

1 the presence and hearing of the jury.)

2 THE COURT: We'll go back on the record in  
3 99 CF 1016, parties appear same as before. We're prepared  
4 to bring in the jury for the next witness.

5 (The following proceedings were had in the  
6 presence and hearing of the jury.)

7 THE COURT: All right. Folks, please be seated.  
8 And we'll go on to continued evidence with the State.  
9 Mr. Reynard?

10  
11 (Witness sworn.)

12  
13 S H A N N O N S C H M I D T W A L L A C E  
14 called as a witness on behalf of the plaintiff, being first  
15 duly sworn, was examined and testified as follows:

16  
17 DIRECT EXAMINATION BY MR. REYNARD:

18  
19 Q Would you state your name, please?

20 A Shannon Schmidt wallace.

21 Q And, Shannon, let me ask you if you at one time knew  
22 Ed Palumbo?

23 A Yes.

24 Q And when was that?

1 A 1990 is when I met him.

2 Q And did you have a dating relationship with him for  
3 a period of time?

4 A Yes.

5 Q Was that for approximately two years?

6 A Yeah, a little less.

7 Q Okay. When was the last time you saw Ed Palumbo or  
8 heard from him?

9 A January of 92, I think.

10 Q No contact with him since then?

11 A Huh-uh.

12 Q I want to direct your attention to Easter Sunday,  
13 1991. That's March 31st, 1991, and actually the day  
14 following that, do you recall hearing about, perhaps through  
15 the media, the Clark Oil station robbery and murder?

16 A Yes.

17 Q Okay. I want to direct your attention then to  
18 Tuesday, April 2nd, or approximately that date after the  
19 reports that you had heard about that incident and ask if  
20 you were in a car with Ed Palumbo?

21 A Yes.

22 Q And where were you going at the time that you were  
23 in the car with Ed?

24 A Just once that day or...

1 Q Do you recall having some contact with a Jamie Snow  
2 that day?

3 A Yes, we passed him in the car.

4 Q Okay. That's the time I'm talking about in terms of  
5 the car trip.

6 A Okay.

7 Q Where were you going at the time that you were with  
8 Ed in the car and there was contact with Jamie Snow?

9 A We were going to Ed's trailer in Greenwood Trailer  
10 Court.

11 Q Had you known Jamie Snow prior to that occasion?

12 A No.

13 Q Had you ever seen him before?

14 A I don't think I'd seen him before.

15 Q Okay. And, who was driving your car -- the car that  
16 you were in?

17 A Ed.

18 Q And where were you located physically speaking in  
19 the car?

20 A In the passenger seat.

21 Q In the front passenger?

22 A Uh-huh.

23 Q And did Ed stop his car?

24 A Yeah.

First Statement  
AV's yes  
he HAD SEEN  
NE Before

1 Q And was Jamie Snow in the other car?

2 A Yes, he was passing us.

3 Q Okay. And what happened with that other car? Did  
4 it stop as well?

5 A Yeah, well, it was at an intersection so they --

6 Q Describe how the cars were positioned.

7 A Okay. Ed's car was going south. Jamie was in a car  
8 driving north. They were at one of the four-way stops or  
9 two-way stops on Morris Avenue. They recognized each other  
10 and kind of slowly rolled through the intersection and  
11 stopped and conversed.

12 Q Okay. Did you hear the entirety of the conversation  
13 between Ed and Jamie Snow?

14 A No.

15 Q Did you hear any portion of the conversation?

16 A I heard one word.

17 Q And what was that word?

18 A Paper.

19 MR. PICL: I'm sorry. What was the response?

20 THE WITNESS: Paper.

21 MR. REYNARD:

22 Q Where did you go after they -- Ed and the defendant  
23 stopped conversing?

24 A Back to Ed's trailer.

1 Q Back at the trailer did Ed tell you about that  
2 conversation?

3 A Yeah, at a later time.

4 Q That day?

5 A Uh-huh, I believe it was, yeah, that day.

6 Q And what did he tell you?

7 MR. RILEY: Objection, hearsay, Your Honor.

8 MR. REYNARD: If we can approach, Judge. It's a  
9 prior consistent statement within the exceptions.

10 THE COURT: Well, you can approach.

11 (The following proceedings were had at the  
12 bench out of the hearing of the jury.)

13 MR. RILEY: Prior consistent statements by who?

14 THE COURT: Let's see. Okay. So I understand the  
15 State's position -- well, why don't you state it.

16 MR. REYNARD: We in cross-examination of Ed  
17 Palumbo clearly explored his motive to testify falsely based  
18 upon his position as a prisoner in the Department of  
19 Corrections or with regard to the police when he eventually  
20 told the police. It's -- the evidence also is he conversed  
21 with his girlfriend prior to any of those times that he  
22 was -- he could have had such a motive and his prior  
23 consistent statement is inconsistent with him having a  
24 motive to testify falsely, and it is, therefore, admissible

It is  
not prior  
consistent  
statement.

1 within the extent of the exception to the rule.

2 THE COURT: Okay. Mr. Riley?

3 MR. RILEY: I don't have any further response. I

4 think it's absolutely hearsay.

5 THE COURT: Well, the only question is whether or  
6 not it's the defense's position that Palumbo made this up  
7 or -- which is a fabrication or is doing it out of some  
8 other motive, which they may argue.

9 MR. RILEY: I have no idea.

10 THE COURT: Well, no, but you clearly will argue  
11 that; there is no doubt about that. The cross clearly  
12 establishes that's what you're doing. So when that's the  
13 tack that is taken, prior consistent, for the two reasons  
14 stated in this position are permitted in Mullin, 313 Ill.  
15 App. 718. I'm going to agree, and allow you to inquire.

16 (The following proceedings were had in the  
17 presence and hearing of the jury.)

18 MR. REYNARD:

19 Q Shannon, what did Ed tell you about his conversation  
20 with Jamie Snow?

21 A He told me that Jamie asked him if he saw him in the  
22 paper, and then he said that Jamie said that the gun went  
23 off and the kid died.

24 MR. REYNARD: Nothing further.

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THE COURT: Okay. Mr. Picl?

CROSS EXAMINATION BY MR. PICL:

Q Now, it's your testimony, Shannon, that Palumbo told you that at your trailer. Is that correct?

A Correct.

Q Are you acquainted with Detective Barkes?

A Yes, I know him.

Q Did you and Ed eat Easter dinner with Detective Barkes?

MR. REYNARD: Objection, Your Honor, this has been previously adjudicated. It's inadmissible.

THE COURT: Okay. You don't need to answer. The objection is sustained.

MR. PICL:

Q How long have you known Detective Barkes?

MR. REYNARD: Objection to relevancy.

THE COURT: Objection sustained.

MR. PICL: May I approach the bench?

(The following proceedings were had at the bench out of the hearing of the jury.)

MR. PICL: Now Detective Barkes is one of the detectives in this case now he has been for ten years. I

1 believe that given the fact she is a good friend of his for  
2 the entire period or a friend at least it might go toward  
3 bias. She says, no, that doesn't have any affect upon what  
4 I'm saying, then fine. But I think I ought to at least be  
5 able to bring that out.

6 THE COURT: Just so I understand, she didn't give  
7 a statement or anything?

8 MR. PICL: She's given a number of statements.

9 THE COURT: To Barkes?

10 MR. REYNARD: No.

11 THE COURT: Okay. So this is only --

12 MR. REYNARD: Fishing.

13 THE COURT: Say again.

14 MR. REYNARD: This is fishing.

15 MR. PICL: That's your characterization of it,  
16 counsel.

17 THE COURT: Hold it a second. Let me ask this  
18 question. Do you know the answer to the question as to  
19 whether she knows Barkes?

20 MR. PICL: Yeah, she and Palumbo had Easter dinner  
21 with Barkes.

22 THE COURT: Okay. And therefore she's motivated  
23 to testify --

24 MR. PICL: She might be inclined to testify in



1 favor of the State because of her relationship with Barkes.  
2 Now they have the opportunity to bring out that she's not.

3 MR. REYNARD: She --

4 THE COURT: So anyone who has some kind of a  
5 relationship with any of the people involved in the State's  
6 case, then that can come out and we can go off into whether  
7 it's true or not? Does she know Katz or some other witness  
8 know Katz? Yes I do. Are you good friends? Yeah. We'll  
9 leave it at that time, and then we'll call Katz to say no, I  
10 don't know her. I never saw her before. Then you have to  
11 call some third witness to say I saw Katz and that witness  
12 together so they must be lying.

13 MR. PICL: Judge, maybe I should ask her after  
14 establishing the acquaintanceship whether or not her  
15 acquaintanceship continues in some respect or causes her to  
16 slant her testimony.

17 THE COURT: I can only tell you this, I have never  
18 heard of this relationship, the knowledge of someone on the  
19 case, as being a basis for bias.

20 MR. PICL: What if it's more than knowledge? What  
21 if it's a good, close social relationship or was? I think I  
22 have a right to bring that out.

23 THE COURT: What's the connection between the two?  
24 That goes back to what I said before. If the relationship

1 happens to exist, you can not simply use that as a motive of  
2 impeachment without establishing a basis. What you want to  
3 do is to have speculation about that issue. You want to  
4 show the connection. Then there is a denial, and there is  
5 nothing else that can be done. The State can't call Barkes  
6 back and say there is nothing to deny, and then you can  
7 argue at the end she is acquainted with him so she's  
8 fabricating her testimony in order to curry favor.

9 MR. PICL: Judge, if, in fact, I call the  
10 defendant's wife to the stand, will the State object by  
11 eliciting the fact that she's his wife? Probably not.  
12 Because they'll want to argue that that relationship is  
13 causing her perhaps to be bias.

14 THE COURT: That's -- that is --

15 MR. PICL: How is that any different?

16 THE COURT: That's completely different. That is  
17 recognized in the cases and in our judicial history as a  
18 reason to fabricate. But not an acquaintanceship or  
19 friendship with someone. Acquaintanceship, friendship, with  
20 the victim, that's different stuff. That has come in this  
21 case, but not with someone involved in the case. So I guess  
22 I'm going to find that that's not adequate. You can  
23 preserve it after the -- I'll ask the witness to remain so  
24 we can preserve it after we take our break.

1 MR. PICL: All right.

2 (The following proceedings were had in the  
3 presence and hearing of the jury.)

4 THE COURT: All right. I'll sustain the  
5 objection.

6 MR. PICL:

7 Q You've testified, Shannon, that -- and by the way,  
8 how old are you?

9 A 30.

10 Q So back in March of 91 you would have been 21 maybe?

11 A 20.

12 Q 20, okay. You told us during your direct testimony  
13 that you were in Ed's car as the front seat passenger when  
14 his car passed Jamie's car. Is that correct?

15 A Yes.

16 Q Do I remember that you testified the cars didn't  
17 actually come to a complete stop but just slowed down and  
18 rolled passed each other?

19 A Well, they stopped but...

20 Q How long?

21 A I'd say probably 30 seconds maybe.

22 Q A short period of time?

23 A Yeah, very minimal.

24 Q And they were obviously headed in opposite

1 directions?

2 A Yes.

3 Q On Morris Avenue, is that correct?

4 A Yes.

5 Q Now at the time you were living with Ed Palumbo. Is  
6 that right?

7 A I stayed there quite a bit.

8 Q Were you his girlfriend?

9 A Yes.

10 Q On the 23rd of April, 1991 did you give a voluntary  
11 statement of facts at the Bloomington police department to  
12 Detective Russell Thomas and Sergeant Mike Bernardini?

13 A Yes, I did.

14 Q And that would have started about 7:05 p.m.?

15 A I don't recall the exact time, but...

16 Q During that statement of facts did you tell the  
17 officers that you were in Ed's car --

18 A No.

19 Q -- when he had this conversation?

20 A No.

21 Q And the -- weren't the officers asking you to tell  
22 the truth at that time?

23 A Yes.

24 Q And you said you were not in the car. Is that

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correct?

MR. REYNARD: Objection, that's not the evidence.

THE COURT: Objection sustained.

MR. PICL:

Q In that statement you didn't tell them you were in the car, did you?

A No.

Q You've told us today you were in the car. Is that correct?

A Correct.

Q Can you reconcile these two statements for us, please?

A What do you mean reconcile?

Q Well, you were questioned about the very things you are being questioned about today back in April of 91, weren't you?

A Yes.

Q And you didn't tell them that you were in the car when Ed's car passed Jamie's car and this conversation took place between the two, did you?

A No, I didn't.

Q But you're telling us today that you were in the car. Is that right?

A Yes, I am.

1 Q How do you reconcile -- how do you make the two of  
2 those match?

3 MR. REYNARD: Objection, Your Honor, the question  
4 fails to contemplate that she was not asked whether she was  
5 in the car that day.

6 THE COURT: Well, I think that's a question  
7 offering her to explain it. So she may explain it.

8 THE WITNESS: The most prevalent thing in my mind  
9 was what Ed told me he said. That's what I told them.

10 MR. PICL:

11 Q During that interview did you make the following  
12 response to the following question from Detective Russell  
13 Thomas?

14 Question from Thomas: Tell me about a  
15 conversation that your boyfriend, Ed Palumbo, had with you  
16 about a conversation he had with Jamie Snow.

17 Your response: Ed said that he passed Jamie on  
18 Morris Avenue and Jamie stopped to talk with him; and Jamie  
19 asked him what was going on. Ed said nothing. Then Jamie  
20 asked Ed if he could get him some pot. And Ed said no.  
21 Then Jamie said did you see me in the paper. Ed told me he  
22 said no. Jamie said the gun went off and the kid died.  
23 That's all that Ed said about the conversation.

24 Was that your answer to Detective Thomas's

*Could he hear*

1 question in your interview on April 23, 1991?

2 A Yes, it was.

3 Q On the 30th of March, 1999 were you interviewed by  
4 Detective Rick Barkes, Detective Katz, well, and Detective  
5 Katz concerning this case?

6 A Yes.

7 Q And that interview was taped with your permission.  
8 Is that correct?

9 A Yes.

10 Q During that interview did you tell the officers that  
11 you were in the car with Ed Palumbo when the conversation  
12 between Ed Palumbo and Jamie Snow took place?

13 A No.

14 Q In fact, in response to the following question, did  
15 you make the following answer, now --

16 MR. REYNARD: Objection, it's not impeaching.

17 THE COURT: Overruled.

18 MR. PICL:

19 Q Question: Now, were you with Ed at the time this  
20 conversation took place?

21 Answer: No.

22 Did you make that answer to that question during  
23 your interview?

24 A Yes.

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MR. PICL: Nothing else. Thank you.

THE COURT: Okay. Mr. Reynard?

REDIRECT EXAMINATION BY MR. REYNARD:

Q Shannon, I'm going to go back over the questions you were asked by the officer on March 30, 1999 that include the single question and the single answer that Mr. Picl just asked you. So were you asked these questions, did you give these answers?

Were you with Ed at the time this conversation took place? Where were you at?

I was probably at home.

Now, did Ed immediately come home and tell you that?

That I can't recall. I don't know.

Were those the answers that you gave to the detectives when you spoke with them in 1999?

A Yes.

Q Why did you indicate to the officers, if you know, that you weren't with Ed at the time of the conversation?

A That's the way I remembered it at that time.

Q The testimony that you've given today, does that reflect a better memory than you had in 1999?



1 A Yes.

2 Q Does Olive Street intersect with Morris Avenue?

3 A Yes.

4 MR. REYNARD: Nothing further.

5 THE COURT: Mr. Picl?

6

7 RE-CROSS EXAMINATION BY MR. PICL:

8

9 Q So your testimony today is based upon a better  
10 memory of the events of the day or two after the shooting  
11 than it was back during your interview in 1999, is that  
12 right?

13 MR. REYNARD: Objection, Your Honor, that's not  
14 the evidence. It's better than in 1999. That's what she  
15 said.

16 MR. PICL: That's what I just asked.

17 MR. REYNARD: You said at the time of the  
18 shooting. That was eight years earlier.

19 THE COURT: Are you asking with respect to 99,  
20 Mr. Picl?

21 MR. PICL: Yes.

22 THE COURT: All right. She may answer that.

23 THE WITNESS: Yes.

24 MR. PICL:

1 Q Your memory today is better, correct?

2 A Yes.

3 Q Is your memory about the events involving you and Ed  
4 a couple days after the shooting in 91 better than it was on  
5 April 23 of 1991?

6 A It's no different.

7 Q Pardon me?

8 A It's no different. I remember the same as I  
9 remembered then.

10 Q Wait a second.

11 A Well I remembered it better after I had the  
12 conversation in 1999.

13 Q With the detectives on the case?

14 A Yes.

15 MR. PICL: I have nothing further.

16 MR. REYNARD: Nothing.

17 THE COURT: Mr. Reynard?

18 MR. REYNARD: Nothing further.

19 THE COURT: All right. You may step down.

20

21 (Witness excused.)

22

23 THE COURT: Could I ask counsel approach a moment?

24 (The following proceedings were had at the