

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT,
IN AND FOR PALM BEACH COUNTY, FLORIDA
CRIMINAL DIVISION "X"

CASE NO: 2017CF008722AMB

STATE OF FLORIDA

vs.

SHEILA KEEN-WARREN,
Defendant

**EXHIBITS IN SUPPORT OF MOTION TO SUPPRESS OR EXCLUDE
IDENTIFICATION TESTIMONY AND OTHER EVIDENCE
RELATED TO THE SPOTLIGHT CLOWN COSTUME**

The attached Exhibits are in support of Defendant's Motion to Suppress or Exclude Identification Testimony and Other Evidence Related to the Spotlight Clown Costume filed on October 24, 2022.

Exhibit No.	Document	Date	Pages
1	Excerpts from Dinah Rosales Gill deposition transcript	July 28, 2020	3-6
2	Excerpts from Deborah Lee Offord [née Small] deposition transcript (Small Dep. I)	Oct. 4, 2019	7-12
3	Detective Williams Supp. Report 16	June 19, 1990	13-18
4	Excerpts from Linda Napoleon deposition transcript	Sept. 21, 2022	19-25
5	Spotlight receipt, State's Ex. 1A, 1C, Small Dep. II	Aug. 9, 2022	26-28
6	Spotlight clown suit, Defendant's Ex. 1A, Small Dep. II	Aug. 9, 2022	29-30
7	Spotlight clown wig, State's Ex. 9A, Small Dep. II	Aug. 9, 2022	31-32

8	Excerpts from Deborah Lee Offord [née Small] deposition to perpetuate testimony transcript (Small Dep. II)	Aug. 9, 2022	33-40
9	Neil Santaniello, <i>Masquerade: Customers Seeking Kookiness in Getups</i> , Sun Sentinel	Oct. 30, 1985	41-42
10	Photo array shown to Dinah Rosales	May 27, 1990	43-45
11	Photo array shown to Deborah Small	May 28, 1990	45-48
12	Sean Somerville, <i>Woman couldn't be killer, kin say</i> , P.B. Post	Nov. 11, 1990	49-51
13	Tim Valentine investigative notes	June 20, 1991	52-53
14	Excerpts from Deborah Lee Small's Sworn Interview Transcript	June 19, 1991	54-76
15	Excerpts from Dinah Rosales's Sworn Interview Transcript	June 19, 1991	77-94
16	Excerpts from Dinah Rosales's Sworn Interview Transcript	June 20, 1990	95-99
17	Bill Analysis and Fiscal Impact Statement for CS/SB 312, Eyewitness Identification	March 28, 2017	100-106
18	CJSTC Technical Memorandum 2017-15	Dec. 4, 2017	107-108

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by e-service to the Office of the State Attorney, Division "MCU," at FELMCU@sa15.org; Reid Scott, Assistant State Attorney, at RScott@sa15.org; Kristen Grimes, Assistant State Attorney, at KGrimes@sa15.org; Greg Rosenfeld, Esq., Attorney for the Defendant, at Greg@RosenfeldLegal.com; Jesse W. Isom, Esq., at Jesse@RosenfeldLegal.com; and Amy Morse, Esq., Attorney for the Defendant, at Amy@morselegal.com, on this 27th day of October, 2022.

/s/ Jesse W. Isom

Jesse W. Isom, Esq.

LAW OFFICES OF GREG ROSENFELD, P.A.

EXHIBIT 1

NOT A CERTIFIED COPY

IN THE CIRCUIT COURT
OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

STATE OF FLORIDA

VS. CASE NO. 2017CF008722AXX

SHEILA KEEN WARREN,

Defendant.

ZOOM DEPOSITION OF

DINAH ROSALES GILL

TAKEN AT THE INSTANCE OF THE DEFENDANT.

APPEARANCES:

ON BEHALF OF THE STATE:

DAVE ARONBERG, ESQ.

State Attorney

401 North Dixie Highway

West Palm Beach, FL 33401

BY: REID SCOTT, ESQ., and

KRISTEN GRIMES, ESQ.

ON BEHALF OF THE DEFENDANT:

MORSE & MORSE

707 N. Flagler Drive

West Palm Beach, FL 33401

BY: AMY MORSE, ESQ.

GREG ROSENFELD, ESQ.

515 N. Flagler Drive

Ste. P-300

West Palm Beach, FL 33401

Location: All parties appeared via Zoom
video conferencing

July 28, 2020

1:34-2:52P.M.

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GILL 3

EXHIBITS PAGE

Defense One 53

1 THEREUPON,

2 DINAH ROSALES GILL,

3 after having been duly sworn by a Notary Public, State

4 of Florida at Large, testified under said oath as

5 follows:

6 MS. GILL: Yes.

7 THE COURT REPORTER: Thank you. You can

8 put your hand down.

9 MS. MORSE: Thank you.

10 DIRECT EXAMINATION:

11 BY MS. MORSE:

12 Q Hi. Good afternoon, ma'am. How are you?

13 A Good. How are you?

14 Q Good. Thank you.

15 Can you please just state your full name and
16 spell your last name?

17 A Sure. It's Dinah Gill. G-i-l-l.

18 Q Okay. And was your maiden name Rosales?

19 A Yes.

20 Q Okay. And, Ms. Gill, what is your date of
21 birth?

22 A 4/19 1972.

23 Q Okay. I believe prior to today somebody from
24 the State Attorney's Office was in contact with you. It
25 may be -- may have been Ms. Grimes and Mr. Scott, who

EXHIBIT 2

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT, CRIMINAL DIVISION
IN AND FOR PALM BEACH COUNTY, FLORIDA

STATE OF FLORIDA,

vs.

CASE NO: 17CF8722

SHEILA KEEN WARREN

Defendant.

DEPOSITION OF DEBORAH LEE OFFORD
TAKEN AT THE INSTANCE OF THE DEFENDANT

APPEARANCES:

ON BEHALF OF THE STATE:

DAVE ARONBERG, ESQUIRE
State Attorney
401 North Dixie Highway
West Palm Beach, Florida 33401
BY: REID SCOTT, ESQUIRE
KRISTA GRIMES, ESQUIRE
Assistant State Attorneys

ON BEHALF OF THE DEFENDANT: SHEILA KEEN WARREN

RICHARD LUBIN, ESQUIRE
707 North Flagler Drive
West Palm Beach, FL 33401

GREG ROSENFELD, ESQUIRE
515 North Flagler Drive, Suite P300
West Palm Beach, FL 33401

AMY MORSE, ESQUIRE
707 North Flagler Drive
West Palm Beach, FL 33401

Friday, October 4, 2019
Palm Beach County Courthouse
205 North Dixie Highway
West Palm Beach, Florida 33401
9:05 - 10:43 o'clock, a.m.

ALEXANDRA AUSTIN, Certified Court Transcriptionist

1 Please raise your right hand for me.

2 Do you solemnly swear or affirm the
3 testimony you're about to give in this deposition
4 will be the truth, the whole truth and nothing but
5 the truth?

6 MS. OFFORD: Yes.

7 MS. WOEPLER: Thank you.

8 You may begin.

9 MS. MORSE: Thank you.

10 DIRECT EXAMINATION

11 BY MS. MORSE:

12 Q Ma'am, can you just spell your last name for
13 us?

14 A O-f-f-o-r-d.

15 Q Okay. And that's a married name?

16 A Yes.

17 Q And when did you get married?

18 A 2006.

19 Q Okay. And prior to that your last name was?

20 A Offord except for in the late 70's I was
21 married for like a year-and-a-half and then it was
22 Haas, H-a-a-s.

23 Q Okay. Were you ever known as Deborah Small?

24 A Yes, that's my maiden name.

25 Q Okay. All right.

1 day?

2 A No.

3 Q Okay. Do you ever remember receiving a
4 phone call that day about somebody inquiring about
5 any type of costume, clown costume?

6 A They could have, but I don't remember.

7 Q Okay.

8 A Not that day.

9 Q Okay. Approximately how long was the
10 individual in the store for?

11 A I would say under ten minutes from what I
12 remember.

13 Q Okay. It sounds like from your description
14 that you had a number of different types of clown
15 costumes in the store. There wasn't just one to pick
16 from?

17 A Correct.

18 Q Okay. Do you remember how many you had?

19 A (No audible response)

20 Q How many different varieties?

21 A No, I do not, but since we were the only
22 game in town so to speak, since we were the only shop
23 that really sold the traditional clown costumes and
24 makeup and stuff, we -- we had quite an array.

25 Q Okay. Can you tell me the costume that was

1 A They asked me to come to the Gun Club
2 facility to look through a picture, a set of -- a
3 series of pictures that they had to see if in their
4 pictures there was one that matched the woman that
5 came into the shop.

6 Q Okay. And you did that?

7 A Yes.

8 Q And do you remember approximately how long
9 you were at the police station for?

10 A Heavens, no.

11 Q Okay. And what were the -- what did the
12 photos look like when you were looking through them,
13 was it a book of photos, was it a piece of paper with
14 six photos on it?

15 A It was a book. It was a book of photos.

16 Q Okay. And was there one photo per page?

17 A No, it was multiple.

18 Q Multiple photos on one --

19 A On each page.

20 Q On each page?

21 A Right.

22 Q Okay. Was there any other information on
23 the page other than the photo?

24 A No.

25 Q And approximately how many pages did you

1 than one time?

2 A Just that one day.

3 Q Okay. Do you have an independent
4 recollection of all of your interviews and
5 conversations and review of materials or are you
6 obtaining some of that information because so much
7 time has passed from these transcripts?

8 A Yes, I in review of the statements have been
9 able to refresh my memory on certain details.

10 Q Okay. What details has it refreshed your
11 memory of?

12 A As to, for example, the -- the colors that
13 were in the costume and things that I did remember
14 like the clown wig being an orange and the style,
15 that actually helped confirm that information.

16 Q Okay. Anything else?

17 A No.

18 Q You had previously seeing some news articles
19 about Sheila Keen. Do you remember if you saw
20 photographs of her on the news articles as well?

21 A Yes.

22 Q And would this have been back in 1990, 1991?

23 A Honestly, in 1990 time frame, I -- I do not
24 remember if her picture was in -- in the news at the
25 time. It was at the anniversary of Marlene's death

EXHIBIT 3

LISTING PAGE 264 PALM BEACH COUNTY SHERIFF'S OFFICE PAGE 6
CASE NO. 90112660 SUPPLEMENT 16 OFFENSE REPORT CASE NO. 90112660
07/06/90 REPORT DATE 07/06/90 DISPOSITION: OPEN
INJURY TYPE(2): NOT APPLICABLE
VICTIM TREAT TAKEN: PALMS WEST HOSPITAL
PHYSICIAN: DR. DOYEN (E.R.)
ROBBERY PREMISES: MISCELLANEOUS
VICTIM RELATION: UNDETERMINED

VICTIM NUMBER: 1
HOMICIDE CIRCUMSTANCES: UNKNOWN CIRCUMSTANCE
JUSTIFIABLE CIRCUMSTANCES: NOT APPLICABLE
JUSTIFIABLE CODE: NOT APPLICABLE
AGENCY: PBSO OFFICER NAME: D/S GARCIA, D/S ZUBACH
SUPERVISOR ON SCENE: DETECTIVES WILLIAMS/KELLEY,
WHERE BODY FOUND: 15470 TAKEOFF PLACE, WPB, FL.
OFFICER VIEWED BODY AT: SCENE, HOSPITAL, M/E OFFICE
BODY I.D. BY: SON, JOSEPH AHRENS
AMBULANCE: INTERCITY FIRE RESCUE: STATION 32
REMOVAL SERVICES: M/E/O
PRONOUNCE BY: DR. BARON AT: PALMS WEST HOSPITAL
DOCTOR EXAMINING PRIOR DEATH: DR. BARON DATE: 900528
DOCTOR'S ADDRESS: PALM WEST HOSPITAL
CAUSE OF DEATH: GUNSHOT WOUND TO THE HEAD.
DEATH'S CERTIFICATE SIGNED BY: M/E
BODY RELEASED TO: MEDICAL EXAMINER DATE: 900528
NEAREST RELATIVE: SON, JOSEPH AHRENS, HUSBAND MICHAEL WARREN
MEDICAL HISTORY: UNKNOWN

ON SATURDAY, 5-26-90 AT APPROXIMATELY 1100 HOURS, I WAS REQUESTED TO RESPOND TO 15470 TAKEOFF PLACE, WELLINGTON SUBDIVISION, WPB, FLORIDA, IN REFERENCE TO A SHOOTING.

I HAD LEFT HEADQUARTERS ALONG WITH DET. KELLEY, DET. EASTON AND DET. SGT. LOU SESSA. I PROCEEDED WEST ALONE IN MY VEHICLE ON SR80 TO OUSLEY SOD FARMS RD., AND THEN SOUTH ON OUSLEY SOD FARMS ROAD TO ARROW CLUB DRIVE, WHERE I MADE A RIGHT, AND PROCEEDED WEST THEN SOUTH TO TAKEOFF PLACE. I ARRIVED THERE AT APPROXIMATELY 1121 HOURS. IT SHOULD BE NOTED THAT THE WEATHER AT THIS TIME WAS WET, AND IT HAD PREVIOUSLY BEEN RAINING OFF AND ON DURING THE MORNING HOURS. IT SHOULD BE NOTED THAT WHILE RESPONDING TO THE SCENE, A BOLO WAS PUT OUT FOR A SUSPECT DRESSED IN A CLOWN COSTUME, DRIVING A WHITE CHRYSLER LEBARON THAT HAD FLED THE SCENE. WHILE WESTBOUND ON SR80, I LOOKED FOR THE SUSPECT VEHICLE AND MET WITH NEGATIVE RESULTS.

UPON MY ARRIVAL AT THE SCENE, I WAS INFORMED BY SGT. SESSA THAT I WOULD BE ASSIGNED AS THE LEAD INVESTIGATOR IN THIS CASE. I THEN MET WITH D/S HANK ZUBACH, WHO GAVE ME A DRIVER'S LICENSE BELONGING TO THE VICTIM. THE DRIVER'S LICENSE IDENTIFIED THE VICTIM AS MARLENE MCKINNON WARREN, W/F.

WITH THIS PARTICULAR SHOOTING.

ON 05/26/90, AT 1700 HOURS, I GATHERED ALL STATEMENTS TAKEN SO FAR AS WELL AS THE ANONYMOUS CALL RECEIVED AT PBSO COMMUNICATIONS AND AT 1333 HOURS, COPIES AND ALL THESE STATEMENTS AND TAPES WERE MADE AND THE ORIGINALS WERE PLACED IN EVIDENCE.

AT THIS TIME DURING THE INVESTIGATION, NUMEROUS DETECTIVES WERE ALSO ASSISTING IN CHECKING FLOWER SHOPS, COSTUME SHOPS AND OTHER PLACES WHERE FLOWERS OR BALLOONS COULD BE BOUGHT AND SOLD AS WELL AS THE RENTALS OF CLOWN COSTUMES. FOR FURTHER INFORMATION, DETAILING EXACTLY WHAT WAS FOUND OR WHAT PLACES WERE CHECKED, REFER TO THE SUPPLEMENTAL REPORTS FROM THOSE INVOLVED.

ON 05/26/90, AT 1730 HOURS, I CONTACTED SGT. MCINTOSH OF THE PAHOKEE POLICE DEPARTMENT AND REQUESTED HIM TO CHECK ANY FLOWER SHOPS IN THE PAHOKEE AREA. SGT. MCINTOSH INFORMED ME THAT HE WOULD DO SO AND GET BACK WITH ME.

ON 05/26/90, AT 1715 HOURS, DET. KELLEY CONTACTED SHEILA KEEN'S ANSWERING SERVICE IN ATTEMPT TO LOCATE SHEILA KEEN. THIS NUMBER FOR THE ANSWERING SERVICE HAD BEEN GIVEN TO US BY MICHAEL WARREN DURING HIS INTERVIEW. A FEW MOMENTS AFTER THE CALL FROM DET. KELLEY WAS PLACED AT THE SERVICE, I WAS CONTACTED BY RICHARD KEEN. RICHARD KEEN IDENTIFIED HIMSELF AS THE ESTRANGED HUSBAND OF SHEILA KEEN AND STATED THAT HE WOULD COME IN ON SUNDAY, 05/27/90 FOR AN INTERVIEW. HE STATED, THAT HE WAS UNABLE TO DO SO ON 05/26/90 BECAUSE OF A PRIOR COMMITMENT AND THAT HE WAS ENROUTE TO THE FORT LAUDERDALE/NAPLES AREA. A FEW MOMENTS LATER, AT 1718 HOURS ON 05/26/90, I WAS CONTACTED BY SHEILA KEEN. SHEILA KEEN INFORMED ME THAT SHE WOULD ALSO COME IN FOR AN INTERVIEW ON SUNDAY, 05/27/90.

ON 05/26/90, AT 1805 HOURS, I RECEIVED A PHONE CALL BACK FROM SGT. MCINTOSH OF THE PAHOKEE POLICE DEPARTMENT, WHO WAS UNSUCCESSFUL IN FINDING ANY RECENT PURCHASES OF FLOWERS OR BALLOONS IN THE PAHOKEE FLOWER SHOP AREA.

ON 05/26/90, AT 1915 HOURS, I RECEIVED A TELEPHONE CALL FROM A NEWS REPORTER, CLAUDIA SHAY OF CHANNEL 12. SHAY INFORMED ME THAT SHE WAS INTERVIEWING NEIGHBORS AND TENANTS OF THE VICTIM OF THE WESTGATE AREA AND ACCORDING TO ONE OF THE NEIGHBORS, A SUBJECT BY THE NAME OF JOHN GIRLEY OF 3956 SERENAC AVENUE COULD BE A POSSIBLE SUSPECT IN THIS CASE. ACCORDING TO SHAY, THE NEIGHBORS DESCRIBED GIRLEY AS A VIETNAM VETERAN WITH A CRACK ADDICT THAT HAD ARSENAL WEAPONS IN HIS HOME. ACCORDING TO THE NEIGHBORS, GIRLEY HATED THE VICTIM AND WAS POSSIBLY IN THE PROCESS OF BEING EVICTED FROM HIS RESIDENCE.

ON 05/26/90, AT 2145 HOURS, I WENT TO 3956 SARANAC AVENUE, IN AN ATTEMPT TO LOCATE JOHN GIRLEY. THE SPELLING OF HIS LAST NAME IS LATER DETERMINED TO BE GERLE. AT THIS TIME IT MET WITH NEGATIVE RESULTS. I

VERY COOPERATIVE IN THE INTERVIEW.

ON 05/27/90, AT 1408 HOURS, SHEILA MARIE KEEN ALSO ARRIVED AT THE PALM BEACH COUNTY SHERIFF'S OFFICE DETECTIVE BUREAU WHERE SHE WAS SUBSEQUENTLY INTERVIEWED BY MYSELF AND DET. DEWAYNE KELLEY. SHEILA KEEN WAS SUBSEQUENTLY QUESTIONED ABOUT ANY EXTRA MARITAL AFFAIRS SHE WAS HAVING WITH THE VICTIM'S HUSBAND, MICHAEL WARREN. SHEILA KEEN DENIED HAVING ANY AFFAIRS WITH MICHAEL WARREN, BUT DID CONFIRM THE FACT THAT THERE WERE RUMORS GOING AROUND ABOUT HER BEING ROMANTICALLY INVOLVED WITH HIM. SHEILA KEEN STATED, THAT SHE FIRST HEARD OF THE HOMICIDE, WHEN SHE CONTACTED BARGAIN MOTORS ON SATURDAY MORNING 05/26/90 TO INQUIRE ABOUT SOME REPOSSESSION WORK. SHEILA KEEN DID STATE DURING THE INTERVIEW, THAT ON SATURDAY MORNING SHE WAS IN THE VICINITY OF WAYMOUTH STREET IN LAKE WORTH FLORIDA, AND IN BOYNTON BEACH FLORIDA AND RIVIERA BEACH FLORIDA, LOOKING FOR CARS TO REPOSSESS. SHEILA KEEN WAS ALONE THAT MORNING AND STATED THAT SHE DID NOT STOP ANYWHERE OR TALK TO ANYONE THAT CAN VERIFY HER WHEREABOUTS ON THE MORNING OF THE SHOOTING. SHEILA KEEN FURTHER STATED IN HER INTERVIEW, THAT SHE DOES NOT OWN ANY CLOWN SUIT NOR DID SHE EVER OWN A CLOWN SUIT. SHEILA KEEN ALSO STATED THAT SHE DOES NOT OWN A WHITE CHRYSLER LEBARON NOR HAS SHE BEEN IN A WHITE CHRYSLER LEBARON RECENTLY. FOR FURTHER INFORMATION CONCERNING SHEILA KEEN'S INTERVIEW, REFER TO THE TAPED STATEMENT.

ON 05/27/90, AT APPROXIMATELY 1645 HOURS, DINAH ROSALES, W/F, DOB, 04/19/72 ARRIVED AT THE PALM BEACH COUNTY SHERIFF'S OFFICE DETECTIVE BUREAU. DINAH ROSALES IS AN EMPLOYEE OF THE SPOTLIGHT CAPPEZZIO, LOCATED ON SOUTH DIXIE HIGHWAY IN THE CITY OF WEST PALM BEACH. DINAH ROSALES INFORMED ME, THAT ON THURSDAY, 05/24/90 AT APPROXIMATELY 1800 HOURS, A WOMAN DROVE UP TO THE SPOTLIGHT CAPPEZZIO IN A DULL COLORED LARGE CAR AND TRIED TO ENTER THE BUSINESS. THE BUSINESS HAD JUST CLOSED AND HAD LOCKED THEIR DOOR FOR THE DAY, THE WOMAN STATED, THAT SHE JUST NEEDED SOMETHING REAL QUICK AND WAS ALLOWED IN THE STORE. AT THAT TIME, THE WOMAN PURCHASED A CLOWN OUTFIT, AS WELL AS A ORANGE WIG. THE CLOWN OUTFIT WAS DESCRIBED AS HOT PINK AND YELLOW IN COLOR. THE FEMALE ALSO STATED THAT SHE WOULD NEED EXTRA MAKE-UP TO COMPLETELY INSURE FACIAL COVERAGE. DINAH ROSALES INFORMED ME THAT THE WOMAN WAS ODD, DUE TO THE FACT THAT SHE WALKED AND LOOKED LIKE A MAN. ROSALES STATED, THAT THE FEMALE WAS WEARING LITTLE OR NO MAKE-UP AND HAD HER HAIR PULLED BACK IN A LONG PONY TAIL. ROSALES FURTHER DESCRIBED THE FEMALE CUSTOMER AS HAVING DARK BROWN HAIR AND WEARING FADED JEANS. SHE DESCRIBED THE PHYSICAL CHARACTERISTICS OF THE FEMALE AS HAVING A WIDE FRAMED BUT NOT FAT. SHE FURTHER STATED, THAT THE FEMALE DID NOT HAVE ANY DISTINGUISHABLE ACCENTS. SHE STATED THAT THE FEMALE CUSTOMER WITH 3 OR 4 TWENTY DOLLAR BILLS FROM HER POCKET AND WAS NOT CARRYING A PURSE. THE ITEMS WERE SUBSEQUENTLY PLACED IN A HOT PINK PAPER BAG AND GIVEN TO THE FEMALE

REPORT DATE 07/06/90 DISPOSITION: OPEN

CUSTOMER. ROSALES FURTHER STATED THAT SHE COULD IDENTIFY THE SUBJECT IF SHE SAW HER AGAIN. I THEN SHOWED DINAH ROSALES A PHOTOGRAPHIC LINE-UP CONSISTING OF 6 PHOTOGRAPHS, ONE BEING A RECENT PHOTOGRAPH OF SHEILA KEEN WHICH WAS TAKEN ON 05/27/90 DURING MY INTERVIEW WITH SHEILA KEEN AND A PHOTOGRAPH WAS SUBSEQUENTLY SHOWN WITH 5 OTHERS TO DINAH ROSALES. DINAH ROSALES IMMEDIATELY POINTED TO PHOTOGRAPH #4 AND STATED THAT OUT OF THE SIX PHOTOGRAPHS, PHOTOGRAPH #4 LOOKED MOST LIKE THE SUBJECT THAT BOUGHT THE CLOWN COSTUME. DINAH ROSALES THEN SIGNED THE BACK OF PHOTOGRAPH #4. DINAH ROSALES WAS THEN REQUESTED BY ME, NOT TO SPEAK TO THE OTHER EMPLOYEE, DEBORAH THE OTHER EMPLOYEE OF SPOTLIGHT CAPPEZZIO NOR TO TALK TO HER ABOUT THE PHOTOGRAPHIC LINE-UP. ROSALES STATED THAT SHE WOULD NOT CONTACT DEBORAH.

ON 05/27/90, AT APPROXIMATELY 1730 HOURS, MYSELF AND DET. KELLEY WENT TO THE VICINITY OF SHEILA KEEN'S RESIDENCE IN PARK PLACE AND CHECKED THE TRASH DUMPSTERS AROUND SHEILA KEEN'S RESIDENCE. THIS MET WITH NEGATIVE RESULTS.

ON 05/28/90, AT 1015 HOURS, I CONTACTED FLORIDA HIGHWAY PATROL TURNPIKE AND SPOKE TO JACK KAZEE. I REQUESTED THAT THE FLORIDA HIGHWAY PATROL, KEEP A SPECIAL CHECK ON ALL THE SERVICE PLAZAS AND REST AREAS PARTICULARLY POMPANO, LAKE WORTH AND FORT PIERCE AS WELL AS THE REST OF THE STATE OF FLORIDA FOR ANY ABANDONED OR SUSPICIOUS WHITE CHRYSLER LEBARONS.

ON 05/28/90, AT 1020 HOURS, I CONTACTED DEBORAH WHO IS ANOTHER EMPLOYEE AT THE SPOTLIGHT CAPPEZZIO STORE THAT IS LOCATED ON SOUTH DIXIE HIGHWAY IN WEST PALM BEACH FLORIDA AND REQUESTED HER TO COME TO THE DETECTIVE BUREAU.

ON 05/28/90, AT 1100 HOURS, I ATTEMPTED TO CONTACT MR. JOHN BUSH TO VERIFY MICHAEL WARREN'S ALIBY AND WHEREABOUTS ON THE MORNING OF THE SHOOTING ON 05/26/90. THIS MET WITH NEGATIVE RESULTS. I HAVE SINCE, ATTEMPTED TO CONTACT MR. BUSH SEVERAL TIMES AND AS OF THIS DATE, 06/17/90, I HAVE NOT YET BEEN ABLE TO CONTACT HIM. I DID LEAVE SEVERAL MESSAGES AT HIS PLACE OF BUSINESS FOR HIM TO CONTACT ME. I WILL ATTEMPT TO CONTACT MR. BUSH AND MR. DENBRINK TO VERIFY MICHAEL WARREN'S ALIBI.

ON 05/28/90, AT 1225 HOURS, DEBORAH LEE SMALL, W/F, DOB, 06/11/51 ARRIVED AT THE PALM BEACH COUNTY SHERIFF'S OFFICE DETECTIVE BUREAU. DEBORAH LEE SMALL, IS THE 2ND EMPLOYEE WHO WAS WORKING AT THE SPOTLIGHT CAPPEZZIO COSTUME SHOP LOCATED ON SOUTH DIXIE HIGHWAY IN WEST PALM BEACH FLORIDA. DEBORAH SMALL RELAYED TO ME THE FOLLOWING; THAT ON THURSDAY, 05/24/90 AT APPROXIMATELY 1800 HOURS, A W/F DRIVING AN OLD CAR POSSIBLY MEDIUM SIZED, HAD ARRIVED AT THE COSTUME SHOP. ACCORDING TO SMALL, THE BUYER HAD LONG BROWN HAIR AND DESCRIBED AS BEING APPROXIMATELY 5'9, 140LBS. SMALL STATED, THAT THE CUSTOMER WAS WEARING NO MAKE-UP AND WAS WEARING A FLAT HEELED TYPE SHOE WITH FADED JEANS AND A JEAN TYPE

OF A SHIRT, BLUE OR CACKY IN COLOR. ACCORDING TO SMALL, THE FEMALE CUSTOMER WAS DRESSED VERY UNISEX LIKE. ACCORDING TO SMALL, SHE REMEMBERS THE CUSTOMER SAYING THAT SHE HAD DRIVEN A WHILE TO GET THERE AND THAT THE CUSTOMER HAD CALLED EARLIER IN THE DAY ABOUT CLOWN COSTUMES AND PRICES OF CLOWN COSTUMES. DEBORAH SMALL, INFORMED ME THAT THEY ALLOWED THE FEMALE CUSTOMER TO ENTER THEIR STORE AND SHOWED HER THE CLOWN TYPE COSTUMES. THE FEMALE CUSTOMER BOUGHT THE CHEAPEST COSTUME, WHICH WAS APPROXIMATELY \$36.50 AND WAS DESCRIBED AS BEING YELLOW ORANGE ON ONE SIDE AND A CANDY PINK COLOR ON THE OTHER SIDE. THE FEMALE CUSTOMER ALSO NEEDED A WIG AND STATED, THAT SHE WOULD BE NEEDING EXTRA WHITE MAKE-UP FOR COMPLETE FACIAL COVERAGE. THE WOMAN ALSO STATED TO DEBORAH LEE SMALL, THAT A WOMAN WOULD BE WEARING THE CLOWN COSTUME. ALSO PURCHASED, WAS AN ORANGE WIG AND A PINKY RED CLOWN NOSE, WHICH IS A FOAM RUBBER TYPE. THE CUSTOMER SUBSEQUENTLY PAID FOR ALL THE ITEMS IN TWENTY DOLLAR BILLS. THE FEMALE CUSTOMER DID NOT INQUIRY ABOUT ANY CLOWN FEET. I THEN ASKED DEBORAH SMALL, IF SHE HAD SPOKEN WITH DINAH ROSALES IN THE PAST COUPLE OF DAYS, DEBORAH SMALL STATED, THAT NO SHE HAD NOT SPOKEN TO DINAH ROSALES.

I THEN SHOWED A 2ND PHOTO LINE-UP TO DEBORAH LEE SMALL CONSISTING OF 6 PHOTOGRAPHS. THE 6 PHOTOGRAPHS SHOWN TO DEBORAH LEE SMALL, WERE REPRODUCTIONS OF THE SAME PHOTOGRAPHS SHOWN EARLIER TO DINAH ROSALES. HOWEVER, SHEILA KEEN'S PHOTOGRAPH WAS TRANSFERRED FROM PHOTOGRAPH #4 TO PHOTOGRAPH #3 IN THIS PHOTOGRAPHIC LINE-UP. UPON SHOWING THE PHOTOGRAPHIC LINE UP TO DEBORAH LEE SMALL, SHE IMMEDIATELY POINTED TO PHOTOGRAPH #3 AND STATED, THAT PHOTOGRAPH #3 LOOKED SOMEWHAT LIKE THE CUSTOMER WHO HAD PURCHASED THE CLOWN COSTUME ON 05/24/90. DEBORAH LEE SMALL, THEN SIGNED THE BACK OF PHOTOGRAPH #3. SMALL THEN CONTINUED TO LOOK AT THE PHOTOGRAPHIC LINE-UP AND THEN BEGAN TO WAIVER HER IDENTIFICATION OF PHOTOGRAPH #3 AND STATED THAT PHOTOGRAPH #6 ALSO RESEMBLED THE WOMAN IN THE FACT THAT THE NOSE ON PHOTOGRAPH #6 WAS VERY SIMILIAR ALSO. I THEN HAD DEBORAH LEE SMALL SIGN THE BACK OF PHOTOGRAPH #6. BOTH PHOTOGRAPHIC LINE-UPS, THAT BEING THE ONE SHOWN TO DEBORAH LEE SMALL AS WELL AS THE ONE SHOWN TO DINAH ROSALES, WERE BOTH PLACED IN EVIDENCE.

ON 05/28/90, AT APPROXIMATELY 2030 HOURS, MYSELF AND DET. DEWAYNE KELLEY, WENT TO THE RESIDENCE OF LINDA BLAN AT 129 SOUTH C STREET APT. 2 IN LAKE WORTH FLORIDA. LINDA BLAN IS AN EMPLOYEE OF ARBY'S RESTAURANT LOCATED AT 1515 NORTH DIXIE HIGHWAY IN WEST PALM BEACH FLORIDA WHICH IS THE NEIGHBORING BUSINESS OF BARGAIN MOTORS. LINDA BLAN STATED THAT SHE HAD SEEN MICHAEL WARREN COME INTO THE ARBY'S RESTAURANT ON NUMEROUS OCCASIONS OVER THE PAST 2 YEARS WITH SEVERAL EMPLOYEES AND RECENTLY WITH SOME GIRLS. ACCORDING TO BLAN, MICHAEL WARREN WAS RECENTLY WITH ONE WOMAN AND HE WAS WALKING ARM IN ARM WITH AND THAT THERE APPEARED TO BE AN INTIMATE RELATIONSHIP BETWEEN MICHAEL

EXHIBIT 4

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA
CASE NO.: 2017CF008722AXXX
CRIMINAL DIVISION: X

STATE OF FLORIDA

vs.

SHEILA KEEN WARREN,

Defendant.

_____ /

DEPOSITION OF LINDA NAPOLEON

SEPTEMBER 21st, 2022

1:32 P.M. - 2:57 P.M.

OFFICE OF THE STATE ATTORNEY

401 NORTH DIXIE HIGHWAY

WEST PALM BEACH, FLORIDA 33401

Reported by Taylor Jones

Notary Public, State of Florida

1 birthday, but setting that aside, there was a clown school in
2 Florida, a clown college.

3 A. I didn't know that.

4 Q. Oh, well, and that it wasn't uncommon for people to
5 buy clown costumes from Spotlight?

6 A. Yeah.

7 Q. I mean all year-round, you carry clown costumes?

8 A. Oh yeah, yeah.

9 Q. How often would you say you were selling clown
10 costumes, the store?

11 A. It was really during the year, because clown costumes
12 were popular at children's birthday parties, and whereas
13 Halloween, everybody wants to be scary, but I would say most of
14 the clown costumes were during the year because of parties and
15 then there was that scary movie. I don't know what that was.

16 But we did sell costumes and clown costumes on Halloween,
17 but it wasn't our big -- and most of the people that came in and
18 bought them were people that wanted to be clowns for children's
19 parties.

20 Q. How many a week would you say the store sold?

21 A. Well, we were also a dancewear shop. We sold, like,
22 leotards and tights.

23 Q. Sure.

24 A. So that was really what we did, but I don't know,
25 sometimes two a week, sometimes weeks would go by and not --

1 A. For me?

2 Q. Yes.

3 A. Well, we went out to dinner with friends.

4 Q. No, I'm saying, in so far as your involvement in this
5 case for that night.

6 A. Oh, that was the end.

7 Q. All right. So what happened the next day?

8 A. Okay. I think that the next day -- now, I'm not sure
9 if anything was in the newspaper that morning before I left to
10 go to work, but I don't think so. I don't think I knew anything
11 about this.

12 I don't know if it had happened yet or it was going to
13 happen later in the morning, but when I got to the store, I
14 opened up the store and I opened up the cash register and
15 counted all the money and whatever. And then I did notice that
16 in this box was just one receipt, because I guess she even came
17 in after the girls closed out the register because there weren't
18 the receipts from the rest of the day in this box, hers was the
19 only one.

20 And I saw it sitting in there and I just said, oh, I guess
21 they sold her this clown costume and the clown stuff and the
22 clown white. And then shortly after that, a detective came in.

23 Q. And let me stop you there for a second, was this
24 Saturday now?

25 A. Saturday morning when I -- we opened at 10.

1 anybody from law enforcement in 1990?

2 A. I think they came in a couple of times and we all -- I
3 think at that point they were mostly interested in Deborah and
4 Dinah because they actually took care of her and they saw her.

5 Q. Did they ever ask you to help them purchase the
6 costume or wig or anything else that were sold by Deborah or
7 Dinah?

8 A. Did they ever ask me if I --

9 Q. To assist in --

10 A. No, I wasn't even there when she came in.

11 Q. Well, based on the receipt, or was the receipt not
12 helpful? Did the receipt --

13 A. First of all, you signed your name on the receipt.
14 The salesperson would sign the name. And I don't know if it was
15 Deborah that wrote up the sale or Dinah that wrote up the sale,
16 but I wasn't even there to assist them except give her the
17 information, Sheila Keen, on the phone when I spoke to her,
18 telling her what we had to offer and mostly she was concerned
19 about the clown white paste, the tub of it.

20 Q. Did the police ask you or take a recorded statement
21 from you?

22 A. No.

23 Q. Didn't take a written statement?

24 A. No, I don't think so.

25 Q. Were you ever asked to come to the state attorney's

1 Q. Do you know why they were kept in the store or was it
2 just for gossip while working?

3 A. Gossip.

4 Q. Do you know how many newspaper articles about the case
5 were there?

6 A. No. No, but at the very beginning, there was a lot of
7 articles that were in the paper for a while. And then it
8 stopped.

9 Q. So getting back to something I asked you, or I was
10 just asking you, you had mentioned, what happens if I didn't
11 answer the phone or what happens if we didn't sell her the
12 costume, things like that. And I'm just trying to get your
13 understanding about the case a little bit and what you've seen
14 and what you've read. I mean, are you aware that they never
15 found the costume that the clown wore?

16 A. No. I heard something about the wig, that there was
17 an orange wig, there were hair fibers in the car, but that they
18 never found the wig. The wig was thrown into the water, but
19 that they couldn't find -- a lot of the stuff had disappeared.
20 A lot of the --

21 Q. Because I know you watched some of these shows, and
22 again, I'm just trying to get an idea as to what you've seen and
23 what you've read, because there's been so much stuff out there.
24 Strike that last part.

25 Were you aware, in terms of your knowledge of this case,

1 A. We used to go to Vermont for the whole summer. I
2 didn't work there. So I'm not sure that I -- but I know that,
3 excuse me, whenever I spoke to Dinah and Deborah, there was
4 never any discussion about this was anybody other than who they
5 sold the costume to.

6 And that there was no mention to me ever of, that it might
7 be this one, or it might be that one. It was just, that was
8 her. I mean, this is news to me that there was some other
9 person that was buying a clown costume, maybe that night, Bozo.

10 Q. So Ms. Rosales claims you kept an article in the store
11 since November of 1990. And that you showed her this article
12 for the first time on June 20th, 1991.

13 A. I showed her?

14 Q. Yes.

15 A. She said that I showed her?

16 Q. Yes. Do you remember this?

17 A. On June 20th?

18 Q. 1991.

19 A. You mean that -- that was the first time she ever saw
20 a picture of Sheila Keen?

21 Q. A newspaper article, do you remember that?

22 A. No, I don't, and we might have even been away that
23 summer, so I didn't --

24 Q. All right. And again, I'm basing this on a memo from
25 an investigator from the state attorney's office, but do you

EXHIBIT 5

PL 1A.D Offord
08/09/2022

7356 W. Commercial Blvd.
Lauderhill, FL 33319
(Next to Bagelmania)
(305) 748-2200



2/24, Federal Highway
Fort Lauderdale, FL 3306
(305) 564-7722

5612 S. Dixie Highway
West Palm Beach, FL 33405
(407) 586-3600

Customer's Order No. N^o 39488

Date 19 70

M_____

Address_____

City_____

State

SOLD BY	CASH	CHECK	MISC	AM. EXP	MDSE. CREDIT	CASH REFUND
---------	------	-------	------	---------	--------------	-------------

QUAN.	DESCRIPTION	PRICE	AMOUNT
	van sent		7900
	long		400
	chain white		400
			100

Handwritten note on slip:

6-10
F-100
Nt
Rk
099-11
-00

ALL CLAIMS AND RETURNED GOODS MUST BE ACCOMPANIED BY THIS BILL

No refund, exchange, or return on theatrical and halloween items.
7 day returns on all other merchandise.
All sale items are final sale. No refund or exchange.

M

EXHIBIT

PL 1C. D. Offord
08/09/2022

Address

City

SOLD BY

CASH

CHECK

M/C

VISA

QUAN.

DESCRIPTION

W/ 9
Clean ship

✓
P-180
M/

22

09981

22

30

11

4

4

1

4

00

11

22

11

11

11

EXHIBIT 6

EXHIBIT

DE 1A. D. Offord
08/09/2022



EXHIBIT 7

EXHIBIT

PL 4A. D. Offord
08/09/2022



90-112660



H370
H371

Sealed

H370
H371

90-112660

Clean Wig
6-19



EXHIBIT 8

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA
CRIMINAL DIVISION

CASE NO.: 2017CF008722AMB DIVISION "X"

STATE OF FLORIDA

VS.

SHEILA KEENWARREN,

Defendant.

_____ /

DEPOSITION OF DEBORAH LEE SMALL OFFORD

TUESDAY, AUGUST 9th, 2022

9:47 A.M. - 10:39 A.M.

State Attorney's Office

401 North Dixie Highway
West Palm Beach, Florida 33401

Reported by Juan Pablo Lopez

Transcribed by Stella Aurora Garcia

Notary Public, State of Florida

1 the machine to go with the sale. But also, the actual sheet
2 that we wrote it on was a two part, with a carbon copy, that we
3 could also give the customer.

4 Q. Okay. And carbon copies, meaning, like, a different
5 colored detach from the back?

6 A. Yes. Yellow.

7 Q. What would you say the individual's demeanor was while
8 you were dealing with her for the sale, or the selection of the
9 makeup, the wig, that type of thing?

10 A. She was very pleasant. Nice. Almost jovial. If I
11 remember correctly, she did apologize for us having to stay late
12 to help her with the order.

13 Q. When she paid for the items, did she pay with cash or
14 card?

15 A. With cash.

16 Q. And when you had the chance to meet her at the door, or
17 when you saw her leave, did you have a chance to see what type
18 of car she got in, or how she'd gotten there?

19 A. No, not that I remember. No.

20 Q. Okay. Tell me a little bit about what the individual
21 looked like, that bought the clown costume.

22 A. She was about my height, maybe a little bit taller,
23 which would put her at, like, maybe 5'8. Long chocolate hair
24 that she had twisted in the back, and it was held with a clip.
25 And I could see that her hair probably came down to about, well,

1 Q. Okay. And would they have come up, like, around her
2 ankles?

3 A. Yes.

4 Q. Were they dark or light boots?

5 A. Mid to dark brown.

6 Q. Okay. And in terms of how she carried herself, was
7 there anything about her figure that was notable to you?

8 A. Well, she had really good posture, but she was very
9 straight, up and down. And I remember, as I saw her walking in
10 front of me at one point, that she had almost, like, a man-ish
11 kind of look. She didn't really have, like, a cinched waist, or
12 anything like that.

13 Q. Okay. So just kind of straight down, no curves.

14 A. Right.

15 Q. You said she was straight down. Could you tell if her
16 body type was thin or whether she was a little --

17 A. Medium.

18 Q. Medium build?

19 A. Yeah.

20 Q. Okay. Tell me about the costumes. The clown costumes,
21 was that something that was kept in there year-round?

22 A. Yes, because of the large clown community that we had
23 at the time. Yes.

24 Q. Tell me more about the 'large clown community'. What
25 type of customers were you seeing coming in to buy the clown

1 be, like, the tight curls?

2 A. Right.

3 Q. And then the pot of makeup you've described for us --
4 do you know what the extra makeup was that Dina had sold her?

5 A. It was a tube of white makeup that would be, like, a
6 medium size, like a small toothpaste tube; between a small and
7 medium sized toothpaste tube.

8 Q. Were you ever asked if you could make an ID or identify
9 the individual from photos?

10 A. Yes.

11 Q. How did that happen?

12 A. An officer came in to see me from the Palm Beach County
13 Sheriff's Department and had asked if I would come down -- if
14 Dina and I would come down to the Gun Club Facility and take a
15 look at some pictures to see if we could find someone, in what
16 they had, that matched the description of the person that
17 purchased the costume.

18 Q. Were you shown multiple photos?

19 A. Yes.

20 Q. And how were they presented to you?

21 A. In a large binder. I can't tell you really how many
22 were on a page, but there were a lot of -- I know we went
23 through at least 35, 40 different pictures.

24 Q. And once you went through those initial photos, were
25 you able to narrow down who you believe you saw in that store?

1 Q. The individual that was in the store, was in the store
2 for less than 10 minutes?

3 A. Yes.

4 Q. The individual that was in the store, her hands were
5 well manicured, no scars, and her nails were not dirty?

6 A. Correct. If there were scars or scratches, I did not
7 see them in that short time.

8 Q. The wig that was picked up, you indicated, was a
9 traditional wig, correct?

10 A. Traditional clown wig, yes.

11 Q. And you indicated that there was another type of wig
12 that had a skull cap.

13 A. Right.

14 Q. And would the skull cap, the purpose of it, be to hold
15 somebody's hair in?

16 A. Yes.

17 Q. And that was not purchased in this particular case?
18 This was the traditional?

19 A. That's correct.

20 Q. The individual who came into the store, you assisted
21 her with selecting the costume, selecting the wig, and then
22 checking her out?

23 A. Yes.

24 Q. Ms. Rosales was assisting her with the makeup?

25 A. Correct.

1 And I know you indicated that the costume went out of stock,
2 or stopped being manufactured, and the police purchased a
3 similar one. Would this be the similar costume to what was
4 sold?

5 A. That would not be the suit that I remember. The suit
6 that I remember would also be cut in here and have a different
7 colored bottom, at least on one side.

8 Q. But these were the colors. It was representative of
9 the colors?

10 A. Along with orange.

11 Q. The yellow-orange, and a hot pink?

12 A. I would say that this is more of a bold color, the hot
13 pink. And here, I'm not really seeing the orange.

14 Q. Okay. But this would be representative of the pink?

15 A. Yes.

16 Q. And then the other would be a little bit more orangey?

17 A. Yes.

18 Q. Okay. The individual that you assisted that day, her
19 hair was clipped or pinned up?

20 A. Clipped.

21 Q. Okay. It came down to her shoulders?

22 A. Well, as your doing, like, a French twist and pull it
23 up, and back here, above the clip, is where the extra hair, of
24 course, comes out. And I remember it to be at shoulder length;
25 almost shoulder length.

1 Q. So if the hair was down, out of the clip, it would be
2 even longer?

3 A. Yes.

4 Q. And the boots were about up to the ankle?

5 A. That's how I remember, yes.

6 Q. Up to or below the ankle?

7 A. Correct.

8 Q. They were brown, I think you indicated?

9 A. Yes.

10 Q. You indicated the individual was about your height.
11 You don't remember if you were wearing heels that day?

12 A. No, I do not.

13 Q. The individual that came in was not wearing heels?

14 A. No.

15 Q. And how tall were you back then?

16 A. I was 5'7 and a half.

17 Q. Okay. So the height could differ a little bit
18 depending on whether or not you were wearing heels?

19 A. Right.

20 Q. And the wig was a solid color. It was orange?

21 A. Yes.

22 Q. It was not multicolored?

23 A. No, not that I remember. No.

24 Q. Before today, you've never told the police or the State
25 attorneys that in prior years, 1990, 1991 -- that the makeup

EXHIBIT 9

EXHIBIT 10





POLAROID (RA011041X

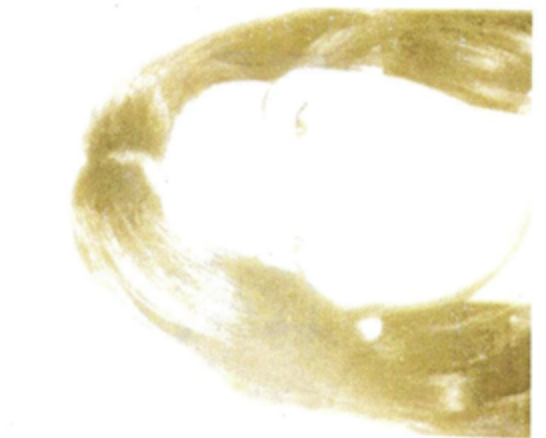
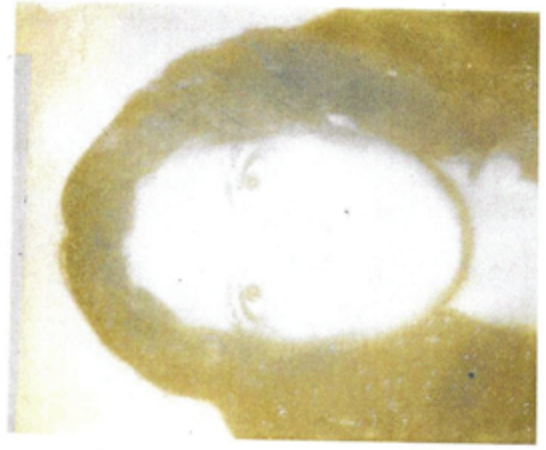
Quail
Rosa Del
8/22/90
10:45 AM

W. J. Smith

POLAROID (RA011041X

EXHIBIT 11

NOT A CERTIFIED COPY



Deborah E. Small

5/28/90
1225h.
W. Am

POLAROID GRA011041X

POLAROID GRA011041X

Deborah E. Small

EXHIBIT 12

Woman couldn't be killer clown, kin say

By SEAN SOMERVILLE

Palm Beach Post Staff Writer

About two years ago, Sheila Keen walked into Paul's Parts and Equipment in Pahokee wearing a clown costume.

An employee at the shop, where Keen was a regular customer, said she had dressed that way to entertain her infant son and other children.

The lingering question today, more than five months after Marlene Warren of Wellington was fatally shot by a clown bearing flowers, is whether Keen donned a clown costume again May 26 and shot Warren as she answered her door.

Keen, 27, became a focus of the probe after police interviewed witnesses and found evidence linking her to the clown costume, red and white carnations left at

'She's too sweet a person for this to happen.'

the scene, the alleged getaway car and the dead woman's husband.

Police, who questioned Keen, have yet to charge anybody with the murder. Prosecutors in West Palm Beach said two weeks ago the person who murdered Marlene Warren is a woman but refused to elaborate.

Friends and relatives who have known Keen in Indiantown, Pahokee and Loxahatchee are stunned that she has been

connected to the crime.

"She's too sweet a person for this to happen," said Raymie Sheltra, a cousin of Keen's in Indiantown.

But some say her relationship with a man convicted of drug trafficking might have changed the Glades girl they knew.

The former Sheila Sheltra had wealthy tastes and a number of boyfriends before she married Richard Keen and entered the thrifty business of repossessing cars, friends said.

Richard and Sheila Keen picked up the cars of people who missed payments for Michael Warren, Marlene's husband. Michael Warren owns a car dealership and car rental agency in West Palm Beach.

Please see KEEN/10A

MURDER MYSTERY



Richard Keen Sheila Keen Michael Warren

Sheila Keen, 27, focus of an investigation into Marlene Warren's murder, is married to Richard Keen (left). They both worked for Marlene's husband, Michael Warren, with whom Sheila was rumored to be having an affair.

11/11/90 post part 1

Clipped By:



frank3726

Wed, Jul 17, 2019

• Our professionals pay special attention to children, sports and high-traffic areas.

• We move and replace most furniture so we can clean corners to perfection.

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Newspapers™

EXHIBIT 13

OFFICE OF THE STATE ATTORNEY
INTER-OFFICE COMMUNICATION

TO: The File

FROM: Tim Valentine, Investigator

DATE: 6.20.91

RE: Death Investigation of Marlene Warren

6.19.91

Served subpoenas on Dinah Roszales and Deborah Small for statements set for 6.21.91 in the above referenced case.

6.19.91

Statements were moved up to this date at the requests of Small and Roszales. Statements were taken of both witnesses in ASA P. Moyle's office.

6.20.91

Received a call from Dinah Roszales stating that she had additional information she felt we should be made aware of in the case. After she left the State Attorney's Office yesterday, Dinah went back to the Spotlight Cappezio store with Deborah Small. At the store, another employee, Linda Napoleon, Dinah, and Deborah discussed the case. During this discussion, Linda and Deborah showed to Dinah a newspaper article that Linda had kept on the case in the store. Linda and Deborah had saved an article on the case for quite some time; the article may have been written in November of 1990. After showing the article to Dinah, Dinah noticed a picture in the article (picture of Shelia Keen). Dinah says that this was the first time that she had ever seen this photo and that it is the woman who came into the store that day and bought the clown outfit. When viewing the photo in the paper, Dinah felt 100%, positively, that this was the woman. Dinah added that the photo in the paper was much better and more of a likeness than the one the PBSO detective had shown her months ago; hence, the positive identification.

6.20.91

Contact (telephone) was made with Deborah Small and she confirmed the above regarding Dinah's identification. Deborah added that she feels that her, Deborah's, identification is also stronger after viewing the picture. With regard to the picture in the paper, Deborah is 90%+ sure that this was the woman who came into the store. When viewing the picture she identified with the PBSO detective, she is approx. 75% sure since those pictures are of high school age women.

6.20.91

Contact, in person, was made with Linda Napoleon at the Spotlight Cappezio store in West Palm Beach. She stated that when Dinah viewed the picture that she and Deborah showed to her, Dinah's reaction was instantaneously and her eyes got big and you could see the excitement of recognition in Dinah's eyes. Dinah said, "that's her, I'm positive, that that is the woman who came in that day". Linda added that Dinah's reaction was so severe that it shocked her and Deborah. The clipping that was shown to Dinah by Linda and Deborah has been taken into evidence by this investigator. A property receipt was given to Linda Napoleon for said clipping.

6.20.91

Additional statement times have been set up for Deborah Small and Dinah Roszales in the PB State Attorney's Office for sworn statements regarding the above information.

EXHIBIT 14

STATE OF FLORIDA

COUNTY OF PALM BEACH

SWORN STATEMENT OF

DEBORAH SMALL WAS TAKEN ON BEHALF OF
THE STATE ON WEDNESDAY, JUNE 19, 1991,
BEGINNING AT THE HOUR OF 3:45.
P.M. AT 325 3RD STREET, WEST PALM BEACH,
FLORIDA.

APPEARANCES:

ON BEHALF OF THE STATE:

DAVID H. BLUDWORTH, ESQ.
STATE ATTORNEY
325 3RD STREET
WEST PALM BEACH, FLORIDA 33401
BY: PAUL MOYLE, ESQ.
ASSISTANT STATE ATTORNEY

ALSO PRESENT:

TIM VALENTINE

ILYSE J. PHILLIPS, NOTARY PUBLIC
STATE OF FLORIDA AT LARGE

MUDRICK, WITT, LEVY & CONSOR REPORTING AGENCY, INC.

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Miami, Florida 33131
Area Code (305) 371-2713

Suite 206
2499 Glades Road
Boca Raton, Florida 33431
Area Code (407) 338-0955

1 that homicide, that murder?

2 A. The first I heard about it was through my
3 boss Barbara, who is my boss. Barbara, she called
4 and inquired if I had sold a clown suit fitting the
5 description a few days ago or within the previous
6 week. And I told her that I had. I later saw it on
7 the news.

8 Q. When did she call you, do you remember?

9 A. A week day or weekend, I believe it was
10 Sunday night, either Sunday night or Monday.

11 Q. And you then shortly thereafter saw
12 something about it on the news?

13 A. That's correct.

14 Q. In any of the news accounts that you saw
15 were there any descriptions of the alleged killer?

16 A. I am sure that there were, but at this
17 point in time it is fuzzy as to what they were.

18 It seems me that I heard multiple
19 descriptions. Some in conjunction with the person
20 that I sold a clown costume to, that Dinah and I both
21 sold a clown costume to, some that vary the
22 description of the killer.

23 Q. Did any of those accounts influence you in
24 any way on your remembering things?

25 A. No.

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1 Q. When was the first time you discussed with
2 someone in detail the description of the person that
3 you had sold a clown costume to?

4 A. The evening that I spoke with my boss,
5 Barbara.

6 Q. Did you give her a full account of what had
7 happened and a description of the person?

8 A. Yes, I did. She asked me what color clown
9 suit and wig I had sold. Based on my response it let
10 her know that we were talking about a similar clown
11 costume if not the exact one.

12 Q. All right.

13 When was the first time any law enforcement
14 officer spoke with you about the case?

15 A. I want to say approximately a week later
16 but at this point it has been so long that I can't
17 remember exactly --

18 Q. Do you remember who it was that contacted
19 you?

20 A. I can't remember his name.

21 Q. Do you remember if it was the Sheriff's
22 Office?

23 A. Is that who is located on Gun Club?

24 Q. Yes.

25 A. Yes.

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1 Q. Where did that contact take place?

2 A. Initially at Spotlight.

3 Q. Tell me about that please?

4 A. There were a couple of, I guess, Sheriff's
5 Deputies that came in inquiring as to whether or not
6 we sold a clown costume within the previous week,
7 which we responded that we did. What the description
8 of it was.

9 Q. Did you give them a description?

10 A. Yes, we gave a description. Now this was
11 done prior to my being there. I am there one day a
12 week so they came in especially to speak with me.

13 Q. Did you give a description at that time?

14 A. Yes, I did.

15 Q. Did they show you any photographs at that
16 time at the store?

17 A. Not at that time, no.

18 Q. Was there any other conversations other
19 than the description of what had happened during the
20 sale of a clown costume the previous week?

21 A. Not that did not relate to the case itself.

22 Q. When was the next time that you came in
23 contact with the police?

24 A. They asked me to make a positive I.D. at
25 the facility on Gun Club.

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1 Q. Now, you just made that statement, how did
2 that come about and who said that? Were those the
3 exact words, we want you to make a positive I.D?

4 A. I can't remember if they had asked me at
5 that time or later called me at home and asked me to
6 come to the Gun Club facility to look at some
7 pictures in an attempt to make a positive I.D.

8 Q. Did you go there?

9 A. Yes.

10 Q. What happened when you got there, just take
11 me all the way through the process.

12 You arrived at the Sheriff's Office?

13 A. I arrived at the Sheriff's Office and was
14 directed to the proper department. They showed me a
15 series of photographs.

16 Q. How did they do that?

17 A. They had a large booklet like a photo
18 booklet would be and asked me to look through and see
19 if the person that came into the store and purchased
20 the clown costume in the previous week was the same
21 person or if I could find that person in the book
22 basically. They didn't associate any names with it
23 or anything, just a very clear statement.

24 Q. Did anyone in any way suggest to you
25 verbally or otherwise who to select?

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1 A. No.

2 Q. How many photographs did you then look at
3 approximately?

4 A. Approximately 40, it is a rough
5 guesstimate.

6 Q. They were in a binder?

7 A. That's correct.

8 Q. Did you recognize anybody in those
9 photographs that you went through?

10 A. There were two pictures of women in
11 particular that were very close to the person that I
12 remembered coming into the store the previous week.
13 However, with the clarity and the size of the
14 pictures it was difficult to make a positive
15 identification so I had to base it on those two close
16 ones.

17 Q. You said you had to, is that because you
18 chose to or they told you you had to?

19 A. That was my decision.

20 Q. Your decision?

21 A. I let them know I was confused as to which
22 one it was because of the discrepancies of the time
23 frame and the photo itself.

24 Q. What do you mean time frame of the
25 photograph?

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1 A. High school pictures. The pictures that I
2 looked at were of women that appeared to be
3 approximately high school age or earlier twenties.
4 The person that I remembered that came into the store
5 was older than that. The manner in which she wore
6 her hair was very different than in the photo, it was
7 difficult for me to say precisely, yes, I am sure
8 that this was the person.

9 Q. Did you finally select someone or did you
10 just --

11 A. I did select one.

12 Q. Were you positive that that was the person
13 that had come into the store?

14 A. Not 100 percent.

15 Q. Let's use a percentile, if you would, 100
16 percent all the way down to one percent being the
17 lowest.

18 Can you give me a percentage of certainty?

19 A. 75 percent.

20 Q. Was there any further conversation once you
21 identified the final photograph at the Sheriff's
22 Office?

23 A. We may have discussed a general description
24 again, but at this point I do not remember exactly
25 the conversation that was held at the time.

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1 Q. Was there any mention of how the two people
2 were that you had finally come down to?

3 A. No, nothing like that was discussed at all.

4 Q. Anything else that happened in reference to
5 the police; did you give them a statement of what had
6 happened?

7 A. Yes.

8 Q. Was that a taped recorded statement?

9 A. Not that I remember, it could have been not
10 that I remember.

11 Q. Anything else of significance in reference
12 to the police?

13 A. No.

14 Q. Let's go back now to the day when you
15 remember somebody coming in and purchasing a clown
16 outfit. Do you remember about when that was in
17 relation to when you got the call from your employer
18 asking you about whether you had sold a clown costume
19 or not, about how many days or weeks or months prior
20 to that date it had been?

21 A. My employer contacted me approximately
22 three days after the sale of the costume.

23 Q. Give me the time frame.

24 What do you remember about that day, that
25 incident?

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1 A. Dinah and I were closing the store at six,
2 as we generally do.

3 Q. Was anybody else present besides you two?

4 A. Just the two of us. A woman came to the
5 door and knocked on the door and basically stated
6 like many customers will, that there is something
7 that I must have, I have to get it right away, I will
8 be five minutes, I know what it is that I want.

9 Q. Did she say that in your presence?

10 A. Yes.

11 Q. You heard that with your own ears?

12 A. Yes.

13 Q. Did you observe her at the same time as you
14 physically looked at her?

15 A. Yes, I opened the door for her. Both Dinah
16 and I were right there at the door, the cash register
17 is right there.

18 Q. Could you see how she had gotten there?

19 A. Had I looked but I did not.

20 Q. Did you see whether there was anyone with
21 her or appeared to be waiting outside?

22 A. Since I just looked at the customer and not
23 at the parking lot I cannot answer that.

24 Q. That's fine, I have to ask those questions
25 any way.

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1 At that point in time when you heard her
2 voice and you saw her can you describe to me anything
3 unusual about her voice, accent, loud, aggressive,
4 low key, high pitch soprano type or lower masculine
5 voice; is there anything about her voice that you can
6 tell me about?

7 A. Nothing outstanding.

8 Q. Did she talk slow or fast, if you remember,
9 or normal?

10 A. I would say normal fast because she was in
11 a hurry as were we.

12 Q. How about her physical description as
13 you're seeing her, what about her height, weight,
14 body size, eyes, color of eyes, length of hair?

15 A. She was approximately my height, which is
16 5'7 and a half. I remember I could look across and
17 see her at eye level. I took her back to the section
18 where the clown costumes are, which is what she had
19 asked for specifically and noticed that she had a
20 mannish gait.

21 The way that she was dressed was in very
22 mannish clothes, dark straight piped legged jeans,
23 like mens' jeans and a mens jeans shirt. It struck
24 me that she had what I considered to be a man's body
25 frame. In other words, not having curves where a

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1 woman has curves. Being in that business you notice
2 that thing.

3 Q. Anything about her shirt, color?

4 A. Like a blue jeans shirt. Nothing --
5 something that you could get at an army navy store.

6 Q. Solid color?

7 A. Solid color, non-descript. I also noticed
8 her shoes because her shoes were like mens shoes,
9 almost like a short boot shoe would be, brown in
10 color if I remember, but I cannot swear to that --
11 not an army boot.

12 Q. Go ahead.

13 A. All right.

14 No makeup, no jewelry, hair pulled back
15 extremely -- and then pinned up in the back depicting
16 to me that she had at least shoulder length chocolate
17 brown hair.

18 Q. Was it pinned up and not hanging straight
19 down?

20 A. It was pinned, twisted and clipped back,
21 then the excess of that was hanging down.

22 Q. How far back did the excess go, if you
23 recall?

24 A. The over lap was not quite -- not the nape
25 of her neck.

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1 Q. Go ahead.

2 A. What else are you interested in?

3 Conversation that she had and I had?

4 Q. Anything else that you can remember that
5 you noticed about her and you're obviously very
6 observant from what you have told me so far, anything
7 else along those lines; any conversation?

8 A. In showing her the costumes that were
9 available, I remember specifically asking her if the
10 costume was for a man or a woman. Different styles
11 appeal to different people and the height of the
12 individual because the suit that I showed her that
13 she chose was very long and it could fit a six-foot
14 man.

15 I was concerned about the height for the
16 person who would be wearing it. She said the suit is
17 for a woman and that is all she said. The one she
18 selected was for an individual that would be almost
19 six feet in height, full size adult.

20 Q. Okay.

21 A. It was an orange and gold color on one side
22 and hot pink on the other. She also requested a wig
23 and we chose an orange wig that went with the
24 costume.

25 Q. Multicolored?

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1 A. Solid.

2 Q. To be repetitious, the suit that you
3 described, one side was one color and one side was a
4 different color?

5 A. That's correct, with a seam in the center.

6 Q. The front part, was that a different color
7 than the sides; what color was the front part?

8 A. Let me redescribe, if you took two suits
9 and cut them in half and sewed them down the center,
10 one being orange and one being pink --

11 Q. I was thinking just in terms of --

12 A. Okay.

13 I then took her to -- let me restate that.
14 I then walked to the front register to begin writing
15 up the sale and Dinah at that point was at the makeup
16 counter and asked her do you need any makeup?

17 From what I remember Dinah had a discussion
18 with this woman about how much coverage was needed,
19 what colors she was interested in and I wrote up the
20 sale.

21 Now I remember writing up the suit and the
22 wig because I selected those items for the customer.
23 I also remember a multicolored clown kit, a
24 relatively small pot, if I remember correctly, red,
25 blue, one other color and then white, but there is

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1 very little of the white in that kit and I believe
2 Dinah had asked her if she wanted more, that there
3 was not enough for full coverage, some kind of
4 conversation that I heard off to the side.

5 The sales receipt would, of course, show
6 what was purchased. It seems to me that the woman
7 purchased an extra tube of white makeup for extra
8 coverage.

9 Q. Anything about a clown's nose or other
10 kinds of shoes that she purchased?

11 A. That was it, we had nothing else to supply
12 her with.

13 Q. At any point in time did she say why she
14 wanted these things? Some people might say a party,
15 my son's party or something like that?

16 A. No. She was just in a hurry to get out.

17 Q. Do you remember any other words spoken or
18 anything else about her or her demeanor, how she
19 acted which we haven't talked about so far?

20 A. She was quite plausible, friendly, jovial
21 in fact and apologetic for coming so late. Once she
22 reached the register within a matter of minutes she
23 was out the door, she paid in cash.

24 Q. Do you remember what the denominations
25 were?

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1 A. Not at this point, I am sorry.

2 Q. Did she show any kind of identification or
3 credit cards or anything that might be of interest?

4 A. No.

5 Q. Not to be crude, but sometimes people are
6 out doors doing yard work or they're out in the
7 fields with horses or doing all kinds of physical
8 activities and they come into a place and they have a
9 certain aroma, certain smell, they're hot and sweaty
10 or just smell bad or like they've been out working
11 hard or they have got on perfume; do you remember
12 anything at all about that kind of thing?

13 A. No, she was clean, no scent.

14 Q. Do you notice hands very much in your line
15 of work?

16 A. I do.

17 Q. Did you notice anything about her hands?

18 A. No jewelry, short cropped unpolished nails,
19 well kept, long straight fingers.

20 Q. Anything about the hands that you can
21 compare to? You know some woman because of the kind
22 of work or lack of work that they do, perfectly
23 beautiful hands that obviously haven't done a days
24 work as far as physical manual labor versus somebody
25 who has from time to time done manual labor, nicked

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1 or scraped or weathered or something like that,
2 anything at all about her hands that you noticed?

3 A. A bit weathered, strong, nothing beyond
4 that.

5 Q. Are there any fancy kinds of objects that
6 kind of sit around on the shelves that never get sold
7 in your store that customers might look at or might
8 touch that stick around that nobody is interested in,
9 that sit on the shelf for a long time?

10 A. A shop like a dance and theater shop you
11 have many items like that?

12 Q. Do you remember her touching any unusual
13 object such as that, you know, some people while
14 waiting around might pick up a vase or pick up a
15 piece of art work, put it back on the shelf, that
16 thing sits there for months, if not years; do you
17 remember her doing anything at all like that?

18 A. No, I remember her following me back
19 standing besides me when we chose a costume. She was
20 in and out of the store in record time.

21 Q. Did you see her when she left as to what
22 direction she left, travel, what kind of vehicle if
23 any she might have available or whether she met with
24 someone outside?

25 A. No, I did not. I was closing the sale and

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1 finishing the close out for the day.

2 Q. Anything else you can think of which we
3 haven't covered that you observed that day?

4 A. Not at this time.

5 MR. MOYLE: Tim?

6 BY MR. VALENTINE:

7 Q. You say that clown outfit that was
8 sold to this woman could fit somebody six feet or
9 over?

10 A. That's correct.

11 Q. Did the person know that who was buying it
12 or did you just know that?

13 A. I not only knew that, I brought that to her
14 attention so that she could properly choose the
15 correct height and size.

16 Q. I guess I am a little confused. Do they
17 run small, medium and large?

18 A. Yes, someone -- depending on the company,
19 small, medium and large.

20 Q. So you said these run a little long in the
21 leg or -- how did you recall how you worded it?

22 A. When I chose the particular clown suit and
23 showed her the length I held it up to myself to show
24 her just how long it was, she said that is fine.

25

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1 BY MR. MOYLE:

2 Q. Was it pretty obvious to you or is this
3 just a completely wrong statement that I am saying
4 here that that size suit would in your estimation of
5 her body size be baggy, too big for her, if she was
6 to put it on?

7 A. Slightly baggy, but then it is meant to be.

8 BY MR. VALENTINE:

9 Q. Then the back color of the suit that she
10 chose you said the front had two colors; what was the
11 back color, the back portion?

12 A. No, sir, let me redefine that. It is two
13 sides that are sewn together that meet in the middle.
14 One side here that meets in the back center and one
15 in the front center, one is gold and --

16 Q. Two halves put together?

17 A. That's correct, the other is pink.

18 Q. Now you say you picked out a suit for her
19 then you both went on towards the cash register, this
20 woman went to look at makeup. Do you recall hearing
21 a conversation between that party and Dinah?

22 A. Yes.

23 Q. Do you remember any conversation about a
24 clown nose or clown nose being chosen or bought,
25 anything about that clown nose during this particular

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1 transaction?

2 A. There may have been but I don't remember
3 anything about a clown nose.

4 Q. Okay.

5 A. Again, if we had the receipt that would
6 show exactly what was purchased. I am sure that is
7 accessible somewhere.

8 Q. Would you write a clown nose on the receipt
9 or is that so minor you might not write it down?

10 A. That would be written.

11 MR. VALENTINE: No other questions.

12 BY MR. MOYLE:

13 Q. The questions I am going to ask you are not
14 designed to imply anything at all, it is a standard
15 question I ask of all witness.

16 On the day you saw these observations that
17 you just now described and also the day that you
18 viewed photographs and spoke with the police, on any
19 of those days, including today as you sit in that
20 chair, were you under the influence of drugs, alcohol
21 or medications of any kind?

22 A. No, sir.

23 Q. Do you have any complaints about the way
24 you have been treated here today at the State
25 Attorney's Office?

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1 A. Not the slightest.

2 Q. Did anyone at any point in time including
3 today every promise anything or threaten you in any
4 way in return for your testimony?

5 A. No.

6 Q. Do you wear glasses?

7 A. No.

8 Q. Contacts?

9 A. No.

10 Q. Do you have 20/20 vision?

11 A. Almost.

12 Q. Would you say that your vision in any way
13 could have been impaired when you saw this lady that
14 day?

15 A. No.

16 Q. And the shoes that you saw this lady
17 wearing that you described, could you tell me again
18 the color to the best of your recollection?

19 A. Dark, to the best of my recollection, dark
20 brown.

21 BY MR. VALENTINE:

22 Q. Could they possibly have been black?

23 A. That is possible, but that is not what I
24 remember. Again, that is something that is very easy
25 to dye.

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1 Q. They went over the ankle you recall?

2 A. Up to the base of the ankle.

3 Q. Wrapped around the ankle?

4 A. Yes.

5 MR. VALENTINE: Nothing else.

6 MR. MOYLE: That's all I have. That
7 concludes our statement; expedited Friday
8 please.

9
10 (Witness excused.)

11
12 (Thereupon, at 4:00 p.m.,
13 the statement was concluded.)

14

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C E R T I F I C A T E

The State of Florida)
County of Palm Beach.)

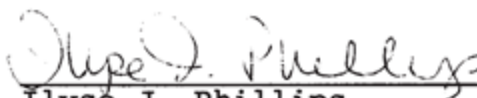
I, Ilyse J. Phillips, Court Reporter and Notary Public, State of Florida at large, do hereby certify that Deborah Small was by me first duly sworn to testify the whole truth; that I was authorized to and did report said statement in stenotype; and that the foregoing pages, numbered from 1 to 21, inclusive, are a true and correct transcription of my shorthand notes of said statement.

I further certify that the said statement was taken at the time and place hereinabove set forth and that the taking of said statement was commenced and completed as hereinabove set out.

I further certify that I am not attorney or counsel of any of the parties, nor am I a relative or employee of any attorney or counsel or party connected with the action, nor am I financially interested in the action.

The foregoing certification of this transcript does not apply to any reproduction of the same by any means unless under the direct control and/or direction of the certifying reporter.

In witness whereof I have hereunto set my hand and seal this 17 day of June 1991.



Ilyse J. Phillips
Notary Public, State of Florida
at large. My commission expires
March 6, 1993.

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EXHIBIT 15

STATE OF FLORIDA

COUNTY OF PALM BEACH

SWORN STATEMENT OF

DINAH ROSALES WAS TAKEN ON BEHALF OF
THE STATE ON WEDNESDAY, JUNE 19, 1991
BEGINNING AT THE HOUR OF 2:45
P.M. AT 325 3RD STREET, WEST PALM BEACH,
FLORIDA.

APPEARANCES:

ON BEHALF OF THE STATE:

DAVID H. BLUDWORTH, ESQ.
STATE ATTORNEY
325 3RD STREET
WEST PALM BEACH, FLORIDA 33401
BY: PAUL MOYLE, ESQ.
ASSISTANT STATE ATTORNEY

ALSO PRESENT:

TIM VALENTINE

ILYSE J. PHILLIPS, NOTARY PUBLIC
STATE OF FLORIDA AT LARGE

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P R O C E E D I N G S

Thereupon,

Dinah Rosales,

being by the undersigned Notary Public first duly sworn, was examined and testified as follows:

THE WITNESS: I do.

BY MR. MOYLE:.

Q. Please state your full name.

A. Dinah, D-i-n-a-h Rosales, R-o-s-a-l-e-s.

Q. Where do you work?

A. Right now I am not working anywhere.

Q. Were you working back on May 24th which was a Thursday, 1990?

A. I was working at Spotlight Capezzio.

Q. Capezzio?

A. It is a dancewear theater store.

Q. Dancewear and theater store?

A. Yes.

Q. How long had you worked there?

A. I had been working there about two years.

Q. And how old are you?

A. Right now I am 19.

Q. So you were 18 back in 1990?

A. Uh-huh.

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1 well, actually she told me she didn't know how much I
2 was supposed to know, that I was there when the --
3 she just wanted to know what had happened and I told
4 her.

5 Q. How was that that she knew that you were
6 there when the clown costume was sold?

7 A. Because on the sales slip I was there that
8 day.

9 Q. What I am getting at, how did she figure
10 that out without having talked with you first?

11 A. Figured out that?

12 Q. That you were involved there when the clown
13 suit was sold?

14 A. I think it was because when he talked to
15 her.

16 Q. He being the detective?

17 A. Yeah, or whoever had talked to, I guess the
18 detective had told her that, you know, if she had
19 sold anything in the past few days or whatever. I
20 guess she looked through her sales slips and she
21 found that we had sold, I don't know -- that we sold
22 that. My name was on there and Deborah's name. I
23 was there with Deborah, I don't remember whose name
24 was on the sales slip. We both handled it together,
25 we were trying to get rid of her.

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1 and that's when somebody pounded on our door, a woman
2 was pounding on the door. She was like knocking like
3 this (indicating).

4 I looked and I said oh, great, you know, we
5 were just closing the register. It was -- it could
6 have been five minutes before six or exactly six or
7 five minutes after six, I don't know.

8 Q. Was anybody else in the store besides you
9 and Deborah?

10 A. No, just the both of us, and then that is
11 when I looked at Deborah. I really -- we didn't want
12 to open the door but I opened it because it was a
13 woman too. If it was a man we would -- all this
14 money, we were alone, maybe -- some of the lights
15 were turned off too, we were closing out.

16 Then I opened the door and she said I'll be
17 real fast, I'll be real fast.

18 Q. What is the first thing, if anything, that
19 you noticed about her other than her being a woman?

20 A. Her hair, it was -- I remember very long,
21 straight, it was kind of pulled back here like that
22 (indicating). She did kind of give a smile, it
23 wasn't a real big one.

24 Q. When you say long hair, you mean real long?

25 A. No, it was like down to the back, maybe

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1 past her shoulders, down further past her shoulder
2 like right around here (indicating).

3 Q. Mid section of the back?

4 A. Yes.

5 Q. Was it in a pony tail of any kind or was it
6 just --

7 A. No, I don't remember, I know that it wasn't
8 just like drooping down in her face, she had it
9 pulled back somehow up here.

10 Q. Do you remember any bows or things holding
11 it back?

12 A. No.

13 Q. Do you remember any jewelry?

14 A. No. I remember her body.

15 Q. Was it straight or curly hair?

16 A. Straight.

17 Q. Color?

18 A. It was like lighter than -- lighter than my
19 hair.

20 Q. You have pretty dark hair.

21 A. Yeah, mine is like a dark brown, hers was
22 like lighter brown, kind of like her color, not more
23 brownish like, but not as dark.

24 Q. All right.

25 A. Not as dark, like a -- like a medium brown.

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1 Q. What else did you notice besides the hair
2 and color of the hair, the fact she was a woman?

3 A. Her body.

4 Q. What about her body?

5 A. Well, when she walked in, we said okay, you
6 know, fine, if it will be quick. She said I need to
7 buy a clown costume. We sort of were like, great,
8 this is going to take forever. I thought she had
9 something really quick.

10 Deborah took her back and I kept on
11 counting the money, but I saw her body, her figure
12 through the back. That is something I look at, maybe
13 it is because I am a dance teacher and I notice.
14 That's what I looked at, and her body was very much
15 built like manly kind of body. It wasn't like a
16 feminine curved body. She was kind of squared off.
17 She didn't have much bottom, kind of flat and I
18 remember like she had like jeans on, nothing that did
19 anything for her figure, like plain jeans, I can't
20 remember the color.

21 Q. This may seem like a silly question, but it
22 is not intended to be, anything about her butt, rear
23 end, was it like small, average?

24 A. I remember it.

25 Q. Large, wide?

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1 A. It was kind of squared, but wide. It was
2 just like flat, her bottom was flat, it wasn't like
3 regular, that's why I thought it was manly looking.

4 Q. Up to that point had you noticed anything
5 about her voice, whether it was like a woman's
6 voice or was it deeper?

7 A. She didn't talk much. She just said, I'll
8 be a second, I need a clown costume.

9 Q. Was that --

10 A. Say, hi, you know, I need a -- she wasn't
11 like that, she was real quiet, soft spoken.

12 Q. Soft spoken and quiet?

13 A. Yes.

14 Q. Anything about an accent that you can tell?

15 A. Not that I can remember. I don't remember.
16 I remember her voice being soft spoken.

17 Q. What else about her clothing if you
18 remember, you mentioned jeans?

19 A. Yes.

20 Q. Colored jeans?

21 A. No, I don't remember the color. I am not
22 really sure, it was dark.

23 Q. Shirt?

24 A. Well, her shirt wasn't -- it could have
25 been tucked in or maybe tied up in the front. I

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1 could see her figure, it wasn't hanging out, her
2 shirt. I don't remember what color. She did have
3 those jeans and a T -- I don't know if it was a
4 T-shirt, it could have been a long sleeved shirt
5 rolled.

6 Q. Do you remember whether she had any kind of
7 jewelry on whatsoever?

8 A. No.

9 Q. Rings?

10 A. I don't remember seeing anything. We were
11 trying to get her out so fast.

12 Q. Anything about her shoes or the way that
13 she walked?

14 A. I didn't really look down at her shoes so I
15 don't know.

16 Q. How about her walk, anything unusual about
17 her gait or walk?

18 A. There wasn't anything unusual, she didn't
19 walk real feminine.

20 Q. How about height, give me an idea of how
21 tall she was?

22 A. Maybe as tall as Deborah because Deborah
23 and she turned around and when I had seen them
24 walking through to go to the costume section, she
25 wasn't like real short, she wasn't real tall, she was

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1 like Deborah's height kind of.

2 Q. How tall is Deborah?

3 A. I don't know. Deborah's like five six.

4 Q. How tall are you?

5 A. 5'5 and a half

6 Q. This woman that you saw was taller than
7 you?

8 A. I don't know, I was never really standing
9 next to her side by side.

10 Q. Go right ahead with what happened next?

11 A. They talked about -- I had heard voices
12 like mostly Deborah talking, getting the costume or
13 whatever. I thought we were going to be there a long
14 time. I finally totally closed out the register, I
15 said we'll just put her on Friday's date. Once the
16 register is closed we have to do it the next day. We
17 have to write the day on the sales slip. So I kind
18 of walked in and was kind of waiting. It kind of
19 happened quick.

20 I walked over by the makeup counter and she
21 walked over and Deborah took the stuff and put it --
22 I remember like a wig and clown costume and put it
23 over on the -- I think it was an orange wig, I am not
24 sure, put it over -- bright colors, and put it over
25 on top of the counter where the register is at.

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1 She came to me again, said a few words. I
2 came over to the register and I said okay, I was
3 looking, I was trying to get her out fast. It was
4 around May so we don't have a lot of stuff, Halloween
5 is over, we don't have a lot of stuff. I went and
6 looked inside and I said well, I have a clown kit and
7 I pulled it out. I don't remember if it was the
8 small one or the big one, but in this clown kit there
9 is like different -- maybe a cube of blue, a little
10 cube of white and I specifically remember her saying
11 that she needed to make sure there was enough white
12 to cover the whole face.

13 That is when I went back in and I can't
14 remember if I sold her the stick of white -- the
15 cream white or one of the little round ones. I knew
16 I sold her extra white, she bought that. I might
17 have sold her something else, like maybe a red liner
18 or something. It was kind of real fast.

19 Q. Besides the wig, makeup and clown costume
20 do you remember any other items that were sold?

21 A. No, I pretty much dealt with just the
22 makeup.

23 Q. You don't remember anything about a nose?

24 A. Oh?

25 Q. I am not saying there was one, I am just

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1 have any makeup. I could be wearing light pink lip
2 stick, you wouldn't really notice if I had lip stick
3 on. I walked out, she -- nothing, she was real
4 plain, real plain woman.

5 Q. How about her age, can you estimate that
6 for me?

7 A. She could have been in her early thirties.
8 She looked around in her early thirties.

9 Q. Are you pretty good with ages do you feel?

10 A. No.

11 Q. The reason I ask that is that sometimes
12 people -- my wife, she can look at somebody, within a
13 couple of years and can usually pick up on how old
14 somebody is.

15 A. I mean, you know, she wasn't real old, she
16 wasn't real young.

17 Q. You think she was in her early thirties?

18 A. Yes, and see, I don't know if I told you,
19 she didn't have a hillbilly accent, but she reminded
20 me of a hillbilly kind of person. Like, her hair was
21 like just straight, that is why I am pretty sure she
22 had no makeup on. She was real plain, real plain.
23 The body was kind of masculine.

24 Q. How about her eyes?

25 A. Her eyes were not --

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1 Q. Color, size?

2 A. I think her eye color was the same color as
3 her hair, kind of like a medium brown, not as dark as
4 mine.

5 Q. Did she have any indication that you could
6 remember whether she had acne, pox marks on her face
7 or any other kind of scars?

8 A. No, but kind of like a reddish rosy kind of --
9 but not from makeup, just, you know, like kind of
10 when you go like this (indicating).

11 Q. Indicating for the record rubbing her hand
12 with a finger.

13 How about finger nails, anything about her
14 finger nails, short and bitten?

15 A. They weren't long, I don't think, I don't --
16 I can't --

17 Q. If you're not sure just say so. I need to
18 know that.

19 A. I don't think, that is usually -- I can
20 tell too, if they had long nails. Her nails I don't
21 think were long. I saw her hands, you know, I would
22 have told her you have nice nails. When somebody has
23 nice long painted nails I tell them.

24 Q. Do you remember anything else about her
25 that we haven't discussed so far?

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1 down did you immediately look at those photographs,
2 did you look at the photographs?

3 A. Yes.

4 Q. Did you recognize anybody?

5 A. Yes.

6 Q. How much time approximately went by before
7 you recognized somebody?

8 A. Like immediate or -- I looked at the
9 pictures real well and I saw that one -- I saw the
10 picture that looked familiar. I didn't say anything
11 right away. I kept looking at the pictures and I
12 kept looking back at that one picture of that woman
13 and it looked familiar and it looked like the woman
14 that had walked into Spotlight, but I didn't say
15 anything right away. I didn't immediately say I know
16 her. I looked real closely at all of the pictures
17 before.

18 Q. Did --

19 A. She did look familiar to me right away, I
20 didn't say anything.

21 Q. Did anyone in any way suggest to you
22 verbally or in any other way who to select out of the
23 six photographs?

24 A. No. He was real nice, he made sure that,
25 you know, if I wasn't sure to tell him that I wasn't

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1 sure.

2 Q. And what was then said when you had a
3 chance to look at all six photographs?

4 A. He said take your time. And he walked --
5 he kind of walked away, he left me there for a while
6 looking at pictures.

7 Q. About how long?

8 A. Five minutes.

9 Q. What happens next?

10 A. Then when he came -- he was, you know,
11 right around. He came and I told him that this -- I
12 don't remember the exact words, I told him that that
13 woman did in the pictures --

14 Q. Looked what?

15 A. Familiar to me. She looked like the woman
16 who had gone into Spotlight that day and bought the
17 clown costume and the wigs and the makeup.

18 He says are you sure? I said I am not
19 sure. I never told him that I was positively sure
20 that it was her. I just said -- I was scared, I
21 didn't want to get anyone in trouble so I said you
22 know, she looks like the woman. She really did, her
23 hair, and the way her face looked kind of a lot like
24 the woman that had been there.

25 In the picture she was wearing earrings, I

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1 told you that, because I remember the earring are
2 black in the picture and they're kind of like a
3 squared, maybe circled and at the end kind of
4 pointed. She has those on. Her hair is all down
5 behind her back like that, you can see the ears
6 (indicating). She has a small smile which kind of
7 also reminded me of that person.

8 Q. Were the photographs of the women with
9 similar characteristics? When I say that, did she
10 basically look similar in appearance, was there one
11 woman who was bald or were the features totally
12 different than the other women?

13 A. No, no.

14 Q. Basically similar?

15 A. Yes. Yes. Some of them had darker
16 hair, maybe dark brown hair.

17 Q. Facial characteristics of all six women,
18 did they look similar in appearance, anybody that has
19 a great big nose versus somebody with a tiny nose?

20 A. No.

21 Q. Some had bucked teeth or no teeth versus
22 regular teeth?

23 A. No.

24 Q. In your opinion?

25 A. Some of them weren't smiling. Some of them

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1 Q. Were you hesitant or were you sure, really
2 and truly positive, you could point to somebody and
3 said I am 100-percent sure?

4 A. Deep inside I was sure because that was the
5 one I picked when I first looked at all six pictures.
6 I kept looking at that picture. It looked like the
7 woman that had been in there, but I didn't want to
8 get her in trouble. I didn't want to say that is
9 her, that is her because there she kind of looked --
10 her hairs was brushed, it was pulled back, she had
11 earrings on. I did not see any earrings on her, she
12 could have had tiny little earrings on. The picture
13 wasn't like the picture when I saw her.

14 Q. On a scale of one to ten, ten being
15 absolutely positive -- in other words, 100 percent
16 sure she is the person, can you rate that the person
17 that you picked was indeed the same person or not on
18 a scale of one to ten, ten being the higher --

19 A. Let me see, I am going close to nine. I am
20 not choosing a ten. If I could I would have seen her
21 body with her face and hair, then maybe I could have
22 said a ten. She did not show me any bodily figures.
23 That is one of the things that I really, really
24 noticed about this person.

25 Q. So based upon the photograph that you --

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1 help me out on what you mean?

2 A. I am more certain than -- I am iffy about
3 it. I don't want to say it was positive it was her,
4 it was her, I don't know.

5 Q. So you're not saying that you're positive?

6 A. I don't -- when I saw the picture then I
7 didn't want to get her in trouble. I knew inside
8 that she looked very familiar, she looked like the
9 person that walked in. It has been a long time. I
10 have never -- I didn't even -- I haven't seen this
11 person again, ever. I haven't seen the picture ever
12 again. It is hard to tell, you know. I mean it has
13 been a year, it is real hard to say. I am positive,
14 I am positive -- it was a long time ago, I know what
15 I felt inside. I felt like she looked like the
16 person that walked in, it really did look like her.

17 Q. And once again, I don't want to be
18 argumentative, looked like the person. There is a
19 difference between looking like the person and saying
20 that is the person positively.

21 Are you able to say with 100 percent
22 accuracy that that was the person or not?

23 A. I don't want to say not because inside I do
24 feel that she was the person that I saw, you know.

25 MR. MOYLE: Tim, any questions?

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EXHIBIT 16

STATE OF FLORIDA

COUNTY OF PALM BEACH

SWORN STATEMENT OF

DINAH ROSALES WAS TAKEN ON BEHALF OF
THE STATE ON THURSDAY, JUNE 20, 1991,
BEGINNING AT THE HOUR OF 2:05
P.M. AT 325 3RD STREET, WEST PALM BEACH,
FLORIDA.

APPEARANCES:

ON BEHALF OF THE STATE:

DAVID H. BLUDWORTH, ESQ.
STATE ATTORNEY
325 3RD STREET
WEST PALM BEACH, FLORIDA 33401
BY: PAUL MOYLE, ESQ.
ASSISTANT STATE ATTORNEY

ALSO PRESENT:

TIM VALENTINE

ILYSE J. PHILLIPS, NOTARY PUBLIC
STATE OF FLORIDA AT LARGE

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P R O C E E D I N G S

Thereupon,

Dinah Rosales,

being by the undersigned Notary Public first duly
sworn, was examined and testified as follows:

THE WITNESS: I do.

DIRECT (Dinah Rosales)

BY MR. MOYLE:

Q. Please state your full name.

A. Dinah Rosales.

Q. Ms. Rosales, you're the same person that
was in my office and gave a sworn statement
yesterday; is that correct?

A. Yes.

Q. Did you and I from the time that we ended
yesterday on the record with the court reporter have
any further conversations about the facts of this
case at all and have you and I conversed at all about
the facts of the case?

A. You and I?

Q. Yes.

A. No.

Q. It is my understanding that a telephone
call was made to the Office of the State Attorney and

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1 store.

2 Q. So it is your testimony that when you saw
3 the photograph in the newspaper article you were then
4 certain, positively that that was the woman who had
5 come into the store and purchased a clown outfit from
6 you back in May of 1990?

7 A. Yes.

8 Q. Yesterday you mentioned as to the
9 photograph that the police had shown you, you were 97
10 to 98 percent certain that that was the woman that
11 you had seen in the store and that you had sold the
12 clown suit to; is that correct?

13 A. Yes.

14 Q. Are you now telling me that the photograph
15 that you saw yesterday after you left my office, the
16 photograph in the newspaper, that you're absolutely
17 positive that that was in fact the woman that you saw
18 in the store?

19 A. Yes.

20 Q. On a scale of a percentage, one percent all
21 the way up to absolutely positive no doubt in your
22 mind whatsoever 100 percent sure, what percentage are
23 you that the person that you saw in the photograph
24 last night or late yesterday afternoon was the same
25 person that you sold the clown suit to back in May

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1 Q. What was it about the photograph that you
2 saw in the newspaper yesterday after you left my
3 office, which you have now referred to which was
4 different and up to the percentage to 100 percent?

5 A. Okay, it was a more recent picture because
6 the picture I saw at the police station she was, I
7 guess, much younger there or, you know, I am not
8 really sure if I was positive sure it was her.

9 The picture I saw there was a little bit of
10 a younger woman, not too much, but a little bit
11 younger and I guess her hair was really nicely
12 brushed and she had earrings on and she had a little
13 bit of makeup -- like very little, a little bit of
14 lip gloss, a little bit of blush on.

15 Q. In which photograph did you see that?

16 A. In the one in the police station.

17 Q. Okay.

18 Was the hair different in the newspaper
19 photograph that you saw last night?

20 A. A little bit different. She didn't have it
21 picked up in front. It was all straight, parted in
22 the middle all down.

23 Q. Do you recall whether or not the
24 photograph, the picture that you saw last night from
25 the newspaper article, the person there had any kind

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EXHIBIT 17

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: CS/SB 312

INTRODUCER: Criminal Justice Committee and Senator Baxley

SUBJECT: Eyewitness Identification

DATE: February 22, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Hrdlicka	CJ	Fav/CS
2.			JU	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 312 creates s. 92.70, F.S., relating to eyewitness identifications in criminal cases.

The bill sets forth specific procedures that state, county, municipal, or other law enforcement agencies must implement when conducting lineups in Florida. The bill also provides certain alternative procedures that should benefit smaller law enforcement agencies with staffing issues related to conducting lineups.

The bill also provides judicial remedies should the requirements of the lineup procedure not be followed.

The bill becomes effective on October 1, 2017.

II. Present Situation:

Eyewitness misidentification of crime suspects has contributed to 64 percent of the Florida cases in which DNA evidence later exonerated the defendant.¹ Of the 349 DNA exonerations nationwide, more than 70 percent had a mistaken identification issue.²

¹ This represents nine of the 14 DNA-based exonerations in Florida. Information provided by Seth Miller, Executive Director, The Innocence Project of Florida (February 8, 2017, e-mail on file with Criminal Justice Committee staff).

² Information provided by Seth Miller, Executive Director, The Innocence Project of Florida (February 8, 2017, e-mail on file with Criminal Justice Committee staff).

Conducting Suspect Lineups

Suspect lineups are conducted when law enforcement has developed a suspect in a criminal investigation. A live lineup includes the suspect in a group of individuals who should look similar to the suspect, and the witness or victim views the lineup to see if he or she recognizes the suspect. The same is true of photographic lineups where a group of photos including the suspect is shown to the witness or victim for identification purposes.

There are many variables in common eyewitness identification procedures. For example, in the presentation of photo lineups, there are two main methods: sequential (only one photo is shown at a time) and simultaneous (photo array shows all photos at once in what is commonly referred to as a photo-pack).

Additional variables include whether the officer conducting the lineup has knowledge of the suspect's identity or is a "blind (or independent) administrator"³; how the witness is instructed about the process⁴; and what level of documentation of the process the administrator does.⁵

Standards for Suspect Lineups

In 2010, the Legislature provided funding for the creation of a commission to study the causes of wrongful conviction and subsequent incarceration. In response, the Florida Supreme Court established the Florida Innocence Commission "to conduct a comprehensive study of the causes of wrongful conviction and of measures to prevent such convictions."⁶

In 2011 the commission voted to support legislation setting forth procedures law enforcement officers must follow when they are conducting photo and live lineups with eyewitnesses to crimes.⁷ The Senate bill presented during the 2011 Legislative Session died in messages.⁸

Also in 2011, a collaboration by the Florida Department of Law Enforcement, Florida Sheriffs Association, Florida Police Chiefs Association, and the Florida Prosecuting Attorneys Association, as part of a commission workgroup, created "Standards for Florida State and Local Law Enforcement Agencies Dealing with Photographic or Live Lineups in Eyewitness Identification" and "Commentary and Instructions" regarding conducting eyewitness lineups. The commission voted to recommend that Florida law enforcement agencies adopt the

³ Using a blind administrator helps to prevent any conscious or unconscious cues about the suspect's photo location or appearance in a line-up from being conveyed to the witness. *Identifying the Culprit: Assessing Eyewitness Identification*, National Academy of Sciences (2014), pages 24, 106-107.

⁴ Reading standardized instructions to the witness helps minimize the possibility of biasing. *Identifying the Culprit: Assessing Eyewitness Identification*, National Academy of Sciences (2014), pages 25, 107.

⁵ For example, does the administrator ask the witness for a "confidence level" when the witness has made an identification? *Identifying the Culprit: Assessing Eyewitness Identification*, National Academy of Sciences (2014), pages 25, 108; see also pages 108-109 recommending recording of the identification process.

⁶ Fla. Supreme Court, Admin. Order No. AOSC10-39, *In Re: Florida Innocence Commission* (July 2, 2010). The Commission's Final Report may be accessed online at <http://www.flcourts.org/core/fileparse.php/248/urlt/finalreport2012.rtf>.

⁷ The Florida Innocence Commission, *Interim Report to the Supreme Court of Florida* (June 2011), discussion of March 21, 2011, meeting.

⁸ Senate Bill 1206 and House Bill 821 (2011). SB 312, as originally filed, is similar to the 2011 bills.

documents with changes suggested by the commission. The primary suggested change created a requirement that a blind administrator conduct lineups.⁹ The workgroup declined to adopt the suggested changes. The standards were revised in June 2011 to state that the law enforcement agency may choose to have an independent administrator; it is not required as suggested by the commission.

According to the Florida Department of Law Enforcement, in 2011 the Commission for Florida Law Enforcement Accreditation adopted standards based upon the “Standards for Florida State and Local Law Enforcement Agencies in Dealing with Photographic or Live Lineups in Eyewitness Identification.”¹⁰ Currently, 157 law enforcement agencies are accredited and, thus, maintain compliance with the standards for conducting lineups adopted by the Commission for Florida Law Enforcement Accreditation.

Florida statutes do not currently set forth requirements for law enforcement officers to follow when conducting eyewitness identification procedures during criminal investigations. At least eleven other states have enacted statutes requiring implementation of specific eyewitness identification procedures.¹¹

Standards Compliance

If a law enforcement agency has a particular protocol in place and the protocol is not followed, the issue becomes ripe for a challenge on the issue of reliability and therefore, admissibility, of the identification evidence at trial. This possibility provides an incentive for protocol compliance. Conversely, if the protocol is followed, motions to suppress the evidence of identity should rarely be filed as there is likely no good-faith basis for filing them.

Florida Law Enforcement Training

The Criminal Justice Standards and Training Commission (CJSTC), created within the Florida Department of Law Enforcement, is responsible for, among other things, establishing uniform minimum training standards for training officers in the various criminal justice disciplines and establishing minimum curricular requirements for criminal justice training schools.¹²

⁹ See *Final Report to the Supreme Court of Florida*, page 20.

¹⁰ Standards for Florida State and Local Law Enforcement Agencies in Dealing with Photographic or Live Lineups in Eyewitness Identification (rev. June 15, 2011), available at <http://www.fdle.state.fl.us/cms/Documents/Eyewitness-ID/Eyewitness-Identification-Standards.aspx>; Commentary and Instructions: Instructional Suggestions (rev. June 15, 2011), available at <http://www.fdle.state.fl.us/cms/Documents/Eyewitness-ID/Eyewitness-Identification-Commentary-and-Instructi.aspx> (both sites last visited February 14, 2017). Additionally, the FDLE agency bill analysis contains excerpts from the Basic Recruit Training Program related to conducting lineups. Florida Department of Law Enforcement, *2017 Bill Analysis: SB 312* (January 17, 2017).

¹¹ The eleven states are Connecticut, Illinois, Maryland, Nevada, North Carolina, Ohio, Texas, West Virginia, Wisconsin, Vermont, and Virginia. For example see Ga. Code Ann. Sec. 17-20-1 – 17-20-3 (2016); Conn. Gen. Stat. Sec. 54-1p (2012); N.C. Gen. Stat. Sec. 15A-284.52 (2015); and ORC Ann. 2933.83 (2010). In total at least 18 states have passed legislation to study or regulate procedures regarding eyewitness identification, have had state courts address it, or have had the state Attorney General adopt regulations on procedures. National Conference of State Legislatures (NCSL), *Practices in Eyewitness Identification* (Nov. 2014), available at <http://www.ncsl.org/Documents/cj/PracticesInEyewitnessIdentification.pdf> (last visited February 14, 2017).

¹² Sections 943.11 and 943.12(5) and (8), F.S.

Additionally, the CJSTC is tasked with designing, implementing, maintaining, evaluating, revising, or adopting certain statutorily approved training programs. These programs include basic recruit, advanced, career development, and specialized training.¹³

III. Effect of Proposed Changes:

The bill creates s. 92.70, F.S., relating to eyewitness identifications in criminal cases.

Lineup Procedures

The bill sets forth specific procedures that state, county, municipal, or other law enforcement agencies must implement when conducting lineups in Florida.

Prior to the lineup, officers are required to give the eyewitness five instructions. These are:

- 1) The perpetrator might or might not be in the lineup;
- 2) The lineup administrator does not know the suspect's identity (this instruction is not necessary if an alternative method is used in lieu of using an independent administrator);
- 3) The eyewitness should not feel compelled to make an identification;
- 4) It is as important to exclude innocent persons as it is to identify the perpetrator; and
- 5) The investigation will continue with or without an identification.

The eyewitness must be given a copy of these instructions. If he or she refuses to sign a document acknowledging receipt of the instructions, the lineup administrator is directed to sign it and make a notation of the eyewitness refusal.

The lineup must be conducted by an independent administrator. This approach is sometimes referred to as "blind" administration. The independent administrator does not know the identity of the suspect.

In the case of photo lineups, the bill provides that an alternative method may be used in lieu of an independent administrator.

Two required features of any alternative method are: achieving neutral administration and preventing the administrator from knowing which photograph is being presented to the eyewitness. The alternative methods may include:

- Using automated computer programs that administer the photo lineup directly to the eyewitness in a manner such that the administrator cannot see which photograph is being viewed;
- Placing randomly numbered photographs in folders, shuffling them, and then presenting them in a manner such that the administrator cannot see or track which photograph is being presented to the eyewitness; or
- Employing any other procedure that achieves neutral administration and prevents the administrator from knowing which photograph is being presented to the eyewitness during the process.

¹³ Section 943.17(1)(a)-(e), F.S.

The alternative photo lineup procedures should help eliminate staffing issues that otherwise could arise in smaller agencies if using an independent administrator were the only statutorily approved procedure.

Remedies for Noncompliance

The bill also provides judicial remedies should the requirements of the lineup procedure not be followed.

The court may consider noncompliance with the statutory suspect identification procedures when deciding a defense motion to suppress the identification of the defendant from being presented as evidence at trial.

The bill also provides that the court may allow the jury to hear evidence of noncompliance in support of claims of eyewitness misidentification raised by the defendant. Additionally, if evidence of compliance or noncompliance with the statutory requirements is presented at trial, the jury must be instructed that it can consider that evidence to determine the reliability of eyewitness identification.

Because the bill creates specific judicial remedies and the possibility that the jury may hear evidence of compliance or noncompliance with the statutory procedures, jury instructions must be adopted by the Florida Supreme Court. Standard Jury Instructions for criminal cases are quite often proposed and adopted based upon the Legislature's revision of the criminal statutes, soon after the end of each legislative session.

Education and Training

The bill requires the CJSTC, in consultation with the Florida Department of Law Enforcement, to develop educational materials and conduct training programs for law enforcement on the eyewitness identification procedures set forth in the bill.

This bill is effective October 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

It is possible that the requirements of the bill could result in local fund expenditures due to staffing issues related to the accessibility of an independent lineup administrator, however the bill does provide for alternative methods of conducting lineups. If local funding for additional staffing becomes necessary, such funding will directly relate to the process of crime suspect arrest, therefore under subsection (d) of Article VII, Section 18 of the Florida Constitution, it appears there is no unfunded mandate.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Florida Department of Law Enforcement does not anticipate any expenditures associated with the bill.

The Florida Police Chiefs Association has not yet determined the potential impact of this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 92.70 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on February 21, 2017:

The CS eliminated the Criminal Justice Standards and Training responsibility of specifying and approving alternative lineup procedures as these are spelled out in the bill.

B. Amendments:

None.

EXHIBIT 18



Criminal Justice Standards and Training Commission

P.O. Box 1489 | Tallahassee, FL 32302-1489 | (850) 410-8600

CRIMINAL JUSTICE STANDARDS AND TRAINING COMMISSION **TECHNICAL MEMORANDUM 2017-15**

DATE: December 4, 2017

TO: Criminal Justice Agency Administrators
Criminal Justice Training Center Directors

FROM: Director Dean Register *DK*
Criminal Justice Professionalism Division

SUBJECT: Commission-approved Specialized Training Program:
Course number 023, Eyewitness Identification

On June 14, 2017, Senate Bill 312 was signed into law. The bill created s. 92.70, Florida Statutes, which requires the Criminal Justice Standards and Training Commission (CJSTC) to create educational materials and provide training programs on how to conduct lineups.

On November 9, 2017, the CJSTC approved a new 1-hour course that meets this mandate. The new 1-hour Specialized Training Program, Course number 023, Eyewitness Identification, includes training on how to prepare and administer photographic lineups, live lineups, and showups according to Florida Statute.

The course is available in two formats:

- 1) Online: meant to be followed-up with agency-specific policy training, and
- 2) Classroom/on-the-job training: meant to allow agencies to incorporate their agency-specific policies and procedures into the training.

Completion of this course is not required; however, credit may be given toward mandatory retraining hours.

Officers may access the online version of this course at the following link:
<http://www.fdle.state.fl.us/FCJEI/Online-Training/Standards-for-Photographic-or-Live-Lineups-in-Eyew.aspx>.

For technical support with completing this online version, officers may contact the Bureau of Professional Development at (850) 410-7373.

Instructors may access the classroom version of the course through the Automated Training Management System (ATMS). If you have any questions, please contact Training & Research Manager Judd Butler, Bureau of Training, at (850) 410-8654.

DR/km

cc: Criminal Justice Standards and Training Commission