

1 would have put the call out for the officers to respond?

2 A Yeah, I think that would have probably been a
3 maximum time.

4 Q Okay. When did the call come in to you?

5 A It was 8:18.

6 MR. PICL: No other questions. Thank you. Excuse
7 me just a second. No other questions.

8 THE COURT: Miss Griffin?

9 MS. GRIFFIN: Nothing further.

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

11
12 (Witness excused.)

13
14 MS. GRIFFIN: If we could just have a couple
15 moments to check for witnesses, Your Honor.

16 THE COURT: Okay.

17
18 (Witness sworn.)

19
20 J E F F P E L O

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

23
24 (Next page please.)

1 DIRECT EXAMINATION BY MS. GRIFFIN:

2
3 Q Would you state your name, please?

4 A Jeff Pelo.

5 Q Spell your last name, please.

6 A P E L O.

7 Q Where are you employed?

8 A Police officer, City of Bloomington, Illinois.

9 Q And how long have you been a police officer?

10 A Eleven and a half years.

11 Q What's your current position?

12 A I'm a sergeant.

13 Q And how long have you been a sergeant?

14 A July of this year.

15 Q I want to direct your attention back to March 31st,
16 1991 and ask you if you were working and on duty at the
17 police department on that day?

18 A Yes, ma'am, I was.

19 Q Do you recall which shift you were working?

20 A Was working second shift, which is three in the
21 afternoon 'til 11 o'clock at night.

22 Q What were your duties and responsibilities when you
23 were working back then?

24 A Just general patrol, just a standard patrol

1 officers.

2 Q At around 8:18 that evening did you receive a
3 dispatch to go to the Clark station on Empire Street in
4 Bloomington?

5 A Yes, ma'am.

6 Q And what kind of a call was that?

7 A It was a 1090, which is a holdup alarm.

8 Q And is there any type of procedure protocol you use
9 when you're responding to a holdup alarm call?

10 A You want to approach silently, try to conceal
11 yourself so that people don't know you're there.

12 Q Do you recall where you were at or where the general
13 area you were at at the time you got the call?

14 A I believe if I remember right I was on Center Street
15 about Seminary.

16 Q So did you respond immediately to the Clark station
17 then?

18 A Yes, ma'am.

19 Q And did you arrive there about 8:21?

20 A Yes, I believe so.

21 Q And when you arrived in that area, where did you go
22 to, what part of the area around the station did you go to?

23 A I arrived to the south of the station on Linden
24 Street.

1 Q And did you actually pull all the way up to the
2 station or where did you go?

3 A No, ma'am. I -- I stopped south of the intersection
4 of Linden and Empire behind what used to be an old credit
5 union, stopped behind it and pulled slightly behind the
6 building.

7 Q When you stopped there at that location, what did
8 you do then?

9 A I got out on foot and went up in front of the credit
10 union over to the side of the lot.

11 Q Okay. And just to orient ourselves, the Clark gas
12 station was at the intersection of Empire and Linden
13 Streets. Is that correct?

14 A Yes, ma'am.

15 Q And would have been what would be the northeast
16 corner of that intersection?

17 A Yes, ma'am.

18 Q And the credit union you're talking about would have
19 been on the southeast side of that intersection. Is that
20 correct?

21 A Yes, ma'am, it would have been.

22 Q Now as you're approaching the business across from
23 the business, the credit union parking lot area, then were
24 you making any observations?

1 A Yes, I was approaching looking at thousands of
2 different things trying to, cars, people, what's going on.

3 Q Okay. At that point are you just trying to assess
4 what's going on?

5 A Yes, ma'am.

6 Q And at that point you don't know what's going on.
7 Is that correct?

8 A No.

9 Q So you don't know what might be important what might
10 not be important?

11 A No, ma'am.

12 (Q) So you're trying to pay as much attention at one
13 time as possible?

14 A Yes.

15 Q Did you happen to notice anything around the station
16 itself then?

17 A The main thing I noticed was a vehicle on the
18 southeast corner of the lot by the air pump.

19 Q Did you see anybody around that vehicle?

20 A There was a man that was putting air in I believe it
21 was the right front tire of the car.

22 Q And did you do anything once you made that
23 observation then?

24 A One of the initial things I did was I can't remember

Rel's
minutes

CLOSE ENOUGH TO READ
PLATE

1 exactly when I did it, but I did indeed run the license
2 plate number of that vehicle.

3 Q And did you have any problems when you did that?

4 A Yes, the dispatcher wanted to argue about me giving
5 it to her.

6 Q So did you have a little disagreement with the
7 dispatcher on the radio then?

8 A Yes, we had kind of a prolonged conversation back
9 and forth about why she should write it down.

10 Q Okay. And were you asking her to hold that license
11 plate?

12 A Yes, ma'am.

13 Q And what did that mean?

14 A Hold it means just simply to write it down in case
15 it's needed later we have a record of it.

16 Q And when you said you were kind of having that
17 prolonged conversation with her about that you kind of
18 leaned over into your microphone that you're wearing?

19 A Yes, ma'am, we had to talk and look down at it, yes.

20 Q So you had the same kind of equipment basically that
21 you had back then?

22 A Essentially the same, yes.

23 Q Okay. Now, as you're trying to get the license
24 information documented you're making other observations in

1 terms of any traffic or anything, do you remember any
2 traffic on Empire Street or anything?

3 A I remember a couple vehicles going by, yes.

4 Q And did you see anything in terms of the individual
5 that was putting the air in the tire?

6 A I'm sorry? Did I see him do anything?

7 Q Yes.

8 A At one point he walked around the front to the left
9 side of the vehicle. I'm sorry, to the right side of the
10 vehicle. He walks around the vehicle. I can't remember
11 which direction he goes, but at one point he actually walks
12 towards the station, yes.

13 Q Now, when you were there trying to take in all this,
14 did you see anyone go in the station?

15 A I never saw anyone go in the station, no.

16 Q Did you see anyone come out of the station?

17 A No, I did not.

18 Q Did you see anyone else arrive on the lot?

19 A At one point when I was crossing in the lot a pickup
20 truck with two people pulled in, yes.

21 Q And did you do anything with those individuals?

22 A I told them I wanted them to go across the street
23 and wait for me to get done checking the building.

24 Q Because at that point you still didn't know what was

1 going on. Is that correct?

2 A No.

3 Q Once you got over there then and spoke with the
4 individuals in the pickup truck, did you make any
5 observations about the building or inside the building at
6 that point?

7 (A) As I was telling, they kind of debated why they
8 should leave, and I was telling them they needed to go
9 across the street and wait. And as I was looking at the
10 building I observed a tennis shoe sticking out from behind
11 the counter.

12 Q Did you go inside?

13 A Yes, ma'am.

14 Q What happened when you went inside?

15 A I cleared the building to see who was in there, and
16 when I was done I looked down and observed a male laying on
17 the floor.

18 Q And when you say you cleared the building, you were
19 checking to see if anybody else was inside?

20 A Yes, ma'am.

21 Q Did you find anybody else inside?

22 A No, ma'am.

23 Q You saw a male laying on the floor. What did you
24 notice about that individual?

1 A He was laying behind the counter. His position,
2 obviously there was something wrong with him. I -- I
3 assumed that -- that he was in need of medical help. I
4 checked for his pulse. I couldn't find one.

5 Q And aside from checking for his pulse, did you do
6 anything in terms of moving the body at all?

7 A No, ma'am.

8 Q Or anything? Did you notice anything else while you
9 were inside the building as far as anything apparently
10 missing or anything?

11 A The cash drawer was open and the black insert that's
12 usually in it that contains the cash was gone.

13 Q Okay. I want to show you what's marked as
14 People's -- State's exhibit number three, ask if you
15 recognize it, what's depicted there.

16 A The main thing is the cash register that was in the
17 store that day with the drawer open, the insert is gone.

18 Q And so that picture reflects how that appeared when
19 you were in there in terms of the drawer being opened and
20 nothing being inside?

21 A Yes, ma'am.

22 Q Showing you what's marked as State's exhibit number
23 16A and ask you if you recognize what that is.

24 A Yes, ma'am.

1 Q Does that picture fairly and accurately reflect
2 what's portrayed there?

3 A Yes.

4 Q Okay.

5 A Do you want me to tell you what's portrayed?

6 Q Yes.

7 A This is a photograph from it appears to be the east
8 side of the -- west side of the block from the Clark station
9 as you look south toward the credit union.

10 Q That you referred to in your testimony?

11 A Yes, ma'am.

12 MS. GRIFFIN: I'd move to admit 16A and ask to
13 publish at this time.

14 THE COURT: Any objection to 16A?

15 MR. PICL: No.

16 THE COURT: Okay. That will be admitted. And do
17 you want to hit the lights?

18 MS. GRIFFIN:

19 Q Now, the credit union that you referred to, that's
20 the building where you parked to the south of, is that
21 correct?

22 A Yes, ma'am.

23 Q Is it shown in this area? What street is it that's
24 shown near this credit union at this point?

1 A You're going to see the two streets. The left to
2 right street is Empire Street, and the street that's going
3 away from you, it is Linden.

4 Q Linden is the street you were coming north on?

5 A Yes, ma'am.

6 Q And parked south before you got to the credit union?

7 A Yes, ma'am.

8 Q Now this picture shows where the credit union is in
9 terms of relation to where the station was. Is that
10 correct?

11 A Yes, ma'am.

12 Q But this particular photograph was taken after the
13 station was not there in view. Is that correct? You're
14 aware of Clark station no longer is at that location?

15 A It appears it's been removed, yes.

16 Q After you checked the pulse of the individual and
17 indicated you couldn't find anything, did you exit the
18 station?

19 A Yes, ma'am.

20 Q And had another officer arrived?

21 A Yes, Officer Paul Williams arrived, yes.

22 Q And did you discuss with him what you had observed
23 inside?

24 A I had already said on the radio that it was real,

1 and we had a person that was down. As I was leaving, I
2 glanced over at Paul Williams; and he said, you know, the
3 guy looks like he's been -- he's down for some reason.

4 Q Okay. And did Officer Williams then go inside the
5 station?

6 A Yes, ma'am, he did.

7 Q Did your responsibilities then shift at that point
8 at least temporarily to securing the scene?

9 A Yes, ma'am.

10 Q And that would include trying to keep people out of
11 the area. Is that correct?

12 A Yes.

13 Q And later in time when other investigators and
14 officers responded did you then become involved in doing
15 what's called a neighborhood canvas?

16 A Yes, ma'am, we did.

17 Q Kind of going door to door to see if anybody heard
18 or saw anything. Is that correct?

19 A Yes.

20 MS. GRIFFIN: I don't believe I have any other
21 questions. Thank you.

22 THE COURT: Mr. Picl?

23 MR. PICL: Thank you, Judge.

24 (Next page please.)

1 CROSS EXAMINATION BY MR. PICL:

2
3 Q Sergeant, I've got a few questions. That last photo
4 that we looked at on the screen there, People's exhibit 16A
5 I think it was, just so I'm clear?

6 MR. RILEY: Frank --

7 MR. PICL: I don't need that photo.

8 Q Just so I'm clear, I'm trying to relate it in my
9 mind to this diagram. This is what's been marked as State's
10 exhibit 54. Do you see that?

11 A Yes, sir.

12 Q Okay. North is this way. South is towards the
13 bottom; Linden goes down the what would be as you look at
14 it, the jury looks at it, the left side of the diagram.
15 Empire goes across the bottom. Relate it just so I can
16 relate this diagram to the photo that we just saw, would the
17 credit union be down below the bottom of this diagram,
18 number 54?

19 A Yes, it would be to the south of Empire Street, yes.

20 Q So it would be down, if this diagram were taller, it
21 would be down below the bottom of this diagram, across the
22 street, right?

23 A Yes, sir.

24 Q Okay. I just wanted to make sure of that. And I

1 believe you told Miss Griffin that the photo, 16A, was taken
2 of the station after it was demolished, correct?

3 A It appears that way, yes.

4 Q All right. The corner that we look through in that
5 photo towards the credit union and its parking lot has
6 nothing in the way of a sign on it. At the time when you
7 answered the call in 91 do you remember there being a large
8 Clark Oil sign on that particular corner?

9 A I'm sure there was a sign. I couldn't tell you
10 where it was at or how tall it was or anything like that.

11 Q Towards the end of your testimony you indicated that
12 when Officer Williams arrived you stated it's real or words
13 to that effect?

14 A I said that on the radio, yes.

15 Q As he was arriving or before he arrived? Do you
16 remember?

17 A I don't remember exactly how they correlated to one
18 another. I was kind of stressed at the moment. I just said
19 over the radio that it was real.

20 Q You had been on the force just a year or less, is
21 that right, when you answered this call?

22 A Actually, no, it was 21 months I believe.

23 Q 21 months, okay. Had -- had you answered a call
24 like this where there was apparent fatality on the premises

1 during that 21 months?

2 A I'm trying to think. I've gone to several deaths.
3 I was -- of the same style or armed robbery homicide, no.

4 Q Okay. Would that account for why you might have
5 been kind of stressed because it might have been the first
6 scene you've been to, crime scene, where somebody was dead?

7 A Memory serves me right, I believe it was indeed the
8 first homicide where I was the first officer on the scene,
9 yes.

10 Q Did you ever get dispatch to run the tag or the
11 plate of the car of the guy who was trying to fill his tires
12 in the parking lot when you arrived? Did they ever
13 eventually run the plate for you?

14 A LEADS was down. They never ran it, no.

15 Q Was that what the argument was about? You stated
16 you had an argument with the dispatcher whether or not she
17 was going to run this for you.

18 A Yes, I asked her to run a 1028. She responded LEADS
19 is down if I remember correctly. I come back and told her
20 to hold it. She again responded LEADS is down. Eventually
21 I got kind of upset with her and said just write it down
22 then.

23 Q It never was run as far as you know?

24 A As far as I know she never put it on computer, no.

1 Q How long did it take you after you received the
2 initial call from dispatch to arrive at the credit union
3 parking lot?

4 A I don't remember the exact amount of time. It was
5 within a few minutes.

6 Q By that you mean less than two or three minutes or
7 less than five minutes?

8 A It was -- well, a couple -- two or three minutes.

9 Q Okay. And you were, as memory serves me from your
10 testimony, the first car on the scene. Is that right?

11 A To my recollection, yes.

12 Q Did the call from dispatch to you instructing you to
13 report, was it specifically to you or was it just the
14 closest unit in the area?

15 A Two units, the two -- that area is actually an area
16 two. I believe she sent Adam two and Baker two to that
17 call.

18 Q One of those was your area to patrol. Is that
19 right?

20 A Yes, yes, sir.

21 Q Now, just so I get it correct, you indicated that
22 the call from dispatch you received was a 1090 call. What
23 was that again with that code?

24 A We use that as a generalized term for a 1090 is a

1 holdup alarm.

2 Q Holdup alarm call. Did that -- did the information
3 you received from dispatch in any way indicate to you
4 whether or not there might still be a suspect on the
5 premises?

6 A No, just --

7 Q When you approached the scene then in answering the
8 call did you know whether there was a suspect still on the
9 premises?

10 A No.

11 Q You've indicated that your protocol or your practice
12 when answering such a call was to try to approach the
13 premises silently so as to not attract attention to
14 yourself, right?

15 A Yes, sir.

16 Q Would that be so as perhaps to catch the suspect
17 still on the premises?

18 A That would be one of the goals, yes.

19 Q All right. Would it be fair to state that as you
20 answered this call from dispatch you couldn't rule out the
21 fact that there wasn't -- strike that. Would it be fair to
22 say that as you answered the call and approached the scene,
23 the Clark station, there could have been to your way of
24 thinking still a suspect on the premises?

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A Yes.

Q Okay. Now, when you arrived on the -- excuse me, in the parking lot of the credit union I think is where you first pulled up, right?

A To the south of the credit union.

Q Right. Did you get out of your car at first or did you stay in your car as you made your observations of I think you told us thousands of things?

A It was a matter of looking the entire time. You're always looking.

Q Sure.

A Getting out of the car you're still looking, scanning the area, what's behind you, left and right.

Q What I'm asking, and I probably wasn't very clear, as you approached the station itself, did you stay in your car?

A No.

Q Where did you park your car and get out?

A Behind -- to the south of the credit union. There is a couple little drives that pull in. I pulled into one of the drives.

Q In the picture that we just saw on the screen, State's exhibit 16A, are the drives where you parked your car and got out, are they visible, do you recall? Let me

1 see that. Here, I'll show you the photo. Would you like to
2 look at this again before answering?

3 A Yes, sir.

4 MR. PICL: May I show the witness the --

5 THE COURT: Sure.

6 MR. PICL:

7 Q -- photo?

8 A When you look at the photo there is two drives that
9 are visible that come off of Linden Street.

10 Q Right.

11 A There is another one farther down. It's very
12 difficult to see. I believe that's the one I actually
13 pulled into.

14 Q Let me, excuse me, I'm going it step over here, and
15 you tell me if I -- I'm going to point. I can't reach that
16 high. See the green house there, right there?

17 A Yes, sir.

18 Q I got my finger tip. Is the drive that you stopped
19 in on this side of that green house?

20 A I believe it is. I don't recall the exact drive I
21 pulled in. But it was on the south side of the blue
22 building.

23 Q On the south side of the blue building?

24 A Yes, sir.

1 Q Okay. It's probably not visible from this angle
2 because of the flatness of the shot. Would that be --

3 A Yes, sir, your angle is too far down to see it.

4 Q Okay. Good. I think we can have our lights back?

5 THE COURT: Yeah.

6 MR. PICL: Thank you.

7 Q Did you pull your squad car behind the blue
8 building, the credit union, before getting out? Do you
9 recall?

10 A I don't remember how deep into the drive I pulled.
11 I don't recall how deep into it I pulled.

12 Q Do you think you would have pulled it far enough
13 behind the building so as to not be visible from the Clark
14 station?

15 A At the time when I pulled in there there is -- there
16 is actually -- there was several vehicles actually in the
17 lot.

18 Q Oh, okay.

19 A I just don't recall how deep in the drive I pulled.

20 Q Gathering that when you approached given the nature
21 of the call, a 1090, you didn't have your lights and your
22 siren on?

23 A No, sir.

24 Q And would that have been so as to not alert any

1 suspect possibly in the area?

2 A Yes, sir, it's meant to conceal as much as possible.

3 Q As you -- let's see. As you approached -- strike
4 that. After parking your car you got out of your car,
5 correct?

6 A Yes, sir.

7 Q And then approached the gas station by walking
8 through the parking lot in front of the credit union,
9 walking north. Is that right?

10 A I didn't immediately approach the parking lot of the
11 gas station, no.

12 Q I'm sorry.

13 A I did not immediately go to the gas station parking
14 lot, no.

15 Q What did you do?

16 A Walked up on the west side of the credit union,
17 again looking at whatever I could see, walked across the
18 north side -- let me restate that. I got out. I was on the
19 west side of the building, walked up to the north side of
20 the credit union, from the front of the credit union to the
21 east side of the lot.

22 Q To the east side of the credit union parking lot?

23 A Yes, sir.

24 Q Okay. So up to this point you still hadn't crossed

1 Empire Street in your approach to the gas station, right?

2 A No, sir.

3 Q And as you approached the east side of the credit
4 union still not having crossed Empire Street you saw an
5 individual putting air into his auto tires. Is that
6 correct? *go to 123*

7 A Yes, he was by the front of the vehicle, yes.

8 Q He was in front of his vehicle, correct?

9 A He was by his car. At one point I see him -- I
10 remember watching him hunch down by a tire putting air in.

11 Q Right. Now, his car -- remember what type of car he
12 was driving, by the way, or putting air into?

13 A I think it was a blue Nova.

14 Q During the course of this investigation did you
15 later find out that individual's name?

16 A Yes, sir.

17 Q Danny Martinez, was that it?

18 A Yes, sir.

19 Q I don't recall you saying in your testimony on
20 direct examination that you saw anyone else in the area on
21 foot, did you?

22 A That --

23 Q Did you see anyone else in the area on foot?

24 A Other than Mr. Martinez until the pickup truck

1 pulled into the lot I didn't see anybody else, no.

2 Q Okay. Now, the pickup truck pulled into was it the
3 Clark station parking lot or the credit union parking lot?

4 A Pulled into the Clark station parking lot.

5 Q Okay. And at that point you were already across
6 Empire Street into the Clark station parking lot. Is that
7 right?

8 A Yeah, I'd already walked across and was walking in
9 the parking lot for the Clark station when the pickup truck
10 pulled in, yes.

11 Q Did you make your request for the dispatcher to run
12 the license plate on the Martinez car before you crossed
13 Empire Street or after you crossed empire?

14 A I don't recall exactly when I was making that
15 request.

16 Q Did you make your request of dispatch to run the
17 Martinez plate before the pickup truck pulled into the gas
18 station parking lot or after?

19 A Before it pulled into the lot.

20 Q All right. Now up to this point you were still the
21 only officer on the scene, correct?

22 A I can't say yes or no to that. I know Officer
23 Williams had said he was 1023. I hadn't actually seen him,
24 but I couldn't sit here and tell you where he was at at that

1 point, no.

2 Q Sergeant, I take it that at the time you were on
3 foot in and approaching the Clark station you were in your
4 normal working uniform, correct?

5 A Yes, sir.

6 Q Other than the light provided by the station lights
7 and any other street lights maybe in the area, what were the
8 lighting conditions at the time you were approaching the
9 Clark station?

10 A The lights were provided for what you just said,
11 from the station and the street lights.

12 Q Was it dark otherwise?

13 A Dark is kind of relative. It was lit up to the
14 point I could make out a license plate number on a car.

15 Q By the -- that illumination was provided by the
16 lights in the area, right?

17 A Yes, sir.

18 Q The sky, was it dark, do you recall?

19 A It was night.

20 Q Okay. It was 8:18, and it was the last day of
21 March, right?

22 A Yes, sir.

23 Q Now, when you made the call for -- to dispatch to
24 run the plates on the Martinez vehicle, was Martinez still

1 pumping air into his tires?

2 A I -- I can't put -- I remember running the license
3 plate. And I remember some other things. But I can't put
4 in sequence what the other people were doing at the time I
5 was running the license plate. I just don't recall when
6 that was happening.

7 Q Give me your best estimate of how long you went back
8 and forth over your radio with dispatch in this attempt to
9 get the plate run would you please? You told us in direct
10 it was a prolonged conversation.

11 A It was longer than it should have been, yes; as far
12 as seconds, I couldn't tell you exactly how many seconds it
13 took.

14 Q Were you on your radio for the same length of time,
15 less or more than it took you to get to the scene after
16 receiving the initial 1090 call? I think you told us it
17 took you two to three minutes to get to the scene after you
18 got the initial call. Was that about the same length of
19 time you were struggling over your radio with dispatch?

20 A No, it wasn't a couple minute conversation, no.

21 Q Would it have been a minute do you think?

22 A Not that long, I -- I asked for a license plate.
23 She said it was down.

24 Q 30 seconds?

1 A I don't even think it had been that long.

2 Q If you can't say, you can't say.

3 A Other than regoing through the conversation I
4 couldn't give you the amount of time it took.

5 Q Okay. Thank you. Now, you've told us that among
6 your concerns when approaching the station was to not
7 frighten off or alert any suspects who might be still there,
8 right?

9 A Be one of your concerns, yes.

10 Q Tell me what some of your other concerns were.

11 A Well, concerned whether a suspect is still there,
12 whether they fled and are hiding, whether it's an ambush for
13 me, whether you've got people in getaway cars that are
14 sitting there, lookout in the area, witnesses that might be
15 getting away because they're scared of what just happened,
16 concerned about getting run over walking across Empire.

17 Q Did you have any concern about finding out whether
18 or not the attendant in the station was in dire need of
19 help?

20 A Well, that's one of the concerns, yes.

21 Q Okay. Wouldn't it seem that that might be best
22 directed by leaving your lights on and coming to a
23 screeching halt right in the parking lot?

24 A Fools don't rush in, no.

1 Q Okay, all right. Now, after your dialogue with
2 dispatch over running the plate on the Martinez vehicle,
3 what did you do next?

4 A Again, I can't put -- I remember running the plate,
5 doing other things. I was walking. I remember crossing the
6 street. I remember -- I remember at one point Mr. Martinez
7 walks towards the station, and then I remember him getting
8 back in his car. And I -- I remember him leaving the lot.
9 I can't recall whether he backed out or U-turned through the
10 lot. I walked up on the east side of the lot.

11 Q Mr. Martinez walked towards the gas station after he
12 put air in his tires? *From pg. 118*

13 A Yes.

14 Q At that point did you consider him a possible
15 suspect?

16 A You consider all different possibilities. Did I
17 think he was -- well, to be short, everybody is a --

18 Q Sure. *Then why was he*

19 (A) -- at that point everyone is considered a potential
20 suspect.

21 Q And since he was the only person on foot in the area
22 at that time he was considered by you to be a suspect,
23 correct?

24 (A) Yes.

1 Q How close did he get to the station when he walked
2 towards it?

3 A I don't recall exactly. I think he was like 15, 20
4 feet from the front of the station.

5 Q And then I gather from what you've told us he turned
6 around, walked back to his vehicle and drove away?

7 A I don't remember seeing him turn around. I remember
8 him walking towards the station and then I remember him
9 getting back in his car as he was coming back to get in his
10 car.

11 Q And drove off?

12 A Yes, sir.

13 Q At the time he drove off and left the parking lot
14 where were you?

15 A That's difficult for me to remember. I remember
16 seeing the rear of his vehicle on Empire Street. I can't
17 remember if I was on -- still in the street or if I'd
18 already crossed. I don't remember exactly.

19 Q Crossed from the credit union to the parking lot of
20 the gas station?

21 A Yes, sir.

22 Q When he drove off, had the two individuals in the
23 pick up pulled in yet?

24 A I don't -- I don't remember if they had made it into

1 the lot yet or not, no.

2 Q When Martinez drove off you still hadn't received
3 information from dispatch that you would have gotten had his
4 plate been run. Isn't that correct?

5 A I hadn't received anything back, no.

6 Q Okay. Did you -- when he drove off apparently the
7 only suspect on foot in the area, did you call dispatch back
8 and ask them to or alert them in some fashion of the fact
9 that he'd driven off?

10 A I don't remember if I advised whether he was leaving
11 the lot or not.

12 Q Did he return at some point later in your time on
13 the scene that night at the gas station?

14 A Yes, after -- after I had went in and found what
15 I -- the young man lying there, I had came out, made
16 announcement on the radios. Paul Williams was there.
17 Within moments after that he actually spoke to me from his
18 driveway.

19 Q Oh, so he lived right nearby. Is that right?

20 A Yes, he lived right next door.

21 Q Okay. Well then when he -- I take it then when he
22 drove off on Empire Street, did he just drive into his
23 driveway and stop?

24 A I don't -- I don't know which way he went once he

1 got on Empire Street.

2 Q From the time you arrived at the credit union and
3 got out of your car, would it be fair to say that you kept
4 your eyes on the station pretty much, gas station?

5 (A) Not -- my eyes glued to the front of the station,
6 no. I'm scanning the area looking for several of the things
7 we just talked about a minute ago.

8 Q And from the time you pulled up until you actually
9 went into the station you saw no one either go into or leave
10 the station. Is that right?

11 (A) No, I did not.

12 Q Officer, do you recall telling Mr. Martinez to leave
13 the parking lot as you were approaching on foot?

14 (A) No, I never told him that. *

15 Q So your recollection is you did not tell him to do
16 that?

17 (A) I don't recall -- I never spoke with him at all
18 until he was in his drive. I do not recall that, no.

19 Q And quite honestly, given the list of concerns you
20 gave us, many of which seemed to center around identifying
21 suspects who still might be there, it wouldn't have made any
22 sense for you to tell the only person on foot in the area at
23 the crime scene to leave, right? That wouldn't have made
24 any sense?

1 A I don't remember getting close enough to him to
2 actually speak to him at all.

3 Q Okay. And it is your recollection you didn't speak
4 to him at all?

5 A Not while he was in the parking lot of this gas
6 station, no.

7 Q Sergeant, the Martinez vehicle, blue Nova I think
8 you identified it for us as, as you parked and then
9 approached through the credit union grounds, going north,
10 correct, you were approaching eventually when you went to
11 the station from the credit union you had to go north?

12 A Yes, sir.

13 Q Okay. Before it left and when Mr. Martinez was
14 apparently filling his tires with air, how was that vehicle
15 positioned to you? In other words, were you approaching it
16 and it was front towards you?

17 A I remember correctly it was the front of it, it was
18 parked north to south on the east side of the lot and then
19 the front of the vehicle pointed towards the north.

20 Q So as you then approached and you saw him putting
21 air in his tires you saw the back of his vehicle?

22 A Yes, sir.

23 Q So I gather then when he got into his vehicle, he
24 approached the station, got within 15 to 20 feet of it, got

1 back in his car and drove off on Empire, he must have made
2 somewhat of a half or full circle in the parking lot to get
3 out on to Empire?

4 A I don't recall how -- for some reason I just don't
5 recall whether he backed up on Empire, whether he did a
6 little U-turn through the lot. I don't remember.

7 Q Officer, right before -- I've only got a few more
8 questions for you. I just want to make sure that I'm clear
9 on the time frame and the sequence of things here. You
10 received the call from dispatch about 8:18 directing you to
11 the scene where there was a possible holdup alarm -- a
12 holdup going on. It took you I believe two to three minutes
13 to get there. When you arrived, you parked your car behind
14 the vehicles to the west of the credit union building and
15 you were scanning the area as you got out of your car and
16 moved to the front of the credit union property you were
17 scanning the Clark station across Empire Street, correct?

18 A That among other things, yes.

19 Q Okay. When you pulled up and parked your vehicle,
20 do you remember seeing whether or not Mr. Martinez at that
21 time was engaged in filling his tires apparently?

22 A When I picked up on him being in the lot I had
23 already gotten out of my squad car and walked around to the
24 front side of the credit union.

1 Q And at that time you saw him filling his tires,
2 correct?

3 A I believe so, yes.

4 Q You then made your observation of the tag on his car
5 and tried to get dispatch to run it for you, correct?

6 A Yes.

7 Q And that was before you crossed Empire Street to go
8 to the station, right?

9 A Again, I can not recall the several things that were
10 going on exactly at what point I tried to run the license
11 plate. I just can't narrow it down and put it in there.

12 Q While you were -- do you remember this? While you
13 were talking to dispatch about the running of the Martinez
14 plate, was Mr. Martinez still filling his tires?

15 A Again, I can't -- I remember a series of things. I
16 just -- some of them I just can't line up.

17 Q Sure, okay. You then crossed Empire on foot and
18 made your way into the Clark station parking lot, and
19 Martinez approached the Clark station, didn't reach it, got
20 within 15, 20 feet, got in his car and drove off, correct?

21 A I hadn't crossed Empire yet.

22 Q Okay. He drove off then before you crossed Empire.
23 You do remember that?

24 A Again, I -- again, some of the -- several things I'm

1 talking about, they're in sequence, you know, they're just
2 boom, boom, boom, boom, boom, one after another. I can't
3 match them exactly when they're going on.

4 Q Okay. At no time from when you got out on foot, saw
5 Martinez, and Martinez drove off did you see anyone else in
6 the vicinity of the gas station on foot?

7 A No.

8 Q And you were scanning the whole area, right?

9 A Looking all over, yes.

10 Q Okay. And you never said a word to Martinez before
11 he drove off, correct?

12 A I never spoke to him before he got out of the lot,
13 no.

14 MR. PICL: Nothing else, thank you, Sergeant.

15 THE COURT: Miss Griffin?

16
17 REDIRECT EXAMINATION BY MS. GRIFFIN:

18
19 Q Sergeant Pelo, the street there on Empire -- Empire
20 Street that runs in front of what was the Clark gas station,
21 that's a one way street. Is that correct?

22 A Yes, ma'am.

23 Q One way west?

24 A Yes.

1 Q And someone who is at the southeast corner of that
2 lot pulled in with the front of the vehicle north, back of
3 the vehicle south, as you've described Mr. Martinez's
4 vehicle, you could back out on Empire Street and be going
5 the correct way?

6 A Yes, ma'am.

7 Q Unless you parked on the street? Now, when the
8 pickup pulled into the parking lot there, someone actually
9 got out of the pickup, did they not?

10 A Yes, ma'am, both occupants did.

11 Q They'd already gotten out of the pickup truck, and
12 you were then telling them they needed to get back in the
13 truck and to leave the lot. Is that correct?

14 A Yes, ma'am.

15 Q And actually you were telling them to stop, don't go
16 in, something along those lines. Is that correct? *Trying*
to substantiate MARTINEZ.

17 A Yes.

18 Q And then you say you had to argue with them a little
19 bit. Is that correct?

20 A Yes, I did.

21 Q And then they finally got back in their truck and
22 left the lot?

23 A Yes, ma'am.

24 Q Is that correct? Now, when you recall speaking with

1 Mr. Martinez, do you recall it being from his driveway,
2 which is right next to the Clark station, is that correct?

3 A Yes.

4 Q Do you recall him pointing out to you or
5 saying -- showing a direction of where he might have seen
6 someone?

7 A At one point he asked me if something was wrong. I
8 responded to him. He said something about somebody had gone
9 to the north of the station on the east side.

10 Q Now, defense counsel asked you if the dispatcher
11 ever did run the license plates on that vehicle, and you
12 indicated you didn't know that they ever did. Would it be
13 fair to say that it wasn't necessary anymore once
14 Mr. Martinez remained at the scene, you knew who he was?

15 A Yeah, I actually announced on the radio not to even
16 look to that vehicle because he had returned to the scene,
17 and he was actually apparently a witness.

18 MS. GRIFFIN: I don't think I have any more
19 questions, thank you.

20 THE COURT: Mr. Picl? Mr. Picl, anything further?

21 MR. PICL: I have one other question based upon
22 something that the Sergeant said here during redirect.

23

24 (Next page please.)

1 RECROSS EXAMINATION BY MR. PICL:

2
3 Q Sergeant, you said that when Mr. Martinez came back
4 to the scene you had a conversation with him, correct?

5 A Yeah -- yes, he said something to me.

6 Q And I think your indication was in part that he said
7 he'd seen someone leaving to the north? *Q Did Martinez*
say "north"?

8 A At one point he told me that he saw someone come out
9 of the station and had gone to the alley to the rear of it,
10 to the north.

11 Q Walking or running?

12 A I don't remember whether he told me whether the
13 person was walking or running. I just don't recall that.

14 Q Did you, after he reported that to you, did you
15 report that fact to someone else?

16 A I directed someone else to go speak with him more in
17 depth. I was tied up with something at that moment when he
18 spoke to me.

19 Q So I gather you didn't at that time get on the radio
20 and inform dispatch that a suspect may be leaving the scene
21 to the north on foot?

22 A When he spoke to me there was other things going on.
23 He mentioned something to me and I -- he asked me if
24 anything was wrong, if I could go into that. He asked me if