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Record No. 7097

In the Supreme Court of Appeals of Virginia at Richmond

JOHN PLUMMER STANLEY

v.

COMMONWEALTH OF VIRGINIA

FROM THE HUSTINGS COURT OF THE CITY OF PETERSBURG

RULE 5:12—BRIEFS

§5. Number of Copies. Twenty-five copies of each brief shall be filed with the clerk of this Court and three copies shall be mailed or delivered by counsel to each other counsel as defined in Rule 1:13 on or before the day on which the brief is filed.

§6. Size and Type. Briefs shall be nine inches in length and six inches in width, so as to conform in dimensions to the printed record, and shall be printed in type not less in size, as to height and width, than the type in which the record is printed. The record number of the case and the names and addresses of counsel submitting the brief shall be printed on the front cover.

HOWARD G. TURNER, Clerk.

Court opens at 9:30 a.m.; Adjourns at 1:00 p.m.

IN THE

Supreme Court of Appeals of Virginia

AT RICHMOND

Record No. 7097

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Wednesday the 16th day of October, 1968.

JOHN PLUMMER STANLEY, Plaintiff in error,

against

COMMONWEALTH OF VIRGINIA, Defendant in error.

From the Hustings Court of the City of Petersburg
Willis W. Bohannan, Judge

Upon the petition of John Plummer Stanley a writ of error and *supersedeas* is awarded him to a judgment rendered by the Hustings Court of the City of Petersburg on the 29th day of January, 1968, in a prosecution by the Commonwealth against the said petitioner for a felony (Robbery—No. 3); but said *supersedeas,* however, is not to operate to discharge the petitioner from custody, if in custody, or to release his bond if out on bail.

* * * * *

JUDGE'S CERTIFICATE

* * * * *

Commonwealth
v. Felony #3—Robbery
John Plummer Stanley Defendant

I, Willis W. Bohannan, Judge of the Hustings Court of the City of Petersburg, Virginia, hereby certify that it appears from the affidavit of the defendant that the defendant is financially unable to pay or secure to be paid attorney's fees, the costs of printing the record, and other expenses incident to this appeal.

Given under my hand this 22nd day of November, 1968.

Willis W. Bohannan, Judge

Rec'd 11-25-68 HZ

* * * * *

RECORD

page 6 } Commonwealth of Virginia,
City of Petersburg, To wit
In the Hustings Court of Said City

The Grand Jurors of the Commonwealth of Virginia, in and for the body of the City of Petersburg, and now attending the said court, upon their oaths, present that John Plummer Stanley on the Thirteenth day of December in the year Nineteen Hundred and Sixty-seven in the said city, and within the jurisdiction of the said court, in and upon one Lucille Phillips, unlawfully and feloniously did make an assault and by the threatening and the presenting of a firearm, to-wit: A pistol, upon the person and body of her, the said Lucille Phillips, her, the said Lucille Phillips, in bodily fear feloniously did put and cash and currency of the United States in the sum of Fifteen Dollars, then and there being the money and property of High's Ice Cream Company, and being in the immediate presence, custody, control and possession of said Lucille Phillips, acting as clerk, agent and employee of

said High's Ice Cream Company, and then and there having the said cash and currency of the United States in the presence, custody, control and possession of her, the said Lucille Phillips, from the said Lucille Phillips and from the presence, custody, control and possession of and against the will of her, the said Lucille Phillips, and against the will of said High's Ice Cream Company, then and there feloniously, forcibly and violently did rob, take, steal and carry away against the peace and dignity of the Commonwealth of Virginia.

* * * * *

We the jury find the defendant guilty of robbery as charged in the indictment and fix his punishment at twenty years in the penitentiary

James C. McEwen Foreman

* * * * *

page 10 } INSTRUCTION NO. C-1

The Court instructs the Jury that if they believe from the evidence in this case beyond a reasonable doubt that the defendant, John Plummer Stanley, with the intent to steal, took money from the person or from the presence of Lucille Phillips, as alleged in the indictment against her will, by the use of violence or intimidation, then, you shall find the defendant guilty of robbery.

Given W. W. B. Judge

INSTRUCTION NO. C-2

The Court instructs the Jury that it is the law of Virginia that if any person commit robbery by violence to the person, or by assault or otherwise putting a person in fear of serious bodily harm, or by the threat or presenting of fire arms, or other deadly weapon or instrumentality whatever, he shall be punished with death, or by confinement in the penitentiary for life, or for any term not less than five years.

Given W. W. B. Judge

page 11 } INSTRUCTION NO. C-3

The Court instructs the Jury that the Jury are the sole judges of the credibility of the witnesses; and in determining the weight given to the testimony of the witnesses the Jury may consider the appearance and demeanor of the witnesses on the witness stand; their manner of testifying; their apparent intelligence or lack of it; their interest or lack of it in the outcome of the case; their temper, feeling or bias, if any has been shown; their opportunity for knowing the truth and having observed the things concerning which they testify; and from these and all other surrounding circumstances at the trial, the Jury are to determine which witnesses are more worthy of credit and give credit accordingly.

Given W. W. B. Judge

page 12 } INSTRUCTION NO. D-1

The defendant is presumed to be innocent of the offense with which he is charged and this presumption of innocence goes with him through the entire case and applies at every stage thereof and is sufficient to require you to find the defendant not guilty unless and until the Commonwealth upon whom the burden rests, proves his guilt beyond a reasonable doubt, and the Court further tells you that it is not sufficient that facts and circumstances proved be consistent with the guilt of the defendant, but they must be inconsistent with every reasonable hypothesis consistent with the innocence of the defendant.

Given W. W. B. Judge

page 13 } INSTRUCTION NO. D-2

The evidence introduced by the defendant that he was not at the scene of the alleged crime need not be such as to establish this as a fact in order to entitle him to an acquittal; but if it is such as to create and leave in the mind of the jury a reasonable doubt of his presence there, then you shall find the defendant not guilty.

Given W. W. B. Judge

page 14 }

* * * * *

In the Hustings Court of the City of Petersburg, January 29, 1968.

* * * * *

This day came again the Attorney for the Commonwealth and John Plummer Stanley, who stands indicted of a felony (No. 3), to-wit: robbery by force or violence to the person of Lucille Phillips, and by presentation of a deadly weapon, was led to the bar in the custody of the jailor of this Court, and came also James F. Andrews and Sidney Barney, his attorneys heretofore appointed.

Whereupon the accused was arraigned and after private consultation with James F. Andrews and Sidney Barney, his counsel, *pleased* not guilty to the indictment, which plea was tendered by the accused in person.

And the Sergeant of this City having returned the writ of *venire facias* drawn by the Clerk of this Court, in the manner provided by law, and from the veniremen so summoned and attending, a panel of twenty qualified jurors, free from exception for the trial of the said defendant, was made up and completed. And the Attorney for the Commonwealth and the attorneys for the defendant having alternately, beginning with the Attorney for the Commonwealth, stricken from said panel the names of four of the said veniremen, the remaining twelve, to-wit, James E. Caudle, Joseph S. Mondy, Massie M. Clayton, Lynn L. Long, James Charles McEwen, Herman J. Sandler, Linwood F. Shelley, Robert M. Berkeley, Calvin B. Branch, Richard G. Robertson, Howard Clifton Robertson and Dock R. Ennis constituted the jury for the trial of the defendant, who were sworn the truth of and upon the premises to speak, and having heard all of the evidence in this case, were recessed for lunch until 2:45 o'clock P.M., and the said jury was committed to the custody of Harry B. Hartman, Jr. City Sergeant, who was directed to keep them together and to cause them to appear in Court at said time, and the Court admonished the jury

page 14-A } not to talk to anyone nor allow anyone to talk to them about this case.

And after the said lunch recess, the said John Plummer Stanley was again led to the bar in the custody of the jailor

of this Court, and the said jury sworn as aforesaid for his trial, returned into Court, and having heard the instructions of the Court and arguments of counsel, retired to their room to consider of their verdict and after some time spent therein, returned into Court and reported the following verdict, to-wit:

"We the jury find the defendant guilty of robbery as charged in the indictment and fix his punishment at twenty years in the penitentiary

James C. McEwen Foreman."

Subsequent to the reading of the verdict of the jury, the Judge polled each juror who stated that was his verdict.

Whereupon, the defendant, by counsel, moved the Court to set aside the aforesaid verdict of the jury, on the ground that the same is contrary to the law and the evidence, which motion the Court overruled, to which action and ruling of the Court, the defendant, by counsel, excepted.

And it being demanded of the accused if anything for himself he had or knew to say why judgment should not be pronounced against him according to law, and nothing being offered or alleged in delay of judgment, it is accordingly, the judgment of this Court that the said John Plummer Stanley be, and he is hereby, sentenced to confinement in the penitentiary of this Commonwealth for the term of twenty (20) years, the period by the jurors ascertained as aforesaid, and that the Commonwealth of Virginia do recover against the said John Plummer Stanley its costs by it about its prosecution in this behalf expended.

And it is further ordered that as soon as possible after the entry of this order the prisoner be removed and safely conveyed according to law from the jail of this Court to the said penitentiary, therein to be kept, confined and treated in the manner provided by law.

The Court orders that the prisoner be allowed forty-two (42) days credit for the time spent in jail awaiting trial. The Court certifies that at all times during the trial page 14-B } of this case the accused was personally present and his attorneys were likewise personally present and capably represented the defendant.

And the prisoner is remanded to jail to await transfer to the penitentiary.

* * * * *

page 15 }

* * * * *

NOTICE OF APPEAL

TAKE NOTICE that John Plummer Stanley, heretofore the defendant in the above styled case, does hereby appeal from the judgment of this Court in the premises to the Supreme Court of Appeals of Virginia.

WHEREAS the appellant, because of his indigency cannot pay the fee of Counsel to prosecute his appeal, he further moves that the Court will appoint Counsel in his behalf to prosecute an appeal from the judgment of this Court, entered on the 29th day of January, 1968, in the premises to the Supreme Court of Appeals of Virginia.

WHEREAS the appellant is a poor person and cannot pay the costs in prosecuting his appeal, he hereby moves the Court for leave to proceed *in forma pauperis*.

AND, the appellant further moves this Court to order the Court Reporter to transcribe the proceedings at the expense of the Commonwealth, and, that the fee for his service be paid for in the manner provided for by law.

John Plummer Stanley, Appellant
Petersburg City Jail
Petersburg, Virginia 23803

* * * * *

1968 February 5 Filed. R.M.B. Clerk.

page 16 }

* * * * *

AFFIDAVIT OF POVERTY AND REQUEST FOR COUNSEL

This is to certify that John Plummer Stanley, the undersigned party, personally appeared before me, a Notary Public in and for the State and City aforesaid, and being duly sworn according to the law, deposes and says that, to-wit:

He is indigency and without funds because of his present incarceration; and that because of his poverty he is unable

to procure the necessary funds to defray the expense of the Court costs, attorney fees, etc., in his proposed appeal. Therefore, he prays that this Court will rule in accordance with the Statute of this Commonwealth governing same and allow him to herewith proceed *in forma pauperis.*

He further prays that, according to the pertinent statute, that an attorney at law be appointed by this Court to perfect his proposed appeal as required by law.

On this 5th day of February, 1968, the said John Plummer Stanley, has the sum of NONE on his spending account.

Respectfully submitted,

Affiant John Plummer Stanley

* * * * *

1968 February 5 Filed. RMB Clerk.

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page 22 }

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ASSIGNMENT OF ERROR

The plaintiff in error, who was the defendant in the Trial Court and who is hereinafter referred to as the defendant, assigns the following errors:

1. The trial court erred in overruling the defendant's pretrial motion to suppress evidence of his out-of-court identification on the grounds that it was held without the presence of counsel.

2. The trial court erred in refusing the defendant's pretrial motion to suppress any in-court identification of him until the Commonwealth had shown by clear and convincing evidence that it was not tainted by the out-of-court confrontation which had been held without the presence of counsel.

3. The trial court erred in overruling the defendant's objections to in-court identifications and in permitting witnesses to identify him in court before the Commonwealth had shown that such identifications would not be tainted by illegal out-of-court confrontations held without the presence of counsel.

4. The trial court erred in overruling the defendant's mo-

tion to strike the Commonwealth's evidence because there was insufficient evidence to permit the jury to return a verdict of guilty and because evidence of the identifications of the defendant should have been stricken.

page 23 } 5. The trial court erred in overruling defendant's motion to set aside the jury verdict as contrary to the law and the evidence, without evidence to support it, and plainly wrong, and in not entering final judgment for the defendant, and in entering judgment for the Commonwealth.

Given under my hand this 28th day of June, 1968.

John Plummer Stanley

By James F. Andrews
Of Counsel

* * * * *

1968 June 28 Filed RMB, Clerk

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page 1 }

* * * * *

Transcript of the evidence and other incidents of the above when heard on January 29, 1968 and February 5, 1968, before the Honorable Willis W. Bohannan, Judge.

APPEARANCES:

J. Thompson Wyatt, Esq.
Attorney for the Commonwealth

James F. Andrews, Esq.
Sidney Barney, Esq.
Attorneys for the Defendant

* * * * *

page 3 }

* * * * *

The Court: The defendant will stand, the Clerk will read the indictment.

The Clerk:

* * * * *

page 5 }

* * * * *

what saith you, guilty or not guilty?

The Defendant: Not guilty.

NOTE: At this time, a Jury was empanelled and sworn,

* * * * *

page 7 }

* * * * *

Mr. Barney: If the Court pleases, I think we will raise the point of out-of-court identification. I think—now we ought to find out would the Court want this point raised, whether you'd rather have it right now or wait until Mrs. Phillips or the other witness gets on the stand to testify. I think we can save a lot of time in just determining at what point—

The Court: Well, I think the point should be raised as it comes up in the trial and you and Mr. Wyatt
page 8 } too will be careful to see that nothing improperly comes—is heard by the Jury—comes before the Jury, it should not, but I think the proper time for that would be when the questions are asked that you might object to have been answered.

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page 9 }

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Mr. Andrews: And I would like at this time to move that the out-of-court identification which was made at the Police Headquarters be suppressed in the trial and that the witness be instructed to mention nothing in this regard.

* * * * *

page 10 }

* * * * *

Mr. Andrews: Your Honor, the three cases, *United States* v. *Wade, Gilbert* v. *The State of California, Stovall* v. *Denno,* all decided June the 12th, 1967, clearly encompass the facts in the situation at Bar—

The Court: What are the facts in that case—those cases?

Mr. Andrews: Of course, in the *Wade* case, as the Court well knows, the Supreme Court ruled that the wit-
page 11 } nesses who had identified the defendant at an out-of-court confrontation made out of the presence of counsel, could not refer to that confrontation; that it was not evidence. Because it was made out of the presence of counsel, it is *per se,* inadmissible. The—of course, the case of *United States* v. *Wade* and *Gilbert,* both involve lineups; however, in the *Stovall* v. *Denno* case, this involved a single person being taken to the presence of the defendant, to the presence of the witness and he was identified, and in that case, the Court stated, on page 1970—we have outlined in *Wade* the dangers and unfairness inherent in confrontations for identifications. The possibility of unfairness at that point is great, both because of the manner in which confrontations are frequently conducted, and because of the likelihood that the accused will be precluded from reconstructing what occurred and thereby from obtaining a full hearing on identification at the trial. The presence of counsel will significantly promote fairness at the confrontation and a a full hearing at trial on the issue of identification.
page 12 } We have, therefore, concluded that the confrontation is a critical stage and that counsel is required at all confrontations.

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page 16 }

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The Court: the motion overruled.

Mr. Andrews: And an exception is noted, Your Honor. If the case is that the—that he did not plan to bring up the out-of-court identification, then, of course, the next step in these cases is to move, and the defendant does at this time, to suppress the in-court identification unless the Commonwealth can show that the out-of-court identification has not tainted the in-court identification and, of course, this is a matter for the Commonwealth to prove and the burden is upon him according to the Supreme Court, to show by clear and convincing evidence that the in-court identification

page 17 } has not been tainted by the out-of-court identification, which was held out of the presence of counsel.

The Court:

* * * * *

Therefore, your motions are overruled.

Mr. Andrews: Your Honor, we note an exception to that overruling.

* * * * *

page 22 } ELIZABETH KEETON, introduced on behalf of the Commonwealth, being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Wyatt:

Q. Will the witness please state her name and address?

A. Elizabeth Keeton, 735 Harrison Street.

Q. Petersburg, Virginia?

A. That's right.

Q. On December the 13th, '67, did you have any connection with the operation of the place known as High's Ice Cream Company?

A. Yes, sir.

Elizabeth Keeton

Q. Where is that located?
A. 445 South Sycamore Street.
Q. What number?
A. 445.
Q. 445 South Sycamore Street, you said?
A. Yes, sir.
Q. And you are Mrs. or Miss Keeton?
A. Mrs.
page 23 } Q. Mrs. Keeton. And this 445 South Sycamore Street is in Petersburg, Virginia?
A. Yes, sir.
Q. What kind of business do you handle there, what kind of business is it?
A. Ice cream store.
Q. Retail or wholesale?
A. Retail.
Q. Ice cream?
A. Yes, sir.
Q. Is that packages and cones?
A. Yes, sir.
Q. Together?
A. Yes, sir.
Q. All retail?
A. Yes, sir.
Q. How many different brands you have, many brands?
A. Lots of them.
Q. Do you have a counter inside there?
A. Yes, sir.
Q. Does that counter go crossways the store or lengthwise?
A. Lengthwise, I guess, straight from the door,
page 24 } it's up and down.
Q. Do you have deep freezes around to keep your packages in?
A. Yes, sir.
Q. Quarts, half-gallons, gallons and so forth?
A. Yes, sir.
Q. Is that in the counter part or separately?
A. That's over on the right as you go in the door.
Q. What you mean the right, is it against the wall?
A. Against the wall, yes, sir.
Q. By saying that that's to the right as you go in the door, do you mean that the counter that you serve customers would be to the left as you go in the door?

A. Yes, sir.
Q. And both run from front to back?
A. That's right.
Q. Does the door lead in from the front?
A. Yes, sir.
Q. Is that South Sycamore Street?
page 25 } A. Yes, sir.
Q. Well, now, did anyone rob you or did anyone rob Mrs. Phillips with the use of a pistol on December 13th, '67?
A. Yes, sir.
Q. So you were on the store—in the store at the time?
A. Yes, sir.
Q. Were you employed there?
A. That's right.
Q. And that's 445 South Sycamore Street, Petersburg, Virginia?
A. Yes, sir.
Q. About what time of day did it happen?
A. About 8:30 at night.
Q. How many people were in the store?
A. Just Mrs. Phillips and I.
Q. What time—about what time would you ordinarily close?
A. Ten o'clock.
Q. Well, how many people came in in connection with the details of the robbery I'm going to ask you about,
page 26 } how many people were involved in that, how many people came in the store besides you and Mrs. Phillips?
A. At the time, it was just she and I in there.
Q. How many people came in, how many people allegedly committed the robbery?
A. You mean came in to rob the store?
Q. Yes?
A. One.
Q. One, and where were you in connection with the location of the store, what part were you in when this one man, one person came in?
A. I was sweeping at the front, out from under the check-out stand at the side—behind the door.
Q. Suppose you, in your own language, tell the Jury what happened, Mrs. Keeton, you were sweeping at the front—

Elizabeth Keeton

A. I was sweeping at the front and this guy came in in a hurry, and says, "Oh, you freeze to death outside", and I turned to look and he was going around the end of the counter to Mrs. Phillips and says, "I come by to pick up your money", and I stepped up toward the counter and he held the gun up to show me he had the gun, held the gun up and says, "Stand still, don't move", and when he was taking the money out of the drawer, he says, "I don't have time to page 27 } get it all, but I'll be back later", then he got the money, went past Mrs. Phillips again and said, "I'll see you later", and came out by me, went out the door, turned left.

Q. Was that the same door he came in?

A. Yes, sir.

Q. Where did he get this money from?

A. Out of the cash drawer.

Q. How far was the cash drawer from where Mrs. Phillips was standing?

A. She was standing at the end of the counter and I say that the drawer is about middle way the counter.

Q. About how far, could you reach that far,

A. No, sir.

Q. how far would that be, how far would it be from where she was standing to the cash register?

A. Well, I don't know how to explain that, you know where the end of the counter is—

Q. Have to get this on record, how many feet would it be, or point out something, the distance that Mrs. Phillips would be from the cash register?

A. I couldn't say that, because I don't know, it was at the end of the counter and the drawer was about page 28 } middle way the counter—

Q. How far would that be from Mrs. Phillips, about how far?

A. I don't know, a good ways, at least as far as from here to you.

Mr. Wyatt: Well, how far would that be, Your Honor?

The Court: That would be ten feet.

Q. When did you first see the pistol?

A. As he was coming up toward the cash drawer he was facing me then because I was at the upper end of the counter,

Elizabeth Keeton

Q. Was that before you—
A. and he had the pistol up.
Q. Was that before he went behind the counter or after?
A. No, he was behind the counter.
Q. When you saw the pistol he
A. Yes, sir.
Q. was behind the counter?
A. Yes, sir.
Q. Did he point it at anyone?
A. He held it up like this at me.
page 29 } Q. Did you see it pointed at Mrs. Phillips?
A. No, sir.
Q. You didn't see it?
A. not direct, he was holding it up like this when he was getting the money out of the drawer.
Q. Were you scared?
A. Yes, sir.
Q. Were you working for the High—at that time?
A. Yes, sir.
Q. Did you have access to the cash register?
A. Yes, sir.
Q. Did you make change in it?
A. Yes, sir.
Q. How much—about how much cash was in it, exactly if you know?
A. I don't know exactly, I'd say around twenty-five or thirty dollars.
Q. Did he ever put the pistol in his pocket or put the pistol up or did he keep it in his hand?
A. He went out the door with it in his hand.
Q. Did he have the pistol in his hand when he
page 30 } took the money out of the cash register?
A. Yes, sir.
Q. Did he get all of it out of the cash register?
A. (No response)
Q. Did he get all of the money out of the cash register?
A. I don't know what he left, because I didn't look in the drawer.
Q. Uh, huh, I heard you say something about he was—you say he said something about "I do not have to get it all", or—
A. "I do not have time to get it all.
Q. Oh,
A. but I'll be back later".

Elizabeth Keeton

Q. didn't have time, is there another place in the store that you keep money?
A. Yes, sir.
Q. Where would that be?
A. In the back.
Q. At this time—did he go back to the back?
A. No, sir, not then.
page 31 } Q. Only went to the cash register. Were you scared?
A. Yes, sir.
Q. Much?
A. Yes, sir.
Q. Would you know the man today if—who had the pistol and got the money on the evening of 8:30—about 8:30 p.m. in High's Ice Cream Store?
A. I sure would.
Q. The man charged with the commission of this crime?
A. Yes, sir.
Q. And his name John Plummer Stanley?
A. Yes, sir.
Q. Is he in Court?
A. Yes, sir.

Mr. Andrews: Your Honor, may I, for the purposes of the record, note at the time that the defense objects to the in-court identification prior to determination as mentioned earlier, and I would like to make that part of the record at this time.
The Court: You object to this question?
page 32 } Mr. Andrews: Yes, sir, for the reasons stated earlier and I assume—
The Court: Certainly no objection to this question being answered and your objection is overruled.
Mr. Andrews: Exception, thank you.

Q. Mrs. Phillips, is the man who robbed you with this pistol or robbed the money out of High's Ice Cream Parlor at 8:30 p.m. December 13th in this Court today?
A. Yes, sir.
Q. Do you know that to be a fact?
A. Yes, sir.
Q. Where is he?
A. Right there.

Elizabeth Keeton

Q. Are you pointing your finger to the defendant.
A. On the end of the table.
Q. John Plummer Stanley, who sits by his attorneys, Mr. Barney and Mr. Andrews, is that where you are pointing at?
A. Yes, sir.
Q. Are you definitely sure he is the man?
A. I'm sure.
Q. Thank you, ma'm.

page 33 } The Court: Cross examine.

CROSS EXAMINATION

By Mr. Andrews:
Q. Mrs. Keeton, what time is it by the clock in back of this Courtroom?
A. About eighteen past eleven.
Q. Did the person who entered the store that night make any threats to you or Mrs. Phillips?
A. He said stand still, don't move.
Q. Did he threaten to kill you or anything like that?
A. No.
Q. Uh, huh, you stated that when he went out of the front door he turned left?
A. That's right.
Q. Left on to what street?
A. I don't know.
Q. Well, it's—
A. It was dark—the door is on Sycamore Street and he turned left as he went out the door.
Q. O. K., now, is that in a northerly direction or a southerly direction—south is down towards the hospital, north is up—is downtown?

page 34 } A. Well, he turned south then.
Q. He turned south, O. K. Which way is South Avenue and the complex down near the intersection of Halifax Street and Harrison Street and South Avenue? Which way is that from your store, is that north or south?
A. I don't know, I don't know where these places are.
Q. O. K., did the person who robbed you make any effort to conceal his identity?
A. No, I wouldn't think so, he had on sunglasses.
Q. He had on sunglasses?
A. Yes, sir.
Q. Large ones, small ones?

Elizabeth Keeton

A. Well, just regular sunglasses is all I know.

Q. Anything else, any way in which he was wearing his clothing which would tend to disguise or hide part of his body from you or

A. No.

Q. for instance a hood over his head, a cap or a collar turned up,

A. No.

page 35 } Q. anything like that? How long was he—the person who robbed you—how long was he in the store?

A. I couldn't say, he was working fast.

Mr. Wyatt: What was that?

A. I couldn't say how long he was in there, but he was getting the money fast as he could.

Q. This did happen very quickly, then?

A. Yes, sir.

Q. What view of the face of the robber did you have?

A. What do you mean?

Q. Side, straight—were you looking

A. No, I was looking right at

Q. at the robber full face?

A. him when he was—

Q. Right into his face?

A. Yes, sir.

Q. Uh, huh. On the night of the 13th, which was the day of the robbery, the night of the robbery, were you requested to go to Police Headquarters?

A. Yes, sir.

Q. You were, and did you go there?

A. Yes, sir.

Q. Who went with you?

page 36 } A. Mrs. Phillips and her husband and the officer that came to the store.

Q. Uh, huh, did you see a suspect whom the police had picked up shortly?

A. Yes, sir.

Q. You did, what did he—was he the man?

A. He was not the one.

Q. Did you identify him as being the one at the time?

A. Well, I thought at a glance, I wasn't sure, so I asked to get a closer look, and I said no.

Elizabeth Keeton

* * * * *

page 39 }

* * * * *

Q. Mrs. Keeton, to continue, did you identify the man whom the Police arrested on the 13th as being the person who had held you up?

A. Not on the 13th.

Q. This was the night of the 13th and you—

A. He wasn't the one.

Q. He was not the man?

A. No, sir.

Q. You stated a moment ago that you had to take a second look at him, on the first look, I believe you said that he looked like him, is this your feeling?

A. The night of the 13th, that wasn't the guy though.

Q. It was not the guy,

page 40 } A. No, sir.

Q. but did you identify him as being the guy?

A. Well, I wasn't sure,

Q. You were—

A. wanted to get a close look.

Q. You were not sure?

A. Yes,—go in where he was.

Q. How about—did Mrs. Phillips see him in your presence, the man on the night of the 13th?

A. That's right.

Q. What did she say, did she say he—

A. No, no, she knew right off he wasn't, but I had to get a closer look.

Q. You had—you had some misgivings about it, then, at first?

A. Yes, I—

Q. Uh, huh, uh, huh. You stated that you have no doubt that the defendant is the person who robbed you on that night. Did you notice any particular identifying features that, aside from normal things, like skin color and hair color would make you believe that this is the man?

A. Yes, I had the view perfect in my mind, but I don't know how to explain it to you, 'cause I—

page 41 } Q. Any scars?

A. No.

Q. No scars?

A. Didn't see any scars.

Q. No warts, moles, anything like this?

A. (no response)

Q. Is this the only young negro male you ever saw that you can remember recently, let's say, who looks like this man, the defendant?

A. Yes, sir.

Q. Beg your pardon, he's the only one you say?

A. The—I don't know how you mean that, but I know he's the one, because I had it in my mind after looking at him twice.

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page 42 }

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REDIRECT EXAMINATION

By Mr. Wyatt:

Q. Did you have any misgivings whether the defendant, John Plummer Stanley, was the man when you saw him on—later on the evening of the 13th or the night of December the 13th after you got close up to him?

A. No, sir.

Q. After you saw him close up, you were satisfied he was the man?

page 43 } A. Yes, sir.

* * * * *

LUCILLE PHILLIPS, introduced on behalf of the Commonwealth, being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Wyatt:

Q. Will the witness please state her name?

A. Lucille Phillips.

Q. Is it Miss or Mrs.?

Lucille Phillips

A. Mrs.

page 44 } Q. What's your address, Mrs. Phillips?

A. 63 Culpepper Avenue.

Q. What city?

A. Petersburg, Virginia.

Q. On the date of December the 13th, '67, did you have any—any business connections with the High Ice Cream Parlor?

A. Yes, sir.

Q. It's alleged in the indictment as being High's Ice Cream Company, is that the proper name for it?

A. High's Ice Cream of Richmond.

Q. High's Ice Cream Company is what you go by here?

A. Beg your pardon?

Q. High's Ice Cream Company is your general name, isn't it listed?

A. Yes, sir.

Q. What place were you occupied, at what place were you occupied?

A. 445 South Sycamore Street.

Q. Is that in Petersburg?

A. In Petersburg.

page 45 } Q. It's alleged here that someone, by pointing a gun on you and putting you in fear robbed the money of this Company from you

A. Yes, sir.

Q. in your presence on December 13th, '67,

A. Yes, sir.

Q. were you and the place robbed on that night?

A. Yes, sir.

Q. What time?

A. It was approximately 8:30.

Q. P.m. or a.m.?

A. P.m., yes, sir.

Q. Who was there?

A. Mrs. Elizabeth Keeton.

Q. Is that the witness who preceded you?

A. Yes, sir.

Q. Uh,huh, now, who was in the store at the time?

A. No one else was in the store at the time that it happened.

Q. About what size store is that for the record, how wide would be your store building there?

Lucille Phillips

page 46 } A. Well, I'm not very good on measurements of a store—

Q. Could you point out something that would show the width of it?

A. Well, the width of it I would say would be just a little bit—I would say approximately from that door down to this desk.

Q. From where you are sitting, where would it be,

A. Well, from where I—

Q. suppose you are on the north side wall and how far would the south wall be?

A. Well, that's hard to tell, about the size of it—it's every bit as wide as here, from the end of those rows of seats over to the other side, the store part.

Q. You mean as long as one of those seats?

A. And it would be a little bit longer than those seats.

Q. All right, that would be, you mean across, from side to side, it would be a little bit longer than one of those seats.

Mr. Wyatt: How long is one of those seats,
page 47 } Your Honor?

The Court: About fifteen feet.

Q. Now, let's get the depth of the store, how far would it be to the store room from the front door to the back wall of the store room?

A. Well, to the store room from the end of the counter, it wouldn't be over about two feet.

Q. I'm not talking about—I'm talking about the glass front on the street, from that back to the rear wall, how far would it be, the rear wall to the store room?

A. To the door of the storeroom?

Q. Yea?

A. Well, it would be about two feet further from those seats back there.

Q. Two feet long than those seats—

A. Two feet longer, yes, sir.

Q. So you think the front store room is a little bit longer that it is wide?

A. Yes, sir.

Q. Uh, huh.

Lucille Phillips

Mr. Wyatt: How far would that be, Your Honor?
The Court: You say two feet longer?
Mr. Wyatt: Yes, sir.
page 48 } The Court: Roughly, seventeen or eighteen feet.

Q. Well, now, is all this on the ground floor?
A. Yes, sir.
Q. No steps from the sidewalk?
A. No steps, no, sir.
Q. Does it have a glass front or a wood front?
A. Yes, it does, has a glass front.
Q. All glass front. Is there any—is there another business room in addition to a store room in the front where your counter and things are, is there anything behind it?
A. No, sir.
Q. Do you have a storeroom on the back?
A. We have the stock room and then our coat room where we hang our coats.
Q. Well, now, is the door between that and the store room?
A. Pardon?
Q. Is there a door between the stock room and the store room?
A. Yes, it is.
page 49 } Q. Uh, huh, is the store room big—is the stock room as big as the store room or bigger or smaller?
A. No, sir, it's small.
Q. And that's directly to the rear?
A. Yes, sir.
Q. Is that on the ground floor?
A. Yes, sir.
Q. Who owns all the property and the cash register and the cash, who is the owner of all that be?
A. Well, High's Ice Cream Store is the owner—
Q. And all the inventory belong to them?
A. Yes, sir.
Q. Cash register belong to them?
A. Yes, sir.
Q. Money taken, or allegedly taken, belong to the High's Cream Company?
A. Yes, sir.
Q. Were you agent of the High's Ice Cream Company that night?
A. Yes, sir.

Lucille Phillips

Q. Did you have full and complete authority to handle all the cash there?

page 50 } A. Yes, sir.

Q. Did you handle change in the cash drawer?

A. Did I what?

Q. Handle the change in the cash drawer?

A. Yes, sir.

Q. How much was in it?

A. I would say approximately between twenty and twenty-five dollars.

Q. Would you know it was more than fifteen dollars?

A. It was more than fifteen, yes, sir.

Q. Was it paper or coin or both?

A. Both.

Q. And where was this cash register?

A. It's about middle way of the store behind the counter.

Q. Is that on the counter to the left as you enter or on the—

A. To the left as you enter the store from the front.

Q. Now, you say it happened about 8:30?

A. Yes, sir.

page 51 } Q. I believe the reply was that you were robbed about 8:30

A. Yes, sir.

Q. P.m.? Who was in the store, you and Mrs. Keeton, you said?

A. Mrs. Elizabeth Keeton, yes, sir.

Q. All right, now, what—what was the first thing happened in connection with the performance of this alleged act of robbery?

A. Well, I was behind the counter, Mrs. Keeton was on the floor outside the counter sweeping

Q. Yes?

A. and all of a sudden the front door opened and he rushed in and—

Q. Who was that—who rushed in—who rushed in?

A. Stanley.

Q. All right, go ahead?

A. Rushed in and said, "Whooo"—said, "It's cold enough to freeze you outside".

Q. Which door did he come through?

A. Came in the front door.

Q. Go ahead?

page 52 } A. And he said, "Stand still", says, "I've come to pick up the money".

Lucille Phillips

Q. Where was he standing when he said that?
A. He was still coming on down towards the rear of the store, towards me.
Q. Could you tell whether he was armed or not?
A. Yes, sir, he had the pistol in his hand.
Q. Did you recognize it as a pistol?
A. Yes, sir.
Q. Metal pistol?
A. Well, now that, I—
Q. I mean did it look like a natural pistol?
A. Yes, sir.
Q. How close did he get to you before he made that statement, if you recall?
A. Oh, I reckon it was about as far as from here to you when he said not to move.

Mr. Wyatt: How far would that be, Your Honor, I believe you said ten feet a while ago.
page 53 } The Court: (The Court's voice is completely inaudible)
Mr. Wyatt: All right, the witness chair to where—

Q. Were you scared?
A. Yes, I was scared.
Q. Very scared?
A. Yes, sir, yes, sir.
Q. And you say there was twenty or twenty-five dollars there, where was that?
A. It was in the cash drawer.
Q. Same cash drawer that you say was behind the counter?
A. Behind the counter, yes, sir.
Q. On the north side, or left side of the building down about half way?
A. Yes, sir.
Q. Well, now, when he said he came to get the rest of the money, does this man work for High's Parlor?
A. He came in and said he had come by to pick up the money.
Q. I know, but does he work for the Ice Cream Parlor?
A. No, sir.
page 54 } Q. Do you know that to be true?
A. Know it for a fact, yes, sir.
Q. Uh, huh, and he had the gun?

Lucille Phillips

A. Yes, sir.

Q. What position did he hold the gun, if you know?

A. He had the gun in his right hand.

Q. What, was he holding it up or in his pocket?

A. And he was kinda holding it up slightly, he didn't have it up very high.

Q. That was when he was near you?

A. Yes, sir.

Q. All right, and what did he say, if anything?

A. When—

Q. Outside of saying I came to get the money, did he say anything else?

A. Well, when he said that he came to get the money, pick up the money, he just walked on around behind the counter and started scooping the money up and putting it in his jacket pocket with his left hand.

Q. What did he say, did he say anything to you and Mrs. Keeton?

page 55 } A. Told us not to move.

Q. How long did this holdup last?

A. Oh, it didn't last over—oh, I don't reckon over five minutes anyway, if that long.

Q. What happened then?

A. He just turned around and walked on out the door.

Q. And you saw him putting money in his pocket with his left hand?

A. Yes, sir.

Q. Would you know how he was dressed, what kind of jacket he had on?

A. Yes, sir.

Q. What was that?

A. He had on a kind of a light-weight jacket and I don't know whether you would call it a—oh, I reckon a olive drab or kind of a tannish

Q. Uh, huh?

A. jacket, and it come down just a fraction below his hips, not very much.

Q. I understand he passed Mrs. Keeton before he got to you?

A. Yes, sir.

page 56 } Q. Well, now, when he got the money he was behind the counter, I would understand?

A. Yes, sir.

Lucille Phillips

Q. Did he leave—did he leave at that time, after he got the money, about five minutes you said?

A. Yes, sir, he left.

Q. Which way did he exit?

A. He went out the front door.

Q. Did he leave—did he go from behind the counter the same way he went in or—

A. Yes, sir, he had to go—come back down past me.

Q. Uh, huh, can you get behind the counter from the front of the store or is that

A. No, sir.

Q. blocked off to the wall, huh?

A. That's right.

Q. You have to come to the back to get there, uh, huh. Now, is the man who—would you know the man who committed this robbery on you on the evening of December the 13th, '67?

A. Yes, sir.

Q. Is he in Court today?

A. Yes, sir.

Q. Where is he?

page 57 } A. Sitting right over there.

Q. Would you—what would you say his name is?

A. John Plummer Stanley.

Q. Uh, huh, you pointed apparently to the defendant who sits there at the table with his two counsel, Mr. Barney and Mr. Andrews, is that the man you—

A. It's the fellow with the green shirt on, that was the one.

Q. Now, Mrs. Phillips, are you satisfied and sure beyond a doubt that this is the man?

A. Yes, sir.

Q. All right. You see him any more that day?

A. Not that day, no, sir.

Q. Had you ever seen him in the store before?

A. Not before that day, no, sir.

Q. See him in the store since?

A. Yes, sir.

Q. December the 18th, that be the same store, 445 South Sycamore Street,

A. Yes, sir.

Q. Petersburg, Virginia? When you saw him on

page 58 } the—in the store on the 18th, did you notify anybody that he was in the store?

Lucille Phillips

A. Yes, sir.
Q. Who did you notify?
A. I called Police Headquarters.
Q. How long did he stay in the store that time, how long did he stay in the store,
A. Oh, he didn't—
Q. long enough for you to see him?
A. He didn't stay in the store very long, just long enough for me—
Q. Long enough for you to look at him?
A. Sir?
Q. Long enough for you to look at him?
A. Yes, sir.
Q. Well, when he left the store on the 18th of December, did you follow which way he went or observe which way he went?
A. December the 18th?
Q. Yea?
A. Yes, sir.
Q. And what time was it on the 18th that he was there?
A. He was in the store approximately 10:40.
page 59 } Q. Night or day?
A. In the morning.
Q. And when he left did he go out—which door?
A. He went out the front door.
Q. Did you go to the door?
A. Yes, sir.
Q. Did you see which way he went?
A. Yes, sir.
Q. Which way did he go?
A. He turned to his left, went up Sycamore Street and turned to his left on Spruce Street.
Q. Turned left?
A. Yes, sir.
Q. Up Sycamore Street?
A. Went up Spruce, turn left at Spruce Street.
Q. And then left on Spruce Street, was he running or walking?
A. He was walking.
Q. Uh, huh. Do you know how he was dressed that day?
A. Yes, sir.
Q. How?
page 60 } A. He had on a dark blue nylon jacket and I

would say they were kinda plaid trousers, or checked, with a little blue and red and gray lightweight trousers.

Q. Now, do you identify him from any clothes or any—or you identify him today from any clothes he wore or just from his appearance?

A. From his appearance.

Q. Is there any doubt about this now, it's important, tell the Jury whether or not there is any doubt about this being the man?

A. No, sir, none whatsoever.

Mr. Wyatt: All right, witness with you.

CROSS EXAMINATION

By Mr. Andrews:

Q. Now, Mrs. Phillips, can you see that clock back there?

A. Yes, sir.

Q. What time is it?

A. Quarter after twelve.

Q. During the time that the robber was in the store, did he make any threat

A. No, he didn't

page 61 } Q. on your life?

A. threaten me.

Q. Uh, huh, you stated that the—well, you said a few moments ago, I believe, that the defendant who is accused of robbing this place held the gun like this, could you show me again what you mean like this?

A. Well, he had the gun in his hand holding it sorta so.

Q. All right. How long did you state that he was in the store?

A. Oh, I know he wasn't in there over five minutes, if that long.

Q. Was he in a hurry?

A. Yes, he was in a hurry.

Q. In a big hurry?

A. He was in a big hurry, yes, sir.

Q. What—what view of the robber's face did you get?

A. Beg your pardon?

Q. What view of the robber's face did you get? Did you get a full face view, profile?

Lucille Phillips

A. I had a full face and a profile, yes, sir.

Q. Uh, huh, were there any attempts to conceal
page 62 } the identity of the robber, caps masks or—

A. No, sir.

Q. or turned up collar

A. None whatsoever.

Q. or anything like that?

A. Pardon?

Q. Anything—a turned up collar, for instance, anything like that?

A. No, (witness made negative sound, opposited of uh, huh)

Q. Did he ever point a gun at you?

A. He had it pointing towards me when he came in the store.

Q. Did you notice any distinguishing characteristics or marks on the robber?

A. He had a slight mustache, small mustache and his hair was cut across in the back.

Q. Any others?

A. And it was no other marks or anything like that,

Q. Uh, huh?

A. but I did notice his hair cut and the mustache.

Q. Could you tell what color eyes he had?
page 63 } A. No, no, sir.

Q. Why?

A. He had on dark glasses, sunglasses.

Q. Were there any particular features that distinguished this young male negro from any other young male negro that comes in the store?

A. Well, the way he walked, it had a kind of a swaggering-like walk, I reckon you'd call it.

Q. Other than that, how would you describe him, how would you describe the robber?

A. Well, I would—describe him?

Q. How would you describe the robber, yes, ma'm?

A. His person or—

Q. Yes, ma'm, yes, ma'm, his physical characteristics?

A. Well I would say he was gingerbread color,

Q. Uh, huh?

A. and he was five feet, oh, I'd say, seven, and medium build and I would say he was between twenty and twenty-three years old, approximately.

page 64 } Q. Does he—does the defendant or did the robber resemble anybody that you'd seen in years gone by, is he an average looking person or—

A. No, he didn't resemble anybody that I had seen before, before that night.

Q. Mrs. Phillips, can you tell me what color shirt I have on?

A. I haven't noticed your shirt.

Q. Would the two times—you stated that you saw him twice?

A. Yes, sir.

Q. Had you ever seen him any other time?

A. I saw him on the night of December the 13th and then I saw him on December the 18th.

Q. But you had never seen him previously?

A. No, sir.

* * * * *

page 65 } Mr. Wyatt: The Commonwealth rests its case.

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page 66 } GERTRUDE VIRGINIA SAVAGE, introduced on behalf of the defendant, being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Barney:

Q. Gertrude, speak up so the Judge, Mr. Wyatt and the Jury can hear you, what is your full name, age and address?

A. My full name is Gertrude Virginia Savage.

Q. How old are you?

A. Sixteen.

Q. Where do you live?

A. 486 Byrne Street.

Mr. Wyatt: What is it, I can't—

A. Sir?

Mr. Wyatt: What number?

A. 486 Byrne Street.

Q. That's Petersburg, do you know John Plummer Stanley?

A. Yes.

Gertrude Virginia Savage

Q. Is he in the Courtroom today?
A. Yes.
page 67 } Q. Where is he?
A. Beg your pardon?
Q. Where is he?
A. In the Courtroom.
Q. Whereabouts?
A. Next to you.
Q. How long have you been knowing John Stanley?
A. A long time.
Q. Two years?
A. Maybe.
Q. Now, on the night of December the 13th, 1967, do you recall where you were approximately from 7:30 on?
A. 7:30?
Q. Approximately, from 7:30 on, do you know what you did?
A. I was at the J & B Confectionery.
Q. Now, speak up so the Jury can hear you.
A. I was at the J & B Confectionery which is located on South Avenue.
Q. That's in Petersburg, of course?
A. Yes.
page 68 } Q. Anybody there with you?
A. At 7:30, around 7:30?
Q. Around 7:30?
A. John Stanley and Allen Lewis.

Mr. Wyatt: Who?

A. Allen Lewis.

* * * * *

Q. How do you happen to recall the 13th of December?
A. Well, December the 12th was my father's birthday and I know that was located on—that was on a Tuesday and I know I stayed home Tuesday night and I went out that next night and that was a Wednesday night.
Q. That was a Wednesday night. Where did you first see John Stanley that night?
A. Wednesday night?
Q. Uh, huh?
A. At the J & B.
Q. And what did you all do at the J & B?

Gertrude Virginia Savage

page 69 } A. We sit down, we talked and the juke box was going, we was listening to some records.

Q. Now, speak up so the Jury can hear you.

A. We was listening to some records and talking.

Q. And how long was John Stanley there with you at 7:30?

A. I know they left around eight o'clock, I don't know what exactly the time.

Q. Now, who is they?

A. Him and Allen Lewis.

* * * * *

page 70 }

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Q. All right, did John Stanley tell you where they were going?

A. Yes, he did.

Q. And where were they supposed to have gone?

A. Up to his aunt's house.

Q. Who?

A. Up to his aunt's house.

Q. Do you know his aunt?

A. Yes.

Q. Who is she?

A. Mrs. Doris Randolph.

Q. And where does she live?

A. 480 Byrne Street.

Q. Now, where is—what part of South Avenue is the J & B Restaurant located?

A. It's next to Moonshine Cleaners and them.

Q. And is that closer to the Halifax Street end
page 71 } of South Avenue?

A. Yes.

Q. How many stores is that from Halifax Street?

A. About three.

Q. How do you get to Byrne Street from South Avenue, what is the easiest and shortest way?

A. To me the easiest way is going down Byrne Street, you go around the corner from O. P. Harris Drug Store and then you go down the street, that's the easiest way to me, I don't know—

Gertrude Virginia Savage

Q. Did you see—did you see what direction Stanley headed in when he left you?
A. When he left me?
Q. Uh, huh?
A. No.
Q. And he left with, did you say, Allen Lewis?
A. Yes.
Q. Now, when did you see him again?
A. I don't know exactly the time but they came back to the J & B.
Q. Do you know what time they came back?
page 72 } A. No, I know that around nine—quarter to nine we had went to Leo's, that was about quarter to nine.
Q. You did what around quarter to nine?
A. Huh?
Q. You did what around quarter,
A. Went—
Q. speak up so they can hear you?
A. Went to Leo's around quart—we was at Leo's around quarter to nine that night.
Q. And where is Leo's located?
A. On the corner of Gill and Jones Street.
Q. And when you say "we were at Leo's", who is we?
A. John Stanley, Allen Lewis, Elinor Taylor, Geraldine Harville, Harriett Hill and Gertrude Savage (the transcriber relies on the phonetics in the transcribing of these names)
Q. How did John Stanley and Lewis come back to the J & B Restaurant?
A. How did they come back?
Q. Uh, huh?
page 73 } A. I don't know how they came back, I saw them when I was in the J & B—they came in the J & B, I won't paying no attention to how they came in, 'cause I won't up that part, you know, up that end of the place, I was near the *ping bong* machine.
Q. And how long does it take you to get from the J & B to get up to Gill and Jones?
A. How long do I take?
Q. Uh, huh?
A. It don't take long, I don't know.
Q. Is Harriett Hill and Geraldine Harville here today?
A. Yes.

Gertrude Virginia Savage

Q. Were they the two girls that went with you from the J & B to the—to Gill Street?

A. It was there three girls.

Q. Three of them, who is the other one?

A. Elinor Taylor.

Q. And all three of you all went down to Gill's Street with John Stanley?

A. And Allen Lewis.

Q. How do you determine it was around eight o'clock when Stanley left?

page 74 } A. I know the last time I glanced at the clock it was something to eight, but I wasn't paying much attention to the clock.

Q. It was something to eight

A. Yea.

Q. the last time you looked at the clock? Answer Mr. Wyatt's questions.

CROSS EXAMINATION

By Mr. Wyatt:

Q. How many times did you look at the clock?

A. How many times did I look at it?

Q. Yea?

A. I glanced at it a couple of times, but I won't paying no attention to the time.

Q. This was in the J & B Restaurant?

A. Yes.

Q. And both of those times soon after you got there?

A. What you say?

Q. You looked at the clock soon after you got there?

A. After I got there

Q. Yes?

page 75 } A. that night?

Q. Yea?

A. I know it was—I left home at seven—about seven o'clock that night.

Q. Yea?

A. And I was talking to some of the ladies that work there a little while, and I know it was about that time when I seen him.

Q. Well, if I understand you right then, roughly, Allen Lewis and John Stanley left you all at J & B there on South Avenue about 7:30?

Gertrude Virginia Savage

A. That they left us?
Q. Yea?
A. No.
Q. Did they say they were going up Byrne Street?
A. It wasn't 7:30 when they left.
Q. What time was it?
A. I said it was around eight o'clock.
Q. Around eight o'clock. Did you look at the clock then?
A. I glanced at it a couple of times.
Q. Huh?
page 76 } A. I glanced at it a couple of times, like I say—
Q. You said a minute ago when you last looked at it was getting on eight?
A. No.
Q. That was your answer a while ago, I asked you about looking at the clock and you said you had looked at it and it was getting on eight o'clock, how far was it from eight o'clock when you first looked at it?
A. Repeat your question again.
Q. How far was—where was—what was the time when you first looked at it, you told me a while ago it was sometime before eight o'clock, what time was it?
A. When I first looked at it?
Q. Yea?
A. As soon as I got in the place.
Q. And what time was that?
A. As soon as I got in there?
Q. Yea?
A. I still—let me see, it was about, maybe about ten after seven when I first came in.
Q. All right, ten after seven, would you call that a little—would you call that soon before eight, and while ago yours answer was it was before eight o'clock, would you
page 77 } call ten minutes after seven ordinarily a little time before eight, is that what you meant?
A. No, I didn't mean that.

* * * * *

Q. I understood you said—I asked you while ago, you said you looked at the clock twice, now, is that part right?
A. I said I glanced at the clock a couple of times, maybe more than twice, I was glancing at it

Gertrude Virginia Savage

Q. Did you—

A. a lot of times, I looked at it and I wasn't paying any attention to the clock because the clock just sit there like that clock does, you look at it because you—you know, you just be looking.

page 78 } Q. Well, how do you know what time you paid attention and what time you didn't pay attention?

A. I know I got in the J & B Wednesday night, it was about ten after seven or something like that,

Q. Yea?

A. so I start talking to the ladies that work in there.

Q. I didn't ask you all that, you answered that for Mr.—when your own lawyer asked you, I'm asking you now, how did you know a while ago that the last time you looked at the clock was something before eight, now, I want to know how much before eight was it?

A. Maybe about quarter of eight.

Q. About quarter to eight, and is that when Lewis and Stanley left the J & B?

A. Yes, around eight o'clock.

Q. Around eight o'clock, now, when did you see them any more?

A. I don't know the definite time that I seen them again, but I know we got down Leo—

Q. Sometime between nine and nine-thirty?

A. That I seen them again?

Q. Yes?

page 79 } A. No.

Q. What time did you tell your lawyer it was a while ago, I mean defense lawyer?

A. I told him that we was at Leo's at quarter to nine, that I had seen him around that time.

Q. About that time—

A. I—

Q. Who got there—who got there first, you or he?

A. Who got in Leo's first?

Q. Yea?

A. We got there together.

Q. Where did you meet with him?

A. At the J & B earlier.

Q. And I believe you stated a while ago he got back to the J & B at what time?

A. I told you I didn't know the definite time, the only time

Gertrude Virginia Savage

I could tell you was that the time when he got to Leo's, what time it was nearly to or something.

Q. Yes, well, now, where was he supposed to go on Byrne Street?

A. To his aunt's house.

page 80 } Q. Huh. Well, now, this place here you are talking about, you say it's near the Chatterbox?

A. The J & B?

Q. Yea?

A. I said it was near Moonshine Cleaners.

Q. How far would that be from South Sycamore Street, about a block and a half?

A. South Sycamore?

Q. Yea?

A. I couldn't tell you.

Q. Huh?

A. I don't know.

Q. You know where South Sycamore Street is?

A. No, I might know—is that the street that High's is on?

Q. Yea?

A. Yea, I know where that is.

Q. Is High's Ice Cream Parlor on South Sycamore Street?

A. I don't know what street it's on, I know how to get there and all.

Q. Reckon you could find South Sycamore Street if you were take one of us out there to try to find your way, you could show it to us?

page 81 }

* * * * *

A. I don't know.

Q. You don't know if you could, huh, could you show me where Byrne Street is?

A. Yes.

Q. Could you show me where Harrison Street is?

A. Yes.

page 82 } Q. Could you show me where Halifax Street is?

A. Yes.

Q. Could you show me where Jefferson Street is?

A. I don't know.

Q. So your knowledge of Petersburg stops at Harrison Street, you don't know anything east of Harrison Street,

A. No.

Q. is that right?

A. That's right.

Q. And how old are you?

A. Sixteen.

Q. Uh, huh, and where you live?

A. 486 Byrne Street.

Q. 486 Byrne Street?

A. Yes.

Q. That's two blocks from Sycamore, uh, huh. Where was John Stanley staying on December the 13th, where was he supposed to be staying?

A. I don't know, 'cause I haven't never asked him.

Q. Do you go with him?

A. Yes.

page 83 } Q. Huh?

A. Yes.

Q. Do you know where—where did he tell you he was staying?

A. He ain't never mentioned that when we were talking.

Q. Huh, you know where Spruce Street is?

A. I know where it is, yes.

Q. Where is Spruce Street?

A. I know it's near going to Petersburg General Hospital, I don't know exactly.

Q. You don't know whether Allen was stopping on Spruce Street at that time or not, do you?

A. No, I don't.

Q. Had you seen him over that area?

A. No.

Q. You mean—is he any kin to you?

A. No.

Q. You don't know where he is supposed to live or where he was staying?

A. No.

Q. All right, thank you.

page 84 } REDIRECT EXAMINATION

By Mr. Barney:

Q. Gertrude, where is Chuckatuck Avenue?

Gertrude Virginia Savage

A. Beg your pardon?
Q. Where is Chuckatuck Avenue?
A. Chuckatuck Avenue?
Q. Uh, huh?
A. I don't know.
Q. Where is—where is South Boulevard?
A. I don't know that either.
Q. Have you got any reason to know where Chuckatuck Avenue is?
A. Sir?
Q. Do you have any reason to know where Chuckatuck Avenue is? You ever go up there?
A. I mighta went through there, but I don't remember going.
Q. Now, where do you hang out mostly?
A. Where do I hang out mostly?
Q. Uh, huh?
A. At the J & B and down at Leo's Lounge on Gill and Jones.
page 85 } Q. How often do you get downtown to *to* the Old Market down here, down this area of town?
A. Old Market?
Q. Uh, huh?
A. I go past over there a lot.
Q. Why do you go down that way for?
A. Sometime I be going down town shopping and all.
Q. How often you get a chance to go out Walnut Hill?
A. What you call Walnut Hill?
Q. Uh, huh?
A. I don't know 'less we going to the Walnut Hill Plaza somewhere.
Q. And that just goes right in that one section?
A. Yes.
Q. Do you know the street the Plaza is on—what street is Walnut Hill Plaza on, what's the name of the street that you turn off to get to Walnut Hill Plaza?
A. I don't know.

* * * * *

page 86 }

* * * * *

RECROSS EXAMINATION

By Mr. Wyatt:

Q. Do you know where Central Park is?

A. Central Park?

Q. Central Park in the middle of the City?

A. Yes.

Q. How long have you been knowing where that is?

A. A long time.

Q. And that—you don't know what the name of the street is running along in front of it, do you?

A. No.

* * * * *

page 87 }

* * * * *

ALLEN LEWIS, introduced on behalf of the defendant, being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Andrews:

page 88 } Q. Would the witness please state his name, and age please, and his address and speak up loudly, so the—

A. My name is Allen Lewis, I live at 932 Clark Street, age twenty years old.

* * * * *

Q. On the night of Wednesday. December 13th, Mr. Lewis, did you see the defendant, John Stanley?

A. Yes.

Q. Would you please state in your own words when you saw him and what happened after that?

A. Well, on that night, Wednesday night, I saw John

Stanley down on South Avenue and he asked me to walk around to his aunt house on Byrne Street, we went to his aunt house and we stayed around—

By Mr. Wyatt:

Q. Wait a minute, whose house?

A. His aunt.

Q. All right?

page 89 } A. We stayed around his aunt house about thirty minutes or more, we left, went down Leo Lounge and stayed down there 'til closing time.

By Mr. Andrews:

Q. Now, let's go back and fill in a few—fill in a few details, do you—what time did you leave South Avenue with John Stanley?

A. Approximately around about eight o'clock.

Q. How do you know it was around eight o'clock?

A. Well, somewhere in that area because I had got downtown from over my aunt's house, we came down—I came downtown about eight, about five minutes to eight and I glanced at the clock then, you know.

Q. You don't know the exact time?

A. Not the exact time, but around about eight.

Q. You said you had been to your aunt's house?

A. Yes.

Q. Where was this?

A. Over in Bunker Hill.

page 90 } Q. Bunker Hill. When you left South Avenue—well, first had you seen Gertrude Savage?

A. Yes, we saw her down the J & B.

Q. Uh, huh. When you left South Avenue, where did you go, I mean how did—where did you go and what route did you take to get there?

A. Well, we left South Avenue, and walked towards Halifax Street up to Byrne Street, we walk from Byrne up to his aunt's house.

Q. Do you know his aunt's name, by the way?

A. I—I guess it's Randolph, really, I don't know *here* name, you know.

Q. Did you go directly to his aunt's house or did you make any—

A. No, we went straight to his aunt's house.

Allen Lewis

Q. You went directly to his aunt's house?

A. Yes.

Q. Do you know what time you got there?

A. Well, from South Avenue to his aunt house, it approximately fifteen minutes walk, you know, just average walking and so I say around about fifteen minutes later.

page 91 } Q. Might it have been quicker?

A. It could have.

Q. Uh, huh. And how long—what time did you leave his aunt's house?

A. Say, roughly, well, we stayed at least thirty minutes or more, so roughly it be about quarter to nine or ten minutes to nine, roughly, because. you know, they were discussing, you know, seeing him and about him being in the service.

* * * * *

Q. And then where did you go then?

A. Well, I was discussing with him about a dance, which was over the (word unintelligible) and then I decided we wasn't going, so we had called a cab from his aunt's house, so the cab came, so I say come on, we'll get in the cab because you know, you just can't call a cab and not get in it, so we went back down South Avenue and from there we went to Leo's Lounge.

Q. Who did you see on South Avenue when you went back?

A. Well, I—when we got back down there, there

page 92 } was Gertrude Savage, and Harriett and *Elinor* Taylor and Geraldine Harville.

Q. They were all there?

A. Yes, sir.

Q. All right, was Stanley still with you?

A. Yes, at that particular time.

Q. Uh, huh, had he been out of your presence from the time you had left?

A. No. not from the time that we met.

Q. And then where did you go?

A. From South Avenue I went to Leo's Lounge, we all went rather.

Q. How did you go?

A. Went in a taxi.

Q. Went in a taxi?

A. Yea.

Allen Lewis

Q. Did you remain?
A. We remained together the whole time.
Q. Did you remain there at Leo's Lounge?
A. Yes, we stayed there until closing time.
Q. When is that?
A. Closing time is twelve o'clock.
page 93 } Q. Answer Mr. Wyatt's questions.

CROSS EXAMINATION

By Mr. Wyatt:
Q. You were living on Bunker Hill?
A. No, I live at 932 Clark Street, West View.
Q. But you—where on Clark Street?
A. West View.
Q. West View, on the west part of town, I see. Well, now, who went with you to—did Stanley go with you to Bunker Hill?
A. No, he did not.
Q. Who went with you?
A. I went by myself.
Q. And what time did you go to Bunker Hill?
A. I went to Bunker Hill approximately about 4:30.
Q. Where was Stanley then?
A. I couldn't tell you.
Q. Did you go down to Spruce Street?
A. No, I didn't go to Spruce Street, I went to Mercury Street.
page 94 } Q. Where was Stanley living at this time, where was he supposed to be staying?
A. He was a soldier, evidently he was staying on the Post.
Q. Where was he supposed to be staying when he was in Petersburg?
A. On the Post, I guess.
Q. Huh?
A. He was on the Post, he was a soldier.
Q. I know, but he—he's a Petersburg boy, isn't he?
A. Yes, he is a Petersburg boy.
Q. How long have you known him?
A. I known him every since about five or six years, we went to school together.
Q. Well, where is home?
A. His home is in Petersburg.

Allen Lewis

Q. Whereabouts?

A. When he wasn't in the service he was living in *Byrdville.*

Q. *Byrdville,* Montgomery Street?

A. Yes.

Q. Uh, huh, he got any business on Spruce Street as far as you know of?

page 95 } A. I don't know.

Q. Ever seen him on Spruce Street?

A. No, I have not.

Q. His home, his civilian home is on Montgomery Street?

A. Well, when he wasn't in the service, yes.

Q. Yea, when he was in service, where had he been staying when he got out of service last several weeks?

A. Last several weeks as far as I know he has been in the service.

Q. You don't know anything about where he lives now?

A. No.

Q. Uh, huh, who asked you to come here today and testify?

A. Ask me to come here to testify?

Q. Yea?

A. Well, I got a summons to come to Court to testify.

Q. I know you have a summons, who did you talk to about it?

A. Who I talk to?

page 96 } Q. Yea?

A. I talked to the lawyers.

Q. Have you talked to Stanley about it?

A. No, I haven't.

Q. Uh, huh. And you say you left your aunt's—his aunt's house—you any kin to this woman on—this woman, Randolph, you any kin to her?

A. No, I'm not.

Q. You ever been to her house before?

A. Yes, I have.

Q. Who else was there when you went there?

A. Well—

Q. Name them all now.

A. Well, I don't know, it was a young man and another lady there.

Q. What was his name?

A. I couldn't tell you, sir.

Q. What room were they in?

Allen Lewis

A. We was all sitting in the living room watching television.

Q. Did they introduce to them?

A. Yes, but names I couldn't keep in mind.

page 97 } Q. Were they folks that you knew or didn't know?

A. Well, I didn't know them.

Q. Didn't know them, and that would be Mrs. Randolph now and the couple, that's all that was there?

A. Well, it's a old—elderly lady, only way I know *here* because she have one leg

Q. One leg?

A. and the gentleman I do not know.

Q. That would be three people or four people?

A. Well, when we got there it was three people there.

Q. Three people?

A. Yes.

Q. I see, and what did Stanley go to this house for, you know?

A. That's his aunt,

Q. I know it is—

A. he say he want to go to see his aunt because he haven't seen her since he been home.

Q. Mighty short visit, wasn't it?

A. Short visit, I—but he just wanted to go see

page 98 } his aunt, he say he hadn't seen her since he been home.

Q. Was she in bed?

A. No, she wasn't in bed.

Q. Is she the one that had one leg?

A. No, that's Mrs. Randolph, I think that's his aunt.

Q. Well, who is his aunt, where was she?

A. She was there, Mrs. Randolph.

Q. I thought you said there were only three people there?

A. Yes, Mrs. Randolph, the lady with one leg, and the gentleman.

Q. Four people there, I see. What was Mrs. Randolph doing, is she in Court today?

A. Yes, she is.

Q. What was she doing when you went there?

A. She was sitting there watching television, sir.

Q. What show?

A. I could not tell you.

Allen Lewis

Q. All of them sitting in the same room?

A. Yes, sir.

page 99 } Q. Who answered the door, front door?

A. Mrs. Randolph.

Q. Uh, huh, and you all went in, did you tell her what you came for?

A. Well, he say he come to see her,

Q. Uh, huh?

A. so they set down and talk, she was glad to see him because she hadn't seen him since he had been in the service

Q. Uh, huh?

A. and he sitting down and talked.

Q. Uh, huh. Ever been in that house before?

A. No, that was the first time, sir.

Q. First time you had been in there?

A. Yes.

Q. Have you been out with Stanley any other night?

A. Yes, we went to the Peppermint Lodge

Q. During December?

A. during December, we went to the Peppermint Lodge a couple of times.

Q. What time were they, you know?

page 100 } A. Peppermint Lodge open on—they only open Mondays, Thursdays and Saturdays.

Q. Mondays, Thursdays and Saturdays?

A. Yea.

Q. Uh, huh, can you get in there on Wednesdays?

A. No, you cannot.

Q. Uh, huh, well, now, when did you call a taxicab, after you left the house or—

A. No, we call a cab while we was there.

Q. Who called a cab there, who did the calling?

A. What was your question, sir?

Q. Who did the phoning?

A. Mrs. Randolph did the phoning.

Q. Mrs. Randolph called the cab for you?

A. Yes.

Q. Why did you get her to call, why didn't you call it yourself?

A. Well, I wasn't—I was only a guest in her house, so I thought it would be right to ask her.

Q. What cab company did you call?

A. Well, right off-hand, I do not know.

Allen Lewis

Q. Which one did you ride down in?

page 101 } A. I don't—well from the Avenue, we caught a Boulevard cab.

Q. Did you actually ride downtown in a Boulevard cab, you want to say that yes or no?

A. What is your question, sir?

Q. You want to say yes or no, that it was a Boulevard cab, which cab—

A. Well, from South Avenue it was a Boulevard cab.

Q. Had a Boulevard sign on it?

A. Yes, it did.

Q. And who was driving it?

A. I cannot tell you, sir.

Q. Don't know the driver?

A. No.

Q. And he's the man that took you up to Leo's Lounge?

A. Yes.

Q. And you got—you said you left Byrne Street between quarter to and ten minutes to nine?

A. Yes.

Q. Did you have any clock or just guessing?

A. Well, I didn't have a clock, but it was a

page 102 } clock in the house, so, you know, I glanced at the clock.

Q. In the house?

A. Yes.

Q. Where is Mrs. Randolph's clock?

A. Well,—

Q. Where is that sitting?

A. Well, at that time it was on the mantlepiece, I guess, you know.

Q. Huh?

A. It was on the mantlepiece.

Q. I want to know, I don't want you to guess, where is her clock?

A. I'm not familiar with the house.

Q. Yea, but you are familiar with the clock, you looked at the clock, where was that?

A. At that particular time, it could have been on the mantlepiece anywhere, you know—

Q. Been on the floor?

A. Yea, could have been.

Allen Lewis

Q. It could have been on the floor or could have been on the mantlepiece?

A. Yea, could have been anywhere—I mean really you—I mean you not accustomed to people houses, you just don't know exactly right off-hand where a clock be

page 103 } sitting.

Q. Uh, huh, when did you find out that it was quarter to nine when you looked at that clock, when did you first recollect the time it was, here today is January the 29th

A. That's true.

Q. and you are going back yonder and say you looked at a clock at quarter to nine on December the 13th, how would you remember that?

A. Well, I know for a fact that I got down to Leo Lodge at ten minutes after nine.

Q. What were you all watching the clock so closely about, why were you watching the clock so closely on that night, December 13th?

A. Why?

Q. Yea?

A. I look at the clock just about all the time, you know.

Q. Have to go to work anywhere that night?

A. Do I have to go to work?

Q. Yea?

A. No.

Q. What time you leave home?

page 104 } A. I left home that day?

Q. Yea?

A. I left home at three o'clock that day.

Q. What was the exact time?

A. Three o'clock.

Q. Exactly three o'clock?

A. Exact time three o'clock because the school was letting out.

Q. Oh, school was letting out, uh, huh, well, it won't any school letting out around seven o'clock, was it?

A. What?

Q. Wasn't any school letting out around nine o'clock?

A. No, wasn't no school letting out.

Q. Well, what reason would you have to believe it was nine o'clock when you left the aunt's house or this boy's aunt's house?

A. I didn't say it was nine o'clock.

Allen Lewis

Q. What did you say?

A. I said between quarter to nine and ten minutes to nine,

Q. Yea,

page 105 } A. you said it was nine.

Q. in other words, it must have been about thirteen minutes to nine, something like that, middle way between quarter and ten—

A. Well, in other words, it was more nine o'clock than it was eight-thirty.

Q. Was the long—did you see where the long hand was on the clock?

A. Well, I still say it was quarter to nine, between quarter to nine and ten minutes to nine.

Q. Did you see where that long hand was, whether it was on twelve or thirteen or eleven?

A. Well, say it was between the nine and ten.

Q. Just say between, but you wouldn't know, would you?

A. Well, like I say between quarter to nine and ten minutes to nine—

Mr. Andrews: Your Honor,—

A. I just can't up and say what exact time it was.

* * * * *

page 106 }

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Q. So when—the time that you left South Avenue with Stanley ain't anybody else at that party know nothing about what you all did, from eight—from somewhere around eight o'clock until ten minutes to nine, nobody else in that party knew what you and Stanley did, would they?

A. Well, I say as far as fifteen minutes—took fifteen minutes to go from South Avenue to his aunt's house, I say we had a free period, but we went to his aunt house, but she can vouch for that.

Q. But you visited the aunt's house,

A. Yes, she was—

page 107 } Q. How long did you visit there?

A. Like I tell you, sir, thirty minutes or more.

Q. All right, well, now, that would mean—how long did it take you to get back from your aunt's house, back down to South Avenue?

Allen Lewis

A. If we had walk, ten or fifteen minutes, say around ten or fifteen minutes.

Q. You walked—

A. Yea, if we had walked.

Q. You walked both ways?

A. No, we rode in a cab back to South Avenue.

Q. Well, why did you say—why did you say then that it would take fifteen minutes to walk back?

A. I didn't say it take fifteen minutes to walk back.

Q. You rode back in a cab?

A. That's right.

Q. Well, the cab had to come up and get you after Mrs. Randolph telephoned, didn't it?

A. Right.

Q. Uh, huh, and you waited there for it?

A. Right.

page 108 } Q. And that was about ten minutes or quarter to nine?

A. Right.

Q. How long did it take the cab to get there?

A. Right off-hand, mostly I do not know.

Q. Five minutes, ten minutes?

A. I do not know, sir, I can't say.

Q. Well, would you say it was not ten minutes or was ten minutes?

A. I can't say, sir.

Q. You do not know how long it took the cab to get there,

A. True.

Q. is that right, so you do not know what time you left then, actually left, to get in the cab?

A. Well, just like I tell you, between quarter and ten minutes to.

Q. That when you called, when Mrs. Randolph called—

A. No, I didn't say I called at quarter to.

Q. Mrs. Randolph called the cab,

page 109 } A. She called, right.

Q. yea, at quarter to or ten minutes to?

A. No, sir, no, sir.

Q. Aren't you getting a little confused?

A. No, you putting it your way.

Q. I'm asking you, you are answering the questions.

A. You putting it your way.

Q. All right?

Allen Lewis

A. Like I say we left—

Q. What time did you look at that clock, before you called the cab?

A. No, after the cab had come, sir, after it had came,

Q. Oh—

A. I was on my way out, I glanced at the clock.

Q. On your way out?

A. Yes.

Q. Well, now, isn't that different from what you told me a while ago?

A. No, that wasn't different from what I told you, I say I looked at the clock and the clock say quarter to or ten minutes to ten—or nine.

page 110 } Q. When you went up to Leo's Lounge, did you have any money, how much money did you have?

A. I had five dollars.

Q. All right, and you don't know where Stanley was supposed to be staying except

A. Fort Lee.

Q. out yonder at Montgomery Street, I mean, in civilian life?

A. I explain he was living at Montgomery Street before he went in the service, just like I told you, I don't know where he was living at after he was in the Service, no more than Fort Lee.

Q. Did he have on uniform?

A. I see him in his uniform once or twice.

Q. Did he have on uniform December 13th?

A. No, he did not.

Q. Did you see him with a uniform on any time in December?

A. Yes, once.

Q. When?

A. When? That was the beginning of December.

Q. What day in December?

page 111 } A. I don't know, it's the beginning of December, it could have been running from the 1st to the 13th, the beginning.

Q. Oh, had a uniform on?

A. Yes.

Q. Oh, how was he dressed on this night of the 13th?

A. Just like *a* average civilian, you know, street clothes, well, I know exactly—

Allen Lewis

Q. Do you recall the color jacket he had on?
A. No.
Q. Huh?
A. No, I can't.
Q. You don't, do you recall the kind of pants he had on?
A. No, I can't, he was just dress average.
Q. Huh?
A. I don't go around looking at way everybody is dressed.
Q. Uh, huh, do you recall, you see any dark specks he had?
page 112 } A. Well, everybody wear glasses, sunglasses, you know, that's—
Q. You wear sunglasses too, huh?
A. Yes, I do.
Q. He has them, he wears them too, huh?
A. Who?
Q. Stanley?
A. Does he wear—everybody wears them.
Q. Huh?
A. Everybody wears them.
Q. And he wears, Stanley wears them, too?
A. Yea, well, yea.
Q. I see, did he wear sunglasses at night?
A. I even wear mines at night.
Q. Did you—Stanley have his too, as far as you know, you recollect?
A. That particular night? How as I can recollect no, far as I know.
Q. But you say he does have them, always have them?
A. I didn't say he always has them, I said everybody wear glasses.
Q. Everybody wears sunglasses?
page 113 } A. That's right.
Q. Wear *the* at night time in the dark, is that right?
A. Yea, 'cause I wear mine.
Q. I see, uh, huh, well, now, when you—do you know where High's Ice Cream Parlor is?
A. Do I know where it is?
Q. Yea?
A. Yes.
Q. Do you know where South Sycamore Street is?
A. Yes.

Allen Lewis

Q. Well, when you go from South Avenue to Bunker Hill, you go right by the Ice Cream Parlor ordinarily, wouldn't you?

A. You could.

Q. Yea, and if you go over South Avenue to Spruce Street, you'd go right by it, wouldn't you, it's the shortest way?

A. You could, you can also go from South Avenue through the Park and come up Allen Street.

Q. That's if you want to come in the back way, that would be about twice as far, wouldn't it?

A. For what?

page 114 } Q. To go through the Park?

A. All depend on where you going.

Q. I mean I'm talking about—you mean to get to Bunker Hill you can go through the Park?

A. Yea.

Q. Well, which way did you go?

A. If I go to Bunker Hill?

Q. That—

A. All depend on which way I leave to go.

Q. That night, which way did you go?

A. I didn't go that night, I went during the day.

Q. Four o'clock in the evening?

A. That's right.

Q. What time did you come back?

A. I came back from my aunt house, left about seven o'clock.

Q. You came back about seven o'clock?

A. Yea.

Q. And went on down to South Avenue?

A. I went down to South Avenue and went in the pool room.

Q. And met these girls?

page 115 } A. They came down—they was down there when I got back—

Q. Did you have—just one more question—did you have any engagement to meet Stanley that night, where were you going to meet him?

A. Well, we say we was going out—you know—yea, I told him I'd be downtown later.

Q. Where was he when you told him that?

A. That was the day before.

Q. You tell him where you going to meet him?

A. I told him I meet him downtown on the Avenue.
Q. I see, thank you.
A. Yes, that's all?

Mr. Andrews: Just a minute.

REDIRECT EXAMINATION

By Mr. Andrews:
Q. You got any sunglasses with you?
A. Yes, you want them?
Q. No, I just want—No, I thought you meant you had them on you right now?
A. Oh, no, in my coat pocket.
page 116 } Q. O. K., you do have sunglasses?
A. Yes.
Q. You do wear them a lot?
A. Yes.
Q. O. K., do you remember—you stated that you left South Avenue in a Boulevard cab,
A. Yes.
Q. was this the same cab, did you go from South Avenue to Leo's in the same cab that took you from Mrs. Randolph's house to South Avenue?
A. No, I wouldn't say that, because we got out and went in J & B,
Q. All right?
A. and then that's where I told him we met the girls, the girls was down there, everybody said they was going—
Q. And you don't know what cab company
A. No, really, I don't.
Q. you went from—
A. No.
Q. Did you—John Stanley was arrested on the 18th of December, did you read about that or hear about it
A. Well—
page 117 } Q. that day or shortly thereafter?
A. I—
Q. After he was arrested, did you hear about it?
A. Well, I heard that someone had got arrested, but I didn't know who it was and later on, I read it in the paper
Q. Uh, huh?
A. that it was John Stanley.

John Plummer Stanley

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Q. After you heard about John Stanley's being arrested on the 18th, or shortly thereafter, did you at that time recall that you had been with him on the 13th approximately 8:30?

A. Well, I—on the 13th, well, after I heard about it, well, I know it was the 13th, well, the date I wouldn't say I exactly know it was the 13th, but I know it was a Wednesday that we was together,

Q. Uh,huh?

A. and it was that—that Wednesday—I remember it was Wednesday because I went over my aunt's house, that's why I said, you know, that I feel that he didn't do it, you know, that's why—

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JOHN PLUMMER STANLEY, the defendant, being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Barney:

Q. John, answer the questions so Judge Bohannan, Mr. Wyatt and the Jury can hear you, look at the Jury as you answer the questions. State your full name, age, your full name and age?

A. My name is John Plummer Stanley, age twenty.

Q. John, where do you live?

page 120 } A. I was station on Post, but when I'm not on Post, I'm at 120 Spruce Street.

Q. 120 Spruce?

A. Yea.

Q. What about this Montgomery Street address?

A. I lived there before I entered service.

John Plummer Stanley

Q. Now, who lives on 120 Spruce Street?

A. My aunt, she's a beautician, Mrs. Mary Powell

Q. And where are your folks?

A. My father's in Petersburg now and my mother's in Washington, D. C.

Q. You don't have to lean up against that thing, just speak loud, that will pick it up. Now, John, you know what you are charged with today?

A. Yes, sir.

Q. What are you charged with?

A. I'm charged with armed robbery on December the 13th.

Q. Armed robbery of what?

A. Ice cream store on Sycamore Street.

Q. Did you rob that store on the 13th?

A. No, I didn't.

page 121 } Q. John, how far is Spruce Street from High's Ice Cream Store?

A. It's about a block and a half because I know I pass there every day.

Q. You pass High's every day?

A. Yes, to come down to South Avenue.

Q. How often have you been in High's?

A. I go in there on Sunday mornings to get cokes for my aunt.

Q. Do you know—have you ever seen the two women that testified today, Mrs. Keeton and Mrs. Phillips?

A. I see them often, I don't—I just don't know their names.

Q. So you've been in High's more than the two times that these people testified that you were there?

A. What do you mean more than the two times, I was never in there in those robberies.

Q. Well, Mrs. Phillips, I understood, that she's only seen you twice,

A. Yes,—

Q. you've been in High's more than twice?

A. Yes, I have, a number of times.

page 122 } Q. And have Mrs. Phillips or Mrs. Keeton been there every time that you were there?

A. I remember Mrs.—the smallest one because of her height and weight, not by her name.

Q. I see, well, John on this particular day, the 13th of December, do you recall where you were between the hours of approximately 7:30 until, say, 9:30 or ten o'clock that night?

John Plummer Stanley

A. Yes, sir, I do.

Q. Now, how do you happen to recall specifically the 13th of December?

A. Because it's very seldom that I have a date and so I—when I do have one, I would like to remember it.

Q. And what do you mean very seldom you have a date?

A. You know, whenever I carry a young lady out anywhere.

Q. What did you say?

A. Whenever I carry a young lady out.

Q. And who is the young lady you were taking out that night?

A. Mrs. Gertrude Savage, Miss.

page 123 } Q. Is that the young lady that testified earlier?

A. Yea, that's the first one.

Q. Now, turn around and face the Jury and answer the Jury, you don't have to speak so close to that mike,

A. All right.

Q. it will pick it up now, when did you first see Gertrude that night?

A. I saw her when I was in J & B, that was about, I came in there about 7:30.

Q. Say where?

A. A little after seven, I couldn't call it right off-hand.

Q. Where had you been?

A. I had been home.

Q. And by home you mean Spruce Street?

A. Yes, 120 Spruce Street.

Q. Who was at J & B when you got there?

A. When I came in there was Gertrude, she was there, talking to the women that works in there, because she works in there some time, part time.

Q. Now, how did you go from home to the J & B?

A. From home to J & B, I came out of Spruce

page 124 } Street towards Sycamore, down Adams Street, down Marks around by High's and down Sycamore, kept straight on down to this place, I think it's College Avenue on around across Harrison and around to Sycamore.

Q. Around to the J & B?

Q. Yes.

Q. Now, what time did—what time did Allen Lewis get there?

A. Allen got there—must have been a little after seven, something after seven, anywhere between seven o'clock, I couldn't say, I wasn't near when he got there.

John Plummer Stanley

Q. Where were you when he got there?

A. First I was in the Pool Room, you know, I walk into the Pool Room, I always go in there first and then I came over to the restaurant.

Q. Was he there when you got there?

A. I don't think he was unless he was in the telephone booth.

Q. And what time do you think you saw Allen?

A. I guess it was about seven-thirty, something like that, seven-thirty, or something to eight, something like that.

Q. And what did you all do?

page 125 } A. We set down a little while in the J & B and then I asked him to go with me up to my aunt's house.

Q. And where does your aunt live?

A. She lives on Byrne Street, 480.

Q. And what is her name?

A. Mrs. Dorothy Randolph.

Q. Now, why did you decide to go to see your aunt?

A. On this particular night, I was looking for another young lady, I was going up Byrne Street and we ran into this young lady coming down Byrne Street. She was coming around from the corner of New Street to Byrne Street and by being so close to my aunt's house and we were on our way up there, I just turned into my aunt's house and we went in.

Q. Do you know what time you left J & B to go to your aunt's house?

A. I guess it was about quarter to eight or ten to eight, something like that.

Q. And what—how do you place the time?

A. I looked at the clock, but the clock's not accurate I don't think.

Q. You looked at the clock?

page 126 } A. Yes, but I don't think the clock is accurate.

Q. How do you get to your aunt's house from J & B?

A. We walked.

Q. Well, how did you go, what street did you go?

A. We came out of J & B and went towards Halifax and it's lacking a intersection there, Byrne run in right off, almost on a peak towards South Avenue and Halifax, we came around, walked sorta in a circle back around and up Byrne Street all the way up.

John Plummer Stanley

Q. Did you go by High's Ice Cream Store when you left—when you left the J & B?

A. No, I didn't.

Q. When you got to your aunt's house, who was there?

A. When I got to my aunt's house she was there; she open the door, this lady that lives there, Mrs. Jones, and my aunt's boyfriend.

Mr. Wyatt: Who was there, I didn't catch it.

A. My aunt's boyfriend.

page 127 } Q. Do you know what time you got to your aunt's house?

A. I guess it was about eight o'clock or something like that. I guess it was around in there.

Q. What did you say?

A. I guess it was around eight o'clock, something like that.

Q. And what did you do up there when you were there?

A. We sit down, they were watching TV and they—we started to talking about my being in service and different things and how I got along down there.

Q. Do you know what program they were watching on TV?

A. No, because I wasn't paying any attention—

Q. Put your hand down.

A. I wasn't paying any attention.

Q. Now, when did you decide to leave?

A. Well, I guess it was about eight-thirty, something like that, because I know we had to be back down to J & B's, we couldn't keep those people waiting all night.

Q. And how did you all leave your aunt's house?

page 128 } A. By cab.

Q. Who called the cab?

A. My aunt did, Mrs. Randolph.

Q. Do you know what cab they called?

A. No, I couldn't say, I didn't pay that much attention to it, I just came out and we got in it,

Q. Uh, huh?

A. it had to be one of the two, it was a colored cab, Boulevard or Richardson.

Q. And what did you do after the cab came?

A. Well, we went to South Avenue again, to J & B's.

John Plummer Stanley

Q. And from there, where did you go?

A. We went in there and we came back out and got a cab from there to Leo's Lounge where we stayed the rest of the night until closing time, that's about midnight.

Q. Now, were you ever out of the sight of Allen Lewis any time from the time you all left South Avenue until the time you came back and went downtown?

A. No, I wasn't.

Q. He was with you all the time?

A. Yes, he was.

page 129 } Q. John, were you ever convicted of a felony?

A. Ever convicted of a felony, yes, I was.

Q. What was it?

A. I think it was a—auto theft, having to do something with *a* auto.

Q. When was that?

A. That was in first part of '66 or last part of '65, I think.

Q. I see. John, when you were questioned by the Police, were you asked did you rob this place?

Mr. Wyatt: What was that?

A. Was I asked?

Mr. Barney: When he was questioned by the Police was he asked did he rob the High's Ice Cream.

A. Yes, I was.

Q. And what answer did you give?

A. I told them I didn't.

Q. Have you ever admitted robbing High's?

A. No, I didn't.

page 130 } Q. John, after they called the cab up in—on Byrne Street, how long do you think it took the cab to get there?

A. I'd say about—anywhere between, I say, three to five minutes, because I been in the cab stand right often and I know the message they use, a cab could be on—on call anywhere, and if it's near this residence, the closest one to the call takes it.

Q. Do you know what time you left your aunt's house approximately?

John Plummer Stanley

A. It was twenty minutes to nine, I say about twenty minutes to nine.

Q. I see. Answer Mr. Wyatt's questions.

CROSS EXAMINATION

By Mr. Wyatt:

Q. Where were you staying when—on the 13th of December?

A. On the 15th of December?

Q. 13th?

A. 13th of December?

Q. Uh, huh?

A. I stay on Spruce Street, 120 Spruce.

Q. 120?

A. Yes, sir.

page 131 } Q. 120, you say?

A. Yes, sir, 120 Spruce.

Q. Where were you on the 18th, same place?

A. Yes, sir, I was.

Q. You got arrested on the 18th, didn't you?

A. Yes, I did.

Q. When did you—when did you start staying on Spruce Street?

A. I started somewhere around in October.

Q. October?

A. Yes.

Q. When did you leave Fort Lee, what date?

A. I really left Fort Lee on the 19th of October.

Q. How long—how long would you pass?

A. Not being AWOL?

Q. I didn't ask you that, I ask how long a pass did you have to get—to leave Fort Lee?

A. We arrived on Saturday, we had from Saturday afternoon until Sunday night at 11 o'clock.

page 132 } Q. You had—and that's October?

A. Yes, it is.

Q. October 19th would be a Thursday, huh?

A. That's when I left Fort Lee on AWOL.

Q. And when did you get back to Fort Lee, have you been back yet?

A. Yes, I have been back since then.

John Plummer Stanley

Q. You reported back to your Commander, Company Commander?

A. No, I didn't.

Q. You have not reported back to your company since October 19th?

A. To my company I had,

Q. Yea?

A. I reported to the Military Police.

Q. You've mentioned that—do I understand that you've been AWOL since October 19th, is that—

A. Yes, that's when I first went AWOL, I went AWOL again in November.

Q. Well, now, in November—why, I've not got nothing to do with what you do in military life, I want to find out where you are staying in Petersburg, did you stay in

page 133 } Petersburg continuously from October the 19th to this date, of course, you've been in jail since October—since December the 18th, I understand?

A. Correct.

Q. From October the 19th to December the 18th, you were not at Fort Lee?

A. I was a portion of the time.

Q. How much time?

A. From November the 23rd until the 24th, nine o'clock that morning.

Q. Fort Lee from November 23rd to 24th?

A. Yes, sir.

Q. You said something about second AWOL, is that when you got

A. Yes,

Q. AWOL?

A. I did.

Q. So you have not been back to Fort Lee since November the 24th?

A. No.

Q. And you have been AWOL in November as well as October and as well as in December?

A. That's correct.

Q. And you are staying at—on Spruce Street?

page 134 } A. Yes.

Q. How far is that from High's Ice Cream?

A. A block and a half.

Q. Huh?

John Plummer Stanley

A. A block and a half.
Q. South of it, huh?
A. Yes.
Q. Do you have a brown coat, tan and brown coat?
A. I've got a brown one, it's a long suede.
Q. Do you have—
A. It hasn't been in my possession since October though.
Q. Has not?
A. Yes.
Q. Do you have checked colored pants, plaid pants?
A. As a matter of fact, I've got three pair.
Q. Three pair of plaid pants?
A. Yes, all accounted for.
Q. Huh?
page 135 } A. Yes, all accounted for.
Q. All of them plaid?
A. Yes,
Q. Uh, huh?
A. three pair of plaid, large plaid, and two pairs built on small checks.
Q. So when did you see Stanley before—when you met up with him down on South Avenue there?
A. I been with Stanley—
Q. Is that the first time you seen him since you been back to Petersburg?
A. No, my name is Stanley, I been named Stanley twenty years.
Q. I mean Lewis, Lewis, beg your pardon?
A. Lewis, I met up with Lewis that first time that day on South Avenue at J & B.
Q. You met up with him that day?
A. Yes, that was the first time that day.
Q. What time you meet him that day?
A. It was about—anywhere from twenty-five past seven to seven-thirty, something like that, about five minutes.
Q. That's the first time—that's the first time
page 136 } you ever met Lewis?
A. No, it isn't.
Q. That's the first time you saw him that day?
A. That day.
Q. That's the first time you saw him that week?
A. No.
Q. How long had it been before since you saw him prior

to this night that High's Ice Cream Parlor was robbed on the 13th?

A. I saw him the day before.

Q. Where?

A. In the pool room.

Q. Well, when did you make this date with Miss Savage?

A. That was the day before, too.

Q. You made the date with Miss Savage the day before?

A. Yes, sir.

Q. Where were you going to meet her?

A. It was supposed to been in the J & B.

Q. What time?

page 137 } A. I told her that I would be in there by 7:30.

Q. Uh, huh, was she there—was she there when you got there?

A. She was there when I got there.

Q. She was waiting for you,

A. Yes, sir.

Q. is that right? And what did you all do when you met her?

A. We sit and we talked a while.

Q. Huh?

A. We sit and we talked awhile,

Q. Uh, huh?

A. until I started up my aunt's house, Allen and myself.

Q. You telling the Court, you are telling the Jury that you have dates so rare that when you do have them, you remember them?

A. Yes, that's exactly what I'm saying.

Q. And you had a date with this girl that night and to you that was a rare thing?

A. That's right, a rare thing.

Q. And just what time you met her there to fill the date, she was waiting for you, you left her and went up to see your aunt?

page 138 } A. What did you say, repeat that again, I got the last part, not the first.

Q. All right, just about the time you met this date, which is very rare for you, she met you, waiting for you,

A. Uh, huh.

Q. just about the time you met her, according to your testimony, you left her and walked way up on Byrne Street to visit your aunt,

John Plummer Stanley

A. That's right.

Q. stood her up, so to speak?

A. No, I didn't.

Q. Well, you left her, you left your date to go see your aunt?

A. That's right, but she knew my whereabouts.

Q. And at that time did—at the time you left to go see your aunt, you knew—you walked up there, you say,

A. Yes, sir, I did.

Q. you knew it would take fifteen minutes walk to go up there?

A. Somewhere along like that because we don't walk like we are racing, we take our time, we talk.

page 139 } Q. When the last time you had been paid in the Army?

A. The last time I was paid, uhmmmm, the first of November, I think.

Q. On November the 1st?

A. Yes.

Q. You didn't get paid on December the 1st?

A. December the 1st?

Q. Yea?

A. I wasn't in the Army.

Q. I see, so you didn't earn any money from the 1st of November until December the 13th or 18th or what not?

A. Yes, I did.

Q. Where?

A. in the pool room.

Q. What did you do in the pool room?

A. Shoot pool.

Q. You mean gambling?

A. You could call it that.

Q. You mean you made some money playing pool with your friends, huh?

A. Yes,

page 140 } Q. And other people?

A. friendly game.

Q. Uh, huh, make any on the evening of December 13th?

A. December 13th?

Q. Yea?

A. No, I didn't, not saying that I didn't have any money, I just say I didn't make any.

John Plummer Stanley

Q. At any rate you were not with your girlfriend around 8:30?

A. I wasn't with her around 8:30.

Q. Yea, your rare date, Miss Savage, you were not with her around 8:30 that evening, you were away from—

A. Saturday.

Q. you were away from her from eight o'clock—

A. Around 8:30, I might not have been there,

Q. Uh, huh, all right?

A. around 8:30, that take in a whole lot of time, around eight-thirty.

Q. How far—do you know where South Sycamore Street is?

page 141 } A. South Sycamore?

Q. Yea?

A. I guess that's the portion where High's starts going down.

Q. Huh?

A. I guess that's the portion where High's starts going down.

Q. Do you know where Sycamore Street is?

A. Yes, I do.

Q. Do you know where South Sycamore Street is?

A. Uhmm, yea, I would say so.

Q. Huh?

A. Yes, I would, that's the portion going downtown towards, the—

Q. Where would you say it starts, where would South Sycamore Street start?

A. To me, I say it starts at Fillmore.

Q. Fillmore Street?

A. That's what I say.

Q. Uh, huh, so High's Ice Cream Parlor would be on Fillmore, would be on South Sycamore Street?

A. No, sir, I say the side that Fillmore has to

page 142 } be on—

Q. Well, where would North Sycamore start?

A. At Fillmore, too.

Q. Uh, huh, and Central Park would be on North Sycamore Street?

A. Central Park would be on South.

Q. Huh?

John Plummer Stanley

A. Central Sycamore—I mean Central Park would be on South Sycamore.

Q. South Sycamore,

A. Yea.

Q. why would Central Park be on South Sycamore Street, if South Sycamore Street started at Fillmore, Fillmore is the other side of Central Park?

A. Depend on which you coming, isn't Fillmore—Bolling Junior High, doesn't they have a school on that?

Q. Yes, sir.

A. Well, all right.

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page 143 }

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Q. You live a block and a half from South Sycamore Street?

A. Yes.

Q. I mean you are staying there, you say?

A. I said.

* * * * *

REDIRECT EXAMINATION

By Mr. Barney:

Q. John, let me ask you one question, where does your mother live?

page 144 } A. In Washington, D. C.

Q. Does she ever send you any money?

A. Yes.

Q. How often?

A. Whenever I ask for it.

Q. Just a second—at—Mr. Wyatt asked you a question, at 8:30 you said you weren't with—you weren't with Gertrude Savage, now who—

A. You stated at 8:30 exactly, he stated around eight-thirty.

Q. Where were you around 8:30?

A. Around 8.30, I was probably on my way back down there, if not, I was there.

* * * * *

RECROSS EXAMINATION

By Mr. Wyatt:

Q. According to your testimony you do go in High's Ice Cream?

page 145 } A. Yes, I do.

Q. Well, where would you be, why you got such a bad feeling about being there on the night of the 13th, you go there any other night you want to, you say?

A. I wasn't on an errand, and didn't go to High's Ice Cream.

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DORIS RANDOLPH, introduced on behalf of the defendant, being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Barney:

Q. Doris, state your full name, age and ad-

page 146 } dress?

A. Doris Randolph, thirty-three, 480 Byrne Street.

Q. Now, speak up so the Jury and the Judge and Mr. Wyatt can hear you. Are you any kin to the defendant here, John Stanley?

A. He's my nephew.

Q. He's your nephew. Do you know where he lives?

A. No, I don't.

Q. How often do you see him?

A. Not too often.

Q. Do you remember the last time you saw him?

A. It would be on a Wednesday night.

Q. Now, speak up a little bit—on a Wednesday night, what date?

A. 13th.

Q. 13th, what month?

A. December.

Q. 1967?

A. Yes.

Doris Randolph

Q. How do you know it was on a Wednesday
page 147 } night?
A. 'Cause I always have company on that night.
Q. You always have company, and who was your company?
A. A fellow by the name of (first name unintelligible) Webster.
Q. Is that the only night he comes to see you?
A. Well, on Sundays and Wednesdays, he don't come out no more 'til Wednesday night (balance of answer unintelligible)
Q. Do you recall seeing, you say you saw Stanley that night, do you recall what time it was?
A. It was a little after eight o'clock.
Q. A little after eight, how do you know?
A. 'Cause something was on television I just happened to look at the time, it was coming on television.
Q. And where did you see him.
A. He was at my house.
Q. Who was he with?
A. Another fellow, he was with somebody else, I can't think of his name.
page 148 } Q. I see, how long did he stay at your house?
A. 'Til something to nine.
Q. And how did he leave?
A. He asked me to call a cab for him.
Q. Did you call a cab?
A. Uh, huh (witness is out of proximity with microphone)
Q. When did he first arrive at your house?
A. Excuse me?
Q. When did he first arrive?
A. I don't understand the question.
Q. When did he first get to the house?
A. That night?
Q. Uh, huh?
A. It was a little after eight.
Q. A little after eight?
A. Uh, huh.
Q. And who let him in?
A. I did.
Q. And this one other question, who was there besides you and your boyfriend?

Doris Randolph

A. Well, the other fellow that came with him, he was there and a friend of mine, he was there, Mrs.
page 149 } Jones, she was—

Q. How many people altogether?

A. Five.

Q. Five.

A. Uh, huh.

Q. I see. Answer Mr. Wyatt's questions.

CROSS EXAMINATION

By Mr. Wyatt:

Q. Five people?

A. Yes.

Q. All of them in the front room?

A. Yes, sir.

Q. Got a clock in that room?

A. Yes, it is.

Q. Where is it?

A. On the mantlepiece.

Q. Are you sure it ain't on the floor?

A. No, it's on the mantlepiece.

Q. Huh?

A. It's on the mantlepiece.

Q. Uh, huh. And you don't know where Stanley lives?

A. No, I don't.

page 150 } Q. You know any good reason why he should pick the night of December 13th to come to see you about five or ten minutes or half hour when you hadn't seen him in so long?

A. Well, sometimes he would—he come by sometime to see me.

Q. How many—how long has it been since you had seen him before that night?

A. I don't remember.

Q. Huh?

A. I don't remember.

Q. When did you find out he was arrested for robbing High's Ice Cream Parlor?

A. Well, a girl told me about it and I came down to see if he was actually here.

Q. Did somebody tell you that was December the 13th?

A. No, they didn't tell me that, I read that in the paper.

Doris Randolph

Q. You read it in the paper?
A. Uh, huh.
Q. And you read it in the paper before this hearing in Police Court, didn't you?
A. Yes.
page 151 } Q. Did you go down to Police Court to testify for him?
A. No, I was down there, but I didn't have to testify.
Q. Uh, huh, you didn't talk to his lawyer?
A. No, I didn't.
Q. And you found out then what time it happened by hearing the evidence down there, you found out what time it happened when the police came in High's Store?
A. I still don't know what time it happened.
Q. You don't?
A. No, nobody ever say.
Q. Who have you talked to before you came in here today?
A. Nobody.
Q. Have you talked to Stanley?
A. Well, I saw him yesterday.
Q. You saw him yesterday, uh, huh, how long he been in jail?
A. How long has he?
Q. Yea?
A. Since that day.
page 152 } Q. And that was the 18th of December?
A. I think it was the 18th,
Q. And yesterday—
A. the 18th or 19th.
Q. And yesterday is the only day you went to see him?
A. No, I been coming down to see him.
Q. How often?
A. Well, the first two Sundays I came, two or three Sundays I missed, and yesterday I came.
Q. Uh, huh, you only come on Sundays,
A. Yes.
Q. but he hardly ever came to see you when he was there?
A. Well, he—I got a message a few times that he had been by to see me, but I was working, so I didn't—
Q. You can't go to see him 'cause you said you don't know where he lives?
A. No, I don't.

Doris Randolph

Q. You didn't know he stayed with your sister around on Spruce Street, do you?

A. No, I didn't.

Q. Is that your sister around there?

page 153 } A. No, that's my aunt.

Q. Your aunt?

A. Yes, that's my aunt.

Q. She's your aunt and his aunt, too?

A. I'm his aunt, she's my aunt, my mother's sister.

Q. Oh, she would be his great aunt then, old lady, uh, huh. And you didn't know he was around there?

A. No, I didn't.

Q. Do you know when he left Fort Lee?

A. No, I don't.

Q. Do you know whether he was in the Army or not?

A. Yea, well, he was in the Army.

Q. Huh?

A. He was in the Army, he was called into the service.

Q. Huh?

A. He was called into the service,

Q. Uh, huh?

A. that I know.

Q. You don't know where he's supposed to have been?

A. No.

page 154 } Q. And you say there were five people in that room?

A. Yes.

Q. What cab—and you called the cab?

A. No, the lady of the house called the cab, 'cause she was on the phone at one time and—

Q. That's what I'm getting at. Now, who is the lady of the house?

A. Mrs. Elsie Jones.

Q. Mrs. Elsie Jones called the cab to come and get Stanley and the other man who was with him?

A. Uh, huh.

Q. Thank you, ma'm.

REDIRECT EXAMINATION

By Mr. Barney:

Q. Just one last question, what time did they leave your house?

Doris Randolph

A. It was a little before nine.
Q. A little before?
A. Uh, huh.
Q. Was it closer to 8:30 or closer to nine?
page 155 } A. It was closer to nine, about ten or five minutes to nine.
Q. And what time did you say you think he got there?
A. A little after eight.
Q. A little after eight and left ten minutes to nine, all right, thank you.

Witness stood aside.

Mr. Barney: That's the case, Judge.

* * * * *

page 156 } NOTE: At this time, the Court declared a recess for lunch, admonishing the Jury, after which:

The Court: All right, Mr. Andrews?
Mr. Andrews: Your Honor, before the Jury returns, to make sure it's on the record, the defense would like to move at this time to strike the Commonwealth's evidence on the ground that it—that any verdict rendered thereon would be contrary to the law and the evidence and also further that the in-court identification was governed by the holding of the Supreme Court in *Wade,* and by the expounding of that idea in the case of *Gilbert* and *Stovall,* and that the Commonwealth failed to establish prior to the in-court identification, or at any time during its evidence, that the in-court identification was not tainted by the prior pre-trial identification out of the presence of counsel.
The Court: Motion is overruled.
page 157 } Mr. Andrews: Exception.

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page 160 }

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Mr. Andrews: Your Honor, at this time, defense moves to set aside the verdict as contrary to the law and the evidence.

The Court: Motion's overruled.

Mr. Andrews: Exception.

The Court: The defendant will stand:

The Jury has found you guilty as charged in the indictment, of robbery and has fixed your punishment at confinement in the State Penitentiary for a term of twenty years.

It is, therefore, considered by the Court, and it is page 161 } the judgment and sentence of the Court, that you be confined in the Penitentiary of the State of Virginia for a term of twenty years, unless sooner discharged by law.

* * * * *

A Copy—Teste:

Howard G. Turner, Clerk.

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