officers a couple days later
3 were putting together this composite, and I hold in my hand
4 State's exhibit 21, did you tell the officers about the hair
5 on this man's chin?

6 A I just on the face and around the chin.

7 Q You told the officer that?

8 A That was that night. It wasn't a couple days later.

9 Q Even better. In other words, within hours of seeing
10 this man in the parking lot you worked with the police
11 officers to put together this composite photo, right?

12 A That's correct.

13 Q This is State's exhibit 21. You have initialed this
14 as being accurate, correct?

15 A That's correct.

16 Q There is no facial hair on this man in this
17 composite. Did you tell the officers that the man in the
18 parking lot you saw had hair on his face, yes or no?

19 A I had mentioned to the officer that it looked like
20 he hadn't shaved in a couple -- well, after you shave a
21 couple days and then it grows out, I told the officer that.

22 Q And you initialed that composite as being accurate?

23 A That's correct.

24 Q Okay. How much do you weigh, sir?

1 A About 205.

2 Q Is that how much you weighed on the 31st of March,
3 1991?

4 A No.

5 Q How much did you weigh then?

6 A Maybe around 165.

7 Q It would be fair to say, would it not, Mr. Martinez,
8 that you looked into the face of the man in the parking lot
9 as he turned around and surprised both of you for probably
10 no more than a second or two? That would be accurate,
11 wouldn't it?

12 A That's correct.

13 Q I believe you told us on direct examination that
14 after you and the gentleman faced each other and reacted
15 with surprise, he then walked around the station and through
16 the fence into the alley that ran to the north of the
17 station. Is that right?

18 A Not through fence, in between the fence and the
19 Clark gas station.

20 Q Okay. He walked between the fence and the Clark gas
21 station. And as he was walking away from you, you weren't
22 looking at him, were you?

23 A No.

24 Q Well, then how did you see where he walked to?

1 A Because there is only one way he would have walked
2 is between the fence and the Clark gas station.

3 Q Maybe he walked into the bathroom. Could he have
4 walked into the bathroom? You just told us you weren't
5 watching him. Is the bathroom between the fence --

6 A Yeah, there is a door there that goes into one of
7 the bathrooms. So he headed north.

8 Q He headed around the corner and that's all you saw.
9 Isn't that right?

10 A That's correct.

11 Q Because you were going -- you were heading back to
12 the gas station and all of a sudden a police officer said
13 something along the lines of what, stop or turn around or
14 don't go any further?

15 A That's correct.

16 Q And that was a police officer. Is that right?

17 A That's correct.

18 Q Was that Officer Pelo do you know or Officer
19 Williams?

20 A Not sure which one.

21 Q Was it an officer on foot or in a car?

22 A He was on foot at that time.

23 Q Okay. So you saw the man walk around the corner of
24 the gas station and really as far as you watching him,

1 that's all you saw, right?

2 A That's correct.

3 Q You told us that he had his hands in his pockets and
4 looked like he was holding something?

*SEE OBJECT -
witnesses at trial
knew, for months
LWORS - in my report
at 2.01*

5 A That's correct.

6 Q You mean in one of his pockets?

7 A No, he had both his hands in his pockets.

8 Q In his trouser pockets?

9 A No, jacket pockets.

10 Q His jacket pockets. And what was he holding?

11 A I'm not sure what he was holding.

12 Q Well, how did you know he was holding anything? You
13 didn't see what he was holding, did you?

14 A That's correct.

15 Q Well, he had his hands at his pockets, and you
16 assumed he was holding something, but you didn't see
17 anything?

18 A That's correct.

19 Q Did it occur to you maybe his hands were cold?

20 A It was a warm day that day.

*40° original
report*


21 Q The 31st of March?

22 A Yes, sir.

23 Q At 8:18 in the evening?

24 A Yes, sir.

1 Q Well why did he have a jacket on then? Are you
2 aware that for a fair amount of time in this case there was
3 a reward offered?

4 A No, I did not. 

5 Q Never heard that there was a reward offered in
6 connection with this investigation?

7 A No, until the last time I testified.

8 Q At the trial in August?

9 A That's correct.

10 Q You've told me that when you saw the photo of
11 Mr. Snow in the Pantagraph you knew it to be the man you saw
12 in the parking lot of the gas station, correct?


13 A That's correct.

14 Q Why didn't you call the police at that time?

15 A I knew at that time no matter what I was going to be
16 called as a witness.

17 Q How did you know that?

18 A Because with all the interviews that I had spoken
19 with the officers and stuff.

20 Q So you knew that you were going to be called as a
21 witness and you knew also that you recognized the man they'd
22 arrested and you didn't bother to call the cops or the
23 State's Attorney until you happened to be in their office in
24 July? Is that what you're telling us? 

1 A That's correct.

2 Q On the first of April, 1990, on the first of April,
3 1991 were you interviewed by Detective Charles Crowe at the
4 Bloomington Police Department?

5 A That's correct.

6 Q And did you sign a two page statement at that time
7 that was the typed transcript of the interview that you had
8 given him?

9 A That's correct.

10 Q So I'm assuming he had you sign it after you read it
11 for accuracy to make sure it was correct. Is that right?

12 A That's correct.

13 Q It was a voluntary statement, wasn't it?

14 A I think it was the same night or early that morning.

15 Q Yeah, but you did it of your own free will, didn't
16 you?

17 A That's correct.

18 Q And you were trying to be as complete in giving your
19 information as you could be, correct?

20 A That's correct.

21 Q Did you make the following response to Detective
22 Crowe to this question which he asked you?

23 Question: Was he carrying anything?

24 Answer: No, he had his hands in his pockets.

1 Did you make that answer to that question?

2 A If it states there in that sheet, then that's
3 correct.

4 Q Okay. You've told us that you looked at the man you
5 encountered in the parking lot for one to two seconds. Is
6 that correct?

7 A I'd say a couple seconds.

8 Q A couple of seconds. And you focused upon his eyes
9 because they struck you as being unusual, correct?

10 A That's correct.

11 Q You can't tell us what color they were, correct?

12 A That's correct.

13 Q Did you look at anytime at the shoes that this man
14 had on?

15 A I recognized that he had shoes on, you know, like
16 tennis shoes, you know, jeans, and like I said, a light
17 jacket.

18 Q Well, when did you look at his shoes, after you
19 looked at his eyes or before you looked at his eyes?

20 A No, I would recognize him, the jacket and the jeans
21 when he was backing out of the gas station at that time.

22 Q How did you get a good look at his shoes as he was
23 backing towards you?

24 A When he had gone around the corner, I recognized the
but was not looking at him then 197

1 shoes.

2 Q When he had gone around the corner of the gas
3 station out of your sight you saw his shoes?

4 A When he was walking around the corner.

5 Q The jacket that this man wore you've told us was a
6 light colored spring jacket. Is that right?

7 A It was a tan color.

8 Q Waist length was it?

9 A Yes, a little bit lower towards his pockets of his
10 pants.

11 Q Towards the pockets of his pants, didn't go down
12 beyond the pockets of his pants. Is that correct?

13 A In between I should say.

14 Q In between the pockets of his pants and his
15 waistline. Is that correct?

16 A No, down below his pockets in between.

17 Q In between what?

18 A I would say just right below the pockets.

19 Q Right below the tops of his trouser pockets, is that
20 correct?

21 A That's right.

22 Q Okay. Now, when you viewed the lineup in -- well,
23 it was in spring of 91, within a month or two after the
24 incident, you told us that you couldn't really tell about

1 the eyes of the person you were looking at in the lineup
2 because of the darkness in the room at the time and the
3 distance you were from the men in the lineup. Is that
4 right?

5 A That's correct.

6 Q How far were you, do you recall, from the men in the
7 lineup?

8 A I don't know how big those rooms are, but maybe 12
9 feet, you know. *But Det. Crow said they have back
mirrors step forward.*

10 Q 12 feet, okay. Well, what was wrong with the
11 darkness in the room? Did they hold the lineup in total
12 darkness?

13 A I guess they dim the lights and stuff and from where
14 you can see through the window.

15 Q In other words, you're looking at the men in the
16 lineup through a one way piece of glass, aren't you?

17 A I guess.

18 Q They told you that. They told you that the men in
19 the lineup couldn't see you as you were looking at them,
20 isn't that right?

21 A I'm sure they probably did at that time.

22 Q All right. When they dimmed the lights, they didn't
23 dim the lights over the men in the lineup so you could study
24 them. They dimmed the lights in the room where you were.

1 Is that right?

2 A That's correct.

3 Q So the men in the lineup, when you looked at them,
4 were in pretty good illumination, pretty good light, weren't
5 they?

6 A I suppose so.

7 Q Probably the same light as when that photograph of
8 the lineup was taken, right?

9 A I suppose so.

10 Q Do you want to see the photo again?

11 A Are you saying when they dimmed the lights here?

12 Q I'm saying when you viewed the lineup, did the
13 police ever turn the lights down over the men you were
14 looking at?

15 A Not that I recall.

16 Q So what was the problem with the darkness,
17 presumably this man you saw in the gas station parking lot
18 was in an area that was well lit. We've heard about all the
19 lights around the gas station. These men in the lineup were
20 well lit. What was the problem with the darkness?

21 A It was just kind of low where I was standing at.
22 It --

23 Q But you weren't looking where you were standing at.
24 You were looking through the window at the men in the

1 lineup, weren't you?

2 A That's correct.

3 Q Well, why didn't you pick out my client? He was
4 standing in the lineup.

5 (A) I think that I couldn't, like I said, I couldn't see
6 that well between the glass and the gentlemen in the lineup.

7 Q Did you have your eyes open?

8 A That's correct.

9 Q All the time?

10 A That's correct.

11 Q You don't have anything wrong with your eyes, do
12 you? I don't see you wearing glasses.

13 A No.

14 Q Your eyes are okay?

15 A You could say so.

16 Q Were they okay on back on this night in the gas
17 station back in 91?

18 A That's correct.

19 Q All right. As you walked towards the gas station
20 and you encountered this man for one or two seconds, you
21 didn't know that a crime had been committed, did you?

22 (A) That's correct. *level of certainty negated*

23 MR. PICL: Judge, if you'll give me just a second
24 please.

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THE COURT: Sure.

MR. PICL: I'm about ready to finish up.

Q The night that you were questioned at the Bloomington Police Department right after this happened you were shown some photographs, weren't you?

A That's correct.

Q How many times were you shown photographs by the police that night, the night that you went down to the police station right after this happened?

A I think once.

Q Did you pick out any photos as being, as resembling the person you saw in the parking lot?

A I could have.

Q You don't remember?

A I don't recall.

Q I'm sorry to take this time, Mr. Martinez, but on the first of April, 1991 at about one o'clock in the morning did you look at some mug shots at the police department?

A That's correct.

Q Did you tell Detective Sanders that there were two mug numbers, one being B P 6395 and one being B P 6558, that both resembled the suspect? Did you tell him that?

A If it says there.

Q Did you tell him, open quote, it's between these

1 lineup at which you did not pick out Jamie Snow Teena
2 Griffin told you that, in fact, Jamie Snow had been in the
3 lineup. Did she tell you that?

4 A Not that I recall.

5 Q Do you remember telling us that on direct
6 examination by Miss Griffin?

7 A No, not that I recall.

8 Q When did you first learn that, in fact, you had
9 failed to pick Jamie Snow out of the lineup that was held in
10 the spring of 1991?

11 A I don't know, I guess until, you know, this year
12 during the trials.

13 Q Wait a second. I'm confused about something. The
14 first time that you picked Jamie Snow out of the lineup that
15 was held within a month or two after you encountered the man
16 in the gas station was in July of the year 2000 when you saw
17 that little photograph in the prosecutor's office. Is that
18 correct?

19 A That's correct, that's -- *Thought it was
SF 11. 99 photo*

20 Q And in that little photograph the head of the
21 defendant isn't an awful lot smaller than his face actually
22 was when you looked at him in good light from 12 feet away
23 on the day of the lineup years before, isn't that right?

24 A That's correct. *Admittedly that is
smaller*

1 Q And you're telling us that, in fact, what jogged
2 your memory when you look at this little photograph almost
3 ten years later was that photograph you'd seen almost a year
4 earlier in the Pantagraph, in the newspaper. Is that right?

5 A Yes, the first time it jogged my memory again was
6 when I saw the picture in the Pantagraph before I saw that
7 picture. *SBE Direct*

8 Q Well, correct me if I'm wrong, but the picture in
9 the Pantagraph shows Jamie Snow with hair all over his face,
10 doesn't it?

11 A What caught my attention were the eyes.

12 Q The eyes. You still don't know what color those
13 eyes are, do you?

14 A That's correct.

15 MR. PICL: I have nothing else.

16 THE COURT: Miss Griffin?

17
18 REDIRECT EXAMINATION BY MS. GRIFFIN:

19
20 Q Mr. Martinez, the statement that you gave to
21 Detective Crowe on April 1st, that was started at about 2:50
22 a.m., is that correct?

23 A That's correct.

24 Q And in that statement that the defense counsel asked

1 you about you did, in fact, tell Detective Crowe about the
2 stubble that appeared on the suspect's face, is that right?

3 A That's correct.

4 Q The lineup that you saw within a couple of months
5 after the murder occurred, contrary to what counsel
6 attempted to ask, you didn't positively identify anybody in
7 that lineup?

*SAME AS LUMP - but now
+ the other lumps LUMP'S
REFERENCES to the 10, 100 Id.*

8 MR. RILEY: Judge, I'm going to object to the
9 leading nature of these questions.

10 THE COURT: The objection is sustained, and the
11 previous question is stricken.

12 MS. GRIFFIN:

13 Q Did you positively identify anybody at that lineup?

14 A No.

15 Q Now, when you described the defendant that you saw
16 coming out of the Clark station that you saw outside the
17 Clark station on March 31st, 1991, you indicated that he
18 appeared to be carrying something under his coat. Is that
19 correct?

20 A That's correct.

21 Q And how did that -- what is it that you saw that
22 made you think --

23 A He had his hands in his pocket, and they were balled
24 out, you know, his jacket was balled out.

1 Q So that's what led you to that assumption?

2 A That's correct.

3 MS. GRIFFIN: I don't think I have any other
4 questions. Thank you.

5 THE COURT: Okay. Mr. Picl?

6

7 RE-CROSS EXAMINATION BY MR. PICL:

8

9 Q His jacket was bulged out. Is that what you said?

10 A That's correct.

11 Q How far?

12 A Just balled out like if he would -- if his stomach
13 was sticking out or if he had something under his jacket, I
14 don't know.

15 Q You have no idea what was in his jacket, if
16 anything, do you?

17 A That's correct.

18 Q He might simply have had his hands away from his
19 body, right?

20 A That's correct.

21 Q And I'm still somewhat puzzled. Strike that. Have
22 you complained to anybody in this case, any of the
23 investigating officers that Mrs. Little, the victim's
24 mother, has been calling you or had been calling you at some

*Ernest
delivered to the witness at the time of the
K5 to the witness at the time of the*

1 point?

2 MS. GRIFFIN: Objection to this.

3 THE WITNESS: No.

4 MS. GRIFFIN: This is way beyond --

5 THE COURT: Hold on. The objection is sustained.

6 It's outside the scope. Was that the objection?

7 MS. GRIFFIN: Yes.

8 THE COURT: Okay. Sustained.

9 MR. PICL: I have no other questions. Thank you.

10 THE COURT: Miss Griffin?

11 MS. GRIFFIN: Nothing, Your Honor.

12 THE COURT: All right. Then you may step down.

13 Thank you.

14

15 (Witness excused.)

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*Should have had
found a few more called
victims from based
on taped interviews -
or called and DEFENSE
WARRANTIES IN DEFENSE
on this point, or even
at another time did
interview.*