

1 case.

2 (THE FOLLOWING PROCEEDINGS WERE HAD IN OPEN COURT
3 IN THE PRESENCE AND HEARING OF THE JURY.)

4 THE COURT: Show for the record the jury has
5 returned. We're prepared to go on to additional evidence in
6 the State's case in chief. And, Mr. Reynard.

7 MR. REYNARD: The People call Jeff Pelo.

8 (Witness sworn)

9

10 JEFF PELO,
11 called as a witness on behalf of the People herein, having
12 been first duly sworn, was examined and testified as follows:

13

14 DIRECT EXAMINATION

15 BY MR. REYNARD:

16 Q. Would you state your name please?

17 A. Jeff Pelo.

18 Q. Are you the same Jeff Pelo that testified in an
19 earlier point in this trial?

20 A. Yes, sir.

21 Q. Let me turn this microphone in your direction here
22 And you are, for the record, employed at, as an, a police
23 officer for the city of Bloomington?

24 A. Yes, sir.

1 Q. I want to direct your attention back to March
2 thirty-first, 1991, and ask you if following your duties in
3 securing the scene that you earlier described to us, you also
4 conducted a neighborhood canvas to see if there was anyone
5 who had information pertinent to the event?

6 A. Yes, sir, we did.

7 Q. And at some point that evening, do you recall
8 whether you spoke to Juan Luna and Carlos Luna?

9 A. I don't recall those people specifically, no.

10 Q. Okay. Now, with regard to that, your procedure for
11 obtaining this information from the various people in the
12 neighborhood that you spoke to was to ask them questions and
13 then hear their answers, is that a fair statement?

14 A. Yes, sir.

15 Q. And did you take notes as to what you were being
16 told?

17 A. Yes, sir, we did.

18 Q. And were those notes being made pretty much at the
19 time that the people were telling the information to you?

20 A. Yes, sir.

21 Q. Procedurally at some point that evening, and
22 actually probably before midnight, did you reduce those notes
23 to a report?

24 A. Yes, sir, I did.

1 Q. And when you reduced those notes to a report, did
2 you accurately record the information that you had taken on
3 your notes so that it basically reflected the same
4 information that you had secured from the individuals with
5 whom you spoke?

6 A. Yes, sir.

7 Q. I want to show you what's been marked for
8 identification as People's Exhibit Number 63 and ask if you
9 recognize that to be a page of the report about which you
10 were just speaking?

11 A. Yes, sir, it is.

12 Q. And with respect to the writing on that page, is
13 that your handwriting?

14 A. Yes, it is.

15 Q. And is this the report that you based upon the
16 notes which you took at the same time that you were speaking
17 to the individuals from whom you received information?

18 A. Yes, sir, it is.

19 Q. And so based upon that procedure, you believe that
20 the information contained in this report is an accurate
21 recording of your past recollection of what you were told by
22 the individuals whose names appear on this report?

23 A. Yes, it would be.

24 Q. Okay. At this time, Your Honor, I would move the

1 admission of People's Exhibit Number 63 and would suggest
2 publication by reading just a single paragraph.

3 MR. SKELTON: I object. It's hearsay, Your Honor.

4 MR. REYNARD: I think it's basically description.
5 It's corroborative of what Carlos Luna has previously
6 testified to.

7 THE COURT: Okay. I'm going to --

8 MR. REYNARD: It's also, Your Honor, for the
9 record, not offered for the truth of the matter asserted, but
10 to reflect the time at which this information was provided
11 which, about which I think I could possibly elicit a little
12 additional information.

13 THE COURT: Okay. If that's the purpose it's being
14 offered, I'll let you ask him questions about that, but I --
15 I do agree that reading it is hearsay. Better let me see the
16 statement for a second before you move on. Okay. And your
17 purpose for offering this would be the time frame?

18 MR. REYNARD: Yes, the, the content of the
19 information and the time frame to show that this information
20 is the same information that Mr. Luna had indicated earlier
21 was provided at a particular time frame.

22 MR. SKELTON: The text is not, does not disclose
23 that, Your Honor.

24 THE COURT: I guess that was my next question.

1 MR. REYNARD: Well, with regard to the time frame,
2 I believe that the officer can -- I can elicit some
3 additional information as to his recollection as to time
4 frame within which this information was gathered and reported
5 in the form of this exhibit.

6 THE COURT: Could I ask Mr. Skelton to approach for
7 just a moment to make sure I understand this?

8 MR. SKELTON: Yes, sir, Your Honor.

9 (THE FOLLOWING PROCEEDINGS WERE HAD AT THE BENCH
10 OUTSIDE THE HEARING OF THE JURY.)

11 THE COURT: I don't -- I don't want to guess, so
12 I'm going to tell you what I think I'm being told by the
13 State and see if you agree, Mr. Skelton, and that is, that
14 they want the time frame, but they want the content so that
15 this, it can be linked to Luna's statements, which he was
16 unable to link to a time frame. In other words, they don't
17 want it admitted for the truth of this, but to show that this
18 particular information was given to the officer at a
19 particular time, which Luna was unable to identify.

20 MR. REYNARD: That is correct, and --

21 THE COURT: Well, then now I understand that.

22 MR. REYNARD: And it wasn't -- and it isn't offered
23 for the truth of the matter asserted because I don't believe
24 it would be admissible in any event if Mr. Luna had not

1 testified as to the content.

2 THE COURT: Okay.

3 MR. REYNARD: But we have to match the content to
4 the content so we know what we're talking about.

5 THE COURT: All right. And Mr. Skelton, anything
6 further then on your objection?

7 MR. SKELTON: Not -- no, Your Honor. I think I've
8 made my point clear.

9 THE COURT: Well, I think there is a problem with
10 what you have said, wait until the officer -- and for that
11 reason, I'm going to allow this, but I will also instruct the
12 jury that it's not offered for the truth, but to establish
13 that, the content of the conversation and the time frame.

14 MR. REYNARD: I think that's appropriate, a limited
15 purpose instruction.

16 (THE FOLLOWING PROCEEDINGS WERE HAD IN OPEN COURT
17 IN THE PRESENCE AND HEARING OF THE JURY.)

18 MR. REYNARD: So would you like the instruction
19 before or after the reading?

20 THE COURT: I'd like to do it after, and I'm going
21 to allow the proffered question to be answered. So if you
22 want to restate it, you may do so since we took this break.

23 MR. REYNARD:

24 Q. Well, my recollection of my -- perhaps I ought to

1 just start from scratch.

2 THE COURT: Go ahead.

3 MR. REYNARD:

4 Q. Officer Pelo, at this time, what I would like you
5 to do is to read a, the first full paragraph appearing on
6 People's Exhibit Number 63 starting with a, the numbers 807
7 and concluding with the word alley. "807 East Empire
8 Street" -- I'm sorry -- "807 East Empire, spoke to Juan Luna,
9 12 in parenthesis, and Carlos Luna, phone number of 827-8220.
10 Both subjects stated that approximately 2020, they observed a
11 male exit the Clark station wearing a black coat and a black
12 hat. His left hand was under the coat. He was carrying what
13 appeared to be a cash drawer. Suspect went east around the
14 buildings, then north towards the alley."

15 MR. REYNARD: Thank you, officer.

16 THE COURT: Could I have it back? Ladies and
17 gentlemen, this is not offered for the truth of the content
18 of the material, and by that I mean, the description. It's
19 not offered to establish that those things were actually
20 said. It's being offered today in order to set the time
21 frame for that conversation as it relates to witness, Luna's,
22 previous videotaped testimony. So I hope that's clear to
23 you, that it's not offered for the truth of the matter
24 contained therein. Mr. Luna has testified to what he did.

1 We're now linking up the time that this officer took that
2 statement because Luna was not able to identify the specific
3 time, and that's the only reason it's being offered today,
4 okay?

5 MR. REYNARD: May we approach?

6 THE COURT: Yes.

7 (THE FOLLOWING PROCEEDINGS WERE HAD AT THE BENCH
8 OUTSIDE THE HEARING OF THE JURY.)

9 MR. REYNARD: I think I understand Your Honor's
10 meaning, but if I heard it directly, you indicated that it's
11 not offered for the truth of the matter asserted, which I
12 would interpret to mean it was a cash drawer, but it was
13 admitted to -- it was admitted to prove --

14 THE COURT: To establish the time frame.

15 MR. REYNARD: And that it was said at that time,
16 not that it was --

17 THE COURT: Not necessarily, but the content.

18 MR. REYNARD: That it was a cash drawer. We're not
19 offering it for the truth.

20 THE COURT: And that's a good way to get into it.
21 It's not being offered to establish that it was in fact a
22 cash drawer, but to establish -- that it established this
23 happened at this place, date, and time with this officer.
24 All right; I'll clarify that.

1 MR. REYNARD: Thank you.

2 (THE FOLLOWING PROCEEDINGS WERE HAD IN OPEN COURT
3 IN THE PRESENCE AND HEARING OF THE JURY.)

4 THE COURT: Folks, I may have been confused, maybe
5 not, but let me try to correct this once again. This is not
6 being offered for the truth of the content; for example, it's
7 not being offered to show that he carried out a cash drawer.
8 It's being offered to show that at this time, this
9 information was given to Officer Pelo, and the time period
10 is -- it is being offered to establish the time period, which
11 Mr. Luna was unable to, with specificity, offer in his
12 testimony, but not as I indicated, for the truth of the
13 information he gave the officer. Does that clarify?

14 MR. REYNARD: That's very good. Thank you, Your
15 Honor. Thank you.

16 Q. With regard to time frame, Officer Pelo, can you
17 indicate approximately what time it was that you were
18 gathering information in the neighborhood within a time range
19 so that the jury will know within that time range when it was
20 that you spoke to the two Luna boys?

21 A. We started doing neighborhood canvas about nine
22 o'clock that evening. I believe we went on pretty close to
23 11.

24 Q. Okay. And when did you actually write the report?

1 A. I wrote it before -- I know it was before midnight.
2 I wrote it before midnight.

3 Q. And how do you know it was before midnight that you
4 wrote the report?

5 A. Because I always write the -- I always date my
6 reports no matter where I'm at in the report the day that I
7 wrote it since I work at night a lot of times.

8 Q. And when you reviewed that exhibit, it indeed bore
9 the date of 3/31/1991?

10 A. Yes, sir, it did.

11 Q. No further questions.

12 THE COURT: Mr. Skelton?

13

14 CROSS EXAMINATION

15 BY MR. SKELTON:

16 Q. To try to be more specific, about the time frame
17 you were at or observing the Clark station at 8:18 PM, which
18 would be 20 dot dot 18 military hours, right?

19 A. Yes, sir.

20 Q. And shortly after that, you walked on to the lot?

21 A. Yes, sir.

22 Q. And after walking on to the lot, you proceeded in a
23 northwesterly direction to the entryway to the Clark
24 building?

1 A. Yes, sir.

2 Q. And did in fact enter that building?

3 A. Yes, sir.

4 Q. And at some point in time, between your entry on to
5 the Clark lot and your arrival at the front door of that
6 building, you had some conversation with a Danny Martinez?

7 A. State that again.

8 Q. After you set foot on the lot in the southeast
9 corner of the Clark lot, you walked toward the entryway to
10 the Clark building, right?

11 A. Yes, sir.

12 Q. And you had some contact with a Hispanic male known
13 to you as, at a later point in time as Danny Martinez, right?

14 A. I never talked to him until after I had come out of
15 the building.

16 Q. You saw a Hispanic male on the east side of the
17 doorway of the Clark building?

18 A. I saw him on the lot by his vehicle, yes.

19 Q. And you also saw two other persons pull into that
20 lot -- let me rephrase that -- you also saw a pickup truck
21 pull into that lot when you were on the lot physically?

22 A. Yes, sir.

23 Q. And there were two occupants of that vehicle as you
24 recall?

1 A. Yes.

2 Q. And you did have some conversation with them or
3 gave them some direction?

4 A. Yes, sir.

5 Q. And I'm not going to go through the exact detail of
6 what you testified about last week, but you entered the
7 building. You came out of the building, and you had duties
8 relative to that building for a period of time before any
9 neighborhood canvas was begun by you?

10 A. Yes, sir.

11 Q. Some of those things that you did were in
12 conjunction with Paul Williams; some of those were in
13 conjunction to rescue personnel that arrived?

14 A. I didn't assist the rescue personnel. They went
15 in.

16 Q. You saw them arrive, though, didn't you?

17 A. Yes, sir.

18 Q. And that would have been some minutes after your
19 initial arrival there?

20 A. It would have been within a period, yeah. I can't
21 give you a specific time, but --

22 Q. You identified one of the male persons as being a
23 Juan Luna, 12 years of age; the other person you identified
24 as being Carlos Luna that you spoke to. You don't refer in

1 your report to a specific time at which you spoke to them,
2 correct?

3 A. No, I do not.

4 Q. And as you sit here now, you can't tell us a
5 specific time, whether it was nine o'clock, ten o'clock,
6 you -- you're assuming, and I'm not saying that it is an
7 invalid assumption, that it would have been between 9 and 11,
8 correct?

9 A. Closer to nine, but within that time frame, yes.

10 Q. From the point in time that you first arrived at
11 the Clark station until you began the neighborhood canvas,
12 how many official vehicles of the Bloomington Police
13 Department came to that lot, yourself, Williams, and how many
14 others?

15 A. I couldn't tell you how many Bloomington squad cars
16 and related vehicles came to the area.

17 Q. More than five?

18 A. More than likely, yes.

19 Q. And it was consistent with the arrival of a squad
20 car, that they had, did not have their overhead lights on,
21 correct?

22 A. The only people that would not have had their
23 overhead lights on would have been Paul Williams and myself.
24 Everybody else when they arrived were probably arriving code

1 three.

2 Q. Do you recall that specifically?

3 A. I can't tell you every squad car arrived with their
4 lights on, but I know the initial ones did that came after
5 us.

6 Q. Do you know from your own personal observation
7 whether any police officer other than yourself spoke to
8 Carlos Luna before you spoke to him?

9 A. I don't know if somebody else spoke to him before I
10 did.

11 Q. Did Carlos Luna tell you before the disclosure that
12 you're talking about in that paragraph of your report that
13 you just read that he hadn't seen anything?

14 A. Did he tell me before that he hadn't seen anything?

15 Q. Yes, sir, that's my question.

16 A. I don't recall having a conversation with him.

17 Q. And if you didn't have a conversation with him, he
18 couldn't have told you anything?

19 A. I had a conversation with him. I just don't
20 remember it.

21 Q. You had a conversation with him before the contact
22 that is referred to in the paragraph that you just read?

23 A. You're losing me.

24 Q. I apologize. I'm not trying to.

1 A. The only contact that -- I don't remember
2 talking -- I remember doing the, the neighborhood canvas, and
3 I wrote down in there that I talked to those two young men at
4 that address.

5 Q. And you don't have any recollection of having
6 spoken to either of them before the contact that gave rise to
7 this entry, right?

8 A. No, I do not.

9 Q. Were you involved, to the best of your
10 recollection, Officer Pelo, or Sergeant Pelo, I'm sorry, in
11 the inceptional or initial stages of the community or
12 neighborhood canvas?

13 A. Yes. We were -- I was one of the first ones that
14 was told we needed to do a neighborhood canvas after the area
15 was checked.

16 Q. And just so the jury understands what a
17 neighborhood canvas is, you basically go door to door, and if
18 somebody is out there, you talk to them. If there -- if
19 nobody's out there, you might knock on a door, ring a
20 doorbell to see if you can get a response and ask people what
21 they saw, heard, observed, things of that nature?

22 A. Yes, sir.

23 Q. And that's the process that you were following when
24 you had the contact with Juan Luna and Carlos Luna?

1 A. Yes, sir.

2 Q. And Carlos Luna appeared to be about 14 years of
3 age at that time? Couldn't say?

4 A. I apologize. I don't remember having a
5 conversation with him.

6 Q. No other questions. Thank you.

7 THE COURT: Okay. Mr. Reynard.

8

9

REDIRECT EXAMINATION

10 BY MR. REYNARD:

11 Q. Just for the sake of clarification, from that
12 paragraph that you previously read, there's a parenthetical
13 reference to the number 12 that appears after the name Juan
14 Luna; do you know what that refers to?

15 A. That would be in reference to that person's age.

16 Q. Nothing further.

17 THE COURT: Anything further, Mr. Skelton?

18 MR. SKELTON: No.

19 MR. SKELTON: Excuse me a second.

20 MR. REYNARD:

21 Q. I do need to clarify one thing. Mr. Skelton had
22 asked you about arriving at that location at 8, at 8:18, and
23 what I would like to ask you is if you recall whether 8:18
24 was the time that you received the dispatch?

26
1 A. If I remember correctly, that is the time we were
2 sent to the area, yes.

3 Q. Okay. And it took you a period of a very few
4 minutes to arrive at that location and, in order to see what
5 you've previously testified that you saw?

6 A. Yes, sir.

7 Q. Nothing further.

8 THE COURT: Mr. Skelton, anything further on that?

9 MR. SKELTON: No.

10 THE COURT: All right. You may step down, thank
11 you.

12 (Witness excused)

13

14 (Witness sworn)

15

16 THOMAS EDWIN SANDERS,

17 called as a witness on behalf of the People herein, having
18 been first duly sworn, was examined and testified as follows:

19

20 DIRECT EXAMINATION

21 BY MR. REYNARD:

22 Q. I need just a moment, judge. Would you state your
23 name please?

24 A. Thomas Edwin Sanders.