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IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
MCLEAN COUNTY, ILLINOIS

PEOPLE OF THE)
STATE OF ILLINOIS)
Plaintiff,)
vs.)
SUSAN CLAYCOMB,) NO. 99 CF 1017
Defendant.)

JURY TRIAL

REPORT OF PROCEEDINGS of portions of the trial
before the Honorable DONALD D. BERNARDI and Jury on the 17th
day of August, 2000.

APPEARANCES:

MR. CHARLES REYNARD,
State's Attorney for McLean County,
MS. TEENA GRIFFIN,
First Assistant State's Attorney,
for the People of the State of Illinois;

MR. STEVEN SKELTON,
Attorney at Law,
for the Defendant;

Defendant also present.

Nancy L. McClarty, CSR, CP-RPR
CSR License No. 084-002264
Official Court Reporter
McLean County, IL

I N D E X

WITNESS:

GERARDO GUTIERREZ

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CROSS EXAMINATION
BY MR. SKELTON:

Q Mr. Gutierrez, you and I have spoken on the telephone I believe twice in the past. Is that correct?

A Yes, I believe so.

Q And that would have been about a month ago?

A There is a lot of people having called like private investigators and people, but I can not really recall if I talked to you or not.

Q In addition to private investigators, have people identified themselves as detectives from the Bloomington Police Department spoken to you?

A Yes.

Q And most recently that would have been when, please?

A That would have been probably sometime in April, something like that.

Q And you don't know if that was the same person that you spoke to on April 1st of 1991 or not, correct?

A That's correct.

Q But you did, without question, speak to police officers on either the late evening hours of Easter Sunday

1 of 1991 into the morning hours of April 1st of 1991,
2 correct?

3 A That's correct.

4 Q And that visit that you made to the Bloomington
5 Police Department would have taken place during that time
6 frame, correct?

7 A Yes, that's correct.

8 Q I'm not going to ask you any questions about
9 specifically what you did yesterday on the 16th of August of
10 2000. You have a pretty clear recollection of what you did
11 yesterday as you sit here now?

12 A Yes.

13 Q I'm going to show you what's marked for
14 identification purposes as defendant's exhibit number three.
15 This purports to be a copy, and I apologize for having put
16 some marker on that, but it purports to be a copy of a
17 statement taken on April 1st, 1991 of you at the Bloomington
18 Police Department by a Detective Charles Crowe. I'd like
19 you to take a look at that, review it for a moment or two,
20 if you could, please.

21 A Uh-huh.

22 Q You've now had an opportunity to review all of this
23 document?

24 A Uh-huh, yes.

1 Q Both pages?

2 A Yes, sir.

3 Q And although the copy quality is somewhat light, in
4 the lower right-hand corner on both of those pages, does
5 that appear to be a copy of your signature, sir?

6 A Yes, it is.

7 Q And this, to the best of your knowledge, is the
8 statement that you gave and signed on April 1st of 1991.
9 Correct?

10 A That's correct.

11 Q And that would be to Detective Crowe of the
12 Bloomington Police Department?

13 A That's correct.

14 Q The first question that is asked of you on that, and
15 you can read along with me if you want?

16 A Uh-huh.

17 Q What can you tell me about a shooting at the Clark
18 Station at Empire and Linden Street last night? The answer
19 starts, I stopped at the gas station at about 8:05 p.m. and
20 put three dollars of gas in my car and then went inside to
21 pay the attendant.

22 A Uh-huh.

23 Q Before you signed this you had an opportunity to
24 review it, correct?

1 A I believe so, yes.

2 Q And you wanted to be sure that you were giving
3 accurate information to the police officer that you were
4 talking to, correct?

5 A That's correct.

6 Q Now later that evening, as you've earlier indicated,
7 you were shown several photographs. Is that correct?

8 A That's correct.

9 Q I'd like to show you now what's been marked for
10 identification purposes as defendant's exhibit number four
11 and ask you to take a look at that. Now I know,
12 Mr. Gutierrez, that it's nine and a half years ago that you
13 were down at the Bloomington Police Department, but do you
14 recall picking out defendant's exhibit number four, this
15 photograph that I'm now showing to you again?

16 A Uh-huh.

17 Q And saying this looked close to the person that you
18 saw in the gas station?

19 A I can't recall picking out that picture, but --

20 Q You do recall picking out a photograph, however?

21 A Not really, really.

22 Q I'll talk to somebody else about that then. Looking
23 at what's been marked earlier as People's exhibit number 54,
24 you've told us earlier today that you were -- you shopped at

1 this station with some frequency, right?

2 A Yeah.

3 Q And you're familiar with the layout of how it
4 existed back in February and March of 1991, the gas station?

5 A Yes, pretty much.

6 Q And is People's exhibit number four -- 54, excuse
7 me, pretty close to what you remember about the layout of
8 the station?

9 A Well, all I remember there was a really small, what
10 you call it, a little building inside where you go inside
11 and pay, and I recall there was one pump in the front of it
12 and the other one kind of in the back.

13 Q Do you have any argument with the layout of this
14 diagram that I'm now asking you to look at?

15 A No.

16 Q Do you recall which of the pumps you went to to put
17 gas into your car?

18 A Which one would be the -- the front of it, like the
19 main --

20 Q The front would be here and as indicated here, this
21 is Empire Street, and I believe we can stipulate that's a
22 one way street going west?

23 MR. REYNARD: (Nods.)

24 MS. GRIFFIN: (Nods.)

1 THE WITNESS: Okay.

2 MR. SKELTON:

3 Q So if you are going travelling from let's say the
4 mall to downtown Bloomington, you would be going from east
5 to west. Does that help you to get oriented?

6 A Yes.

7 Q I'll ask you again does this appear to be a
8 relatively accurate depiction or showing of what the gas
9 station layout was.

10 A Yeah, pretty much.

11 Q And which of the three pumps or islands did you go
12 to if you recall?

13 A Yeah, I recall that was kind of in front of it like
14 the door, which the one there.

15 Q And on this diagram there is what appears to be an
16 island in the -- toward the southeast corner of the lot and
17 then one in the middle south portion of the lot?

18 A That's the one I recall. That's the one.

19 Q And that would be the one in the middle of the
20 southern portion of the lot, right?

21 A Yeah, my best knowledge, yes.

22 Q And then you walked into the building?

23 A Uh-huh.

24 Q And conducted a transaction that you earlier told us

1 about?

2 A That's correct.

3 Q Now, you've made mention as well of where you were
4 within that building when you paid for the gas, right?

5 A Uh-huh.

6 Q Now I'm going to show you what's been marked as
7 People's exhibit number 55. This, and I believe we can
8 agree, counsel, is represented to be a diagram of the
9 building itself?

10 MR. REYNARD: Yes.

11 MR. SKELTON: It's not a weapon to be used against
12 the court reporter.

13 Q Assuming, Mr. Gutierrez, that this represents the
14 building and this in the lower left-hand corner represents
15 the counter.

16 A Okay.

17 Q Are you oriented now as to the layout?

18 A Yes, pretty much with the counter, yes.

19 Q And you would have entered through the door on the
20 south end?

21 A That's correct.

22 Q And to get to the counter you'd have to turn left?

23 A That's correct.

24 Q Could you step down here, please, sir?

1 A Sure.

2 MS. GRIFFIN: Can we maybe move that easel over
3 there?

4 MR. SKELTON: I prefer juggling, thank you.

5 Q Could you tell us, point with that pen, don't write
6 on the document, please, approximately where you went to
7 through the counter or to the counter?

8 A Yes, I went right over here, and this gentleman was
9 to this side.

10 Q Let me ask you another question. Where was the
11 clerk or the attendant?

12 A Right behind the counter right here.

13 Q Could you step over toward me, please, so all the
14 jurors can see where you are pointing?

15 A It was right here was the clerk.

16 Q And the cash register sat in that general area,
17 didn't it?

18 A Yes, I believe, yeah, on the counter, standing on
19 the counter.

20 Q Now you may have unintentionally blocked somebody's
21 view before. Could you show us again the route that you
22 traveled when you came into the station?

23 A Just right here and I step right in front of the
24 counter.

1 Q And this taller individual that you have told us
2 about would have been located at the corner, which would be
3 the northeast corner of that counter. Is that correct?

4 A That's correct, yes, somewhere in this area.

5 Q I'm going to put this on the floor, and we're going
6 to play a little make believe here. Let's say that this is
7 the counter, and you had walked into the building and come
8 over to this location.

9 A Okay.

10 Q And you're standing where the -- not the check out
11 person or not the attendant is standing. Get as close as
12 you can as to where you remembered the third person being.

13 A About right here.

14 Q Now you had earlier -- finish if you want to, I'm
15 sorry.

16 A Yeah, that was about right here. That's my best
17 knowledge I can get, right here.

18 Q And you would have come up to the counter to conduct
19 your transaction?

20 A That's correct.

21 Q So you'd be facing west?

22 A That's correct, right.

23 Q You had earlier indicated that the third person
24 turned in some fashion. Could you duplicate the action that

1 you saw for us here. Show us what you saw him do?

2 A Well, best of my knowledge, after almost ten years,
3 today I can remember he went like this, kind of like this.

4 Q And that turned his face away from you?

5 A Yeah. And he was kind of look and see if I leave or
6 I was still there, something like that.

7 Q Thank you. You can resume the stand. How many
8 times would you estimate that you had dealt with the
9 attendant in that station before Easter Sunday,
10 Mr. Gutierrez?

11 A Well, officially that was my time every time I go
12 that way so I can just estimate probably 20 times.

13 Q So you were relatively familiar with it?

14 A Yeah.

15 Q And based on your earlier testimony and
16 conversations that you've had with other people, you felt
17 that he knew who you were too, maybe not by name but he
18 recognized your face?

19 A Yeah, yeah, because every time we cross words, you
20 know, how you doing today, yeah, just simple thing like
21 that.

22 Q I'm going to show you what's earlier been marked as
23 People's exhibit number eight and ask you if that appears to
24 be the young man that you saw in the gas station that you

1 gave money to that night?

2 A Yes, definitely.

3 Q No question in your mind whatsoever?

4 A No.

5 Q And this is the person you had dealt with probably
6 20 times before?

7 A Yeah.

8 Q And from your earlier experiences, this is William
9 Little. I'm going to refer to him by name, okay?

10 A Uh-huh.

11 Q William Little was a friendly, outgoing person?

12 A Yes.

13 Q But you noticed some distinct differences or very
14 apparent differences when you were in there whether it's
15 seven o'clock or eight o'clock on Easter Sunday of 1991,
16 didn't you?

17 A Yes, I noticed a little bit different. His
18 attitude, his behavior that was a little different than it
19 usually was.

20 Q And you had handed him money before?

21 A Uh-huh.

22 Q To make purchases to pay for what you had bought?

23 A Yes.

24 Q You never dropped that money before?

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A No.

Q You'd never seen his handshaking before?

A No.

Q You'd never seen that expression on his face before?

A No.

Q Or any of those mannerisms that you earlier told us about?

A No.

Q Would it be fair to state that you concluded from your observations of Bill Little that he was nervous, frightened or upset in some fashion?

A That's correct. It's pretty much what attracted my attention to this.

Q It was out of the ordinary?

A Yes.

Q It was far different than what you had experienced before with this same young man?

A That's correct.

Q And I apologize that I didn't hear distinctly what you said earlier, did you hand him some coins as well as some currency?

A I believe it was like two dollars and some change.

Q Maybe four quarters, ten dimes, whatever it may be, but you paid for your full purchase?

1 A Uh-huh, that's correct.

2 Q Which of those, either the two one dollar bills or
3 the change, was dropped, if you recall?

4 A Just like the change.

5 Q On to the counter?

6 A Some on the floor and some like, two, three quarters
7 on the counter and part of it went on the floor.

8 Q You said thank you and out the door you went?

9 A I just told him I'll see you later. That was it.

10 Q You didn't ever see that sale rung up and placed
11 into the cash register, did you?

12 A No.

13 Q Now, the person that -- who wasn't Mr. Little and
14 wasn't you, the third person who was in there --

15 A Uh-huh.

16 Q -- you described as having a scar on his chin and
17 you've described his height and weight and approximate age,
18 either here today or in the statement that we just talked
19 about, right?

20 A Yes.

21 Q And in the composite, which is People's exhibit
22 number 22, there is a ball cap that's located on that
23 person's head, and that's consistent with what you saw that
24 night as well?

1 A. Yes, but the head, I don't even remember about that
2 until today that I see --

3 Q So it's fair to state that your memory of something
4 that happened nine and a half years ago is not as good today
5 as it was the next day, April 1st of 1991, right?

6 A Yeah, that's correct.

7 Q And, in fact, in your statement, you were able to
8 tell Detective Crowe that the person had a small gold ball
9 earring in his left ear?

10 A Uh-huh.

11 Q I understand exactly what you're saying when you say
12 uh-huh. But it's somewhat difficult for the court reporter
13 to take that down.

14 A Yes.

15 Q I'm sure they understand you as well, but just for
16 the sake of the record, yes and no would be wonderful. You
17 were also able to say that not only was there a scar on the
18 left side of his chin or face, but it appeared to be
19 relatively fresh, pinkish, would that be a fair statement?

20 A Yes, yes.

21 Q And you also were able to identify that he was
22 wearing an army green T-shirt under that motorcycle jacket,
23 right?

24 A Yes, that's correct.

1 Q And you were also able to tell Detective Crowe about
2 the ball cap that you saw him wearing, right?

3 A That's correct.

4 Q You remembered enough detail at that point in time
5 to say that the third person pulled out a package of
6 Marlboro cigarettes and lit one up?

7 A Yeah, that's one of the things I don't even
8 remember. I couldn't recall 'til today.

9 Q That's one of the details that over the passage of
10 time you've probably lost a distinct memory of?

11 A That's correct, yes. There is so many things,
12 little things, like the ball ring and all those things, the
13 cap.

14 Q Prior to today has anyone talked to you about your
15 recollection of the time that you went in there?

16 A The time that I spend inside the building?

17 Q The time that you arrived there to purchase the gas
18 on Easter Sunday of 1991?

19 A Approximately what time it was?

20 Q Let me reask the question.

21 A Yes, please.

22 Q Before your testimony here today, has anyone ever
23 talked to you within the last year, let's say, about the
24 time that you went there to purchase the gasoline?

1 A Yes.

2 Q Who?

3 A I believe there was a detectives when they went over
4 to my place.

5 Q And that would be in Florida?

6 A That's correct.

7 Q And that detective or detectives would have been
8 from the Bloomington Police Department?

9 A That's correct.

10 Q Did they tell you anything about a tape that was
11 kept in the cash register that came from the cash register
12 at the Clark Station?

13 A No, I don't recall that.

14 Q Not that you recall? What would be your best
15 estimate of the number of photographs that were shown to you
16 during the year of 1991 by police officers? Would it be
17 more than 20?

18 A Oh, yes, definitely, there can be close to three
19 hundred.

20 Q A lot of them?

21 A Yes, a lot of, books and books, yes.

22 Q And from your review of those you were not able to
23 make an identification?

24 A No, not that I know.

1 Q You did indicate to Detective Crowe in your
2 statement that's earlier been referred to and is marked as
3 defendant's exhibit number three that you had a feeling you
4 had seen this third person before?

5 A Yes, that's correct, yeah, I remember that, yes.

6 That was kind of a familiar face. You don't know from where
7 but you just --

8 Q I think we've all shared that same experience. And
9 on June 21st of 1991, roughly three months after the Clark
10 Station incident, after Mr. Little was killed, you were
11 asked to go down to the jail here to look at people standing
12 in a row to see if you could identify anyone there?

13 A I can -- that's not really clear in my mind of doing
14 that but...

15 Q But you do remember you weren't able to identify
16 anybody?

17 A Yes, definitely.

18 Q Could you describe to us, please, to the best of
19 your recollection, Mr. Gutierrez, where you were when you
20 were asked to look at these people?

21 A I believe I was in my workplace.

22 Q So they came and asked you if you would come down to
23 the jail?

24 A Yes.

1 Q And you went into the jail building, this building
2 or a part of it, right?

3 A Yeah, that's correct.

4 Q And they took you to an area where they eventually
5 asked you to look at six people that were standing there
6 holding up cards that had numbers on them, right?

7 A Yes, that's correct.

8 Q How close were you to those people when you were
9 asked to look at them?

10 A I can answer you again that it's not really clear in
11 my mind exactly that procedure. I mean I -- I can remember
12 a little bit of that only because it's been mentioned around
13 but I can not really -- I mean it's not really clear in my
14 mind.

15 Q Were you a long way away from them?

16 MS. GRIFFIN: Objection, Your Honor, I think he's
17 already clarified that he has no recollection.

18 THE COURT: Hold it, Mr. Gutierrez. The objection
19 is sustained.

20 MR. SKELTON:

21 Q What was the lighting like of the six people that
22 you were asked to view or look at?

23 MS. GRIFFIN: Your Honor, same objection. I
24 believe he's already clarified he really doesn't remember

1 this happening at all.

2 MR. SKELTON: Judge --

3 THE COURT: He can answer as to lighting. He may
4 answer.

5 MR. SKELTON:

6 Q Would you like me to ask that question again?

7 A Sure.

8 Q What was the lighting like on the people that you
9 were asked to look at?

10 A My best of my knowledge I not remember. It's very
11 out of my mind part of this.

12 Q If we were to be able to take you back down to that
13 same area, do you believe that might refresh your memory
14 somewhat?

15 A I don't know, maybe, maybe not, because I know what
16 it looks like, the area when you -- I know what it looks
17 like. But I can not just remember doing -- I mean that day.

18 Q I understand that. I'm not going to beat you up
19 about not being able to remember something nine and a half
20 years later.

21 Just one moment, Mr. Gutierrez, I should be done
22 here shortly, but let me check a couple things.

23 That third person, did you see a cast on either of
24 his arms?

1 A Excuse me -- repeat that question, please.

2 Q You ever have a broken bone?

3 A Yes, I have.

4 Q Have you ever had a cast on any part of your body?

5 A Yes, I did.

6 Q What I'm asking you is that third person that you
7 saw there in the building, not Bill Little and not you, but
8 the third person, did he have a cast on either of his hands?

9 A No, not that I knew, no.

10 Q How was it that you -- I'm going to rephrase that.
11 Where did you live then?

12 A Where did I live back then?

13 Q Yes.

14 A I was living in East College Avenue in Normal.

15 Q And you went to Mulberry Street to visit a friend
16 after making this gas purchase?

17 A That's correct.

18 Q Okay. East Mulberry or West Mulberry, if you
19 remember?

20 A No, I don't really -- I don't even know. I just
21 know it was Mulberry and right in the corner of some other
22 street. It was an old building, like three story building.

23 Q So you went as directly as you could after
24 purchasing the gas to the Mulberry Street address to visit

1 or pick up your friend?

2 A That's correct.

3 Q And his name is what, if you remember?

4 A Jesse.

5 Q And did you and Jesse go somewhere?

6 A There is another thing that is not really clear in
7 my mind either. As a matter of fact, I don't even remember
8 if he was home or not.

9 Q And if you're going from Mulberry Street and this
10 was Mulberry Street in Bloomington, right?

11 A Yes, that's correct.

12 Q If you're going to Mulberry Street to College
13 Avenue, was that east or west College Avenue?

14 A That would be east, which is pretty close from
15 Towanda on College, so that would be east.

16 Q It would not be a direct route for you to go back by
17 the Clark Station to get from Mulberry Street back to your
18 home on College Avenue, would it?

19 A Can you repeat that again, please?

20 Q If you're on Mulberry Street here in Bloomington and
21 you want to go back to your address out by College and
22 Towanda, which is located on the east side but not quite to
23 Veterans Parkway in Normal, a normal route would not take
24 you by the Clark Station going from Mulberry to College,

1 would it?

2 A I believe I cross -- I kind of crossed right there
3 or coming down Locust.

4 Q Was it a radio report that you heard on your car
5 radio -- I'm not talking about a scanner. I'm just talking
6 about your regular A M or F M radio that brought your
7 attention to the fact that something had gone wrong at the
8 Clark Station?

9 A No, no, not that I remember that.

10 Q Directing your attention to your statement of April
11 1st of 1991 again, Mr. Gutierrez, follow along with me if
12 you'd like to, please. Do you recall being asked this
13 question by Detective Crowe?

14 What did you do after leaving the gas station?

15 Do you remember being asked that?

16 A No, I don't remember.

17 Q Do you remember answering, I drove home and heard
18 about the shooting on the radio, and I came back to the
19 Clark Station and talked to the police that was there?

20 A Oh, okay.

21 Q And this is part of the statement that you earlier
22 signed back on April 1st?

23 A Yeah, that's correct, uh-huh.

24 MR. SKELTON: No other questions, Your Honor.

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THE COURT: Go ahead.

REDIRECT EXAMINATION

BY MS. GRIFFIN:

Q Your friend that lived on Mulberry Street, was that anywhere near the old Bloomington bus station?

A Yes, kind of close to there.

Q And so you're familiar with Locust Street. You talked to Mr. Skelton about Locust Street?

A Yeah.

Q And that's a one way street going out towards the country club, the mall, the airport?

A Yeah, that's what I'm thinking.

Q And would it be common for you if you were on that -- at your friend's house there on Mulberry Street to get on to Locust and take Locust to Linden Street?

A Yeah, that's correct.

Q And turn left on to Linden?

A Yeah.

Q And that would take you directly to the Clark Station?

A Yeah.

Q And you can take Linden to College Avenue?

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A Yes.

Q And turn right on College?

A Yes.

Q And you can get home that way?

A Yes, that's correct.

MS. GRIFFIN: I don't have any other questions.

THE COURT: Mr. Skelton?

MR. SKELTON: Nothing further. Thank you, Judge.

THE COURT: All right. You may step down. Thank
you. You can step down. Thanks.

(Witness excused.)

* * * * *

1 IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT

2 MCLEAN COUNTY, ILLINOIS

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I, Nancy L. McClarty, an Official Court Reporter
and Certified Shorthand Reporter in and for the Eleventh
Judicial Circuit of the State of Illinois, do hereby certify
that I reported in shorthand the foregoing proceedings and
that the foregoing is a true and correct transcript of my
shorthand notes so taken as aforesaid.


Certified Shorthand Reporter
License No. 084-002264

Dated this 18th day
of August, 2000