

1 JOHN STANLEY

2 Called as a witness by the Defendant, being first  
3 duly sworn in according to law by the Bailiff, was examined  
4 and testified as follows:

5 DIRECT-EXAMINATION

6 BY - MR. BANKS:

7 Q Please state your name for the record.

8 A John Stanley.

9 Q And how are you employed Captain Stanley?

10 A With the Bucyrus Police Department.

11 Q How long have you been employed in that capacity?

12 A In excess of 27 years.

13 Q Captain Stanley, are you familiar with this case?

14 A To some degree, yes.

15 Q Have you had some involvement initially?

16 A That's correct.

17 Q In trying to establish the identity of the person  
18 named Kevin; is that right?

19 A That's right.

20 Q Can you tell me about your first involvement and  
21 with whom?

22 A My first involvement when I arrived at work that  
23 particular morning--

24 Q What particular morning?

25 A Monday morning, I believe it was the 14th of

1 February.

2 Q And what happened?

3 A Well I learned about the case, learned about what  
4 had happened, what had been done thus far and I believe the  
5 next thing that I did was to assist with the media handling  
6 some of those calls that came in and so on.

7 Then later on in the morning, I took some aerial  
8 photographs of the area for the detectives to use at a later  
9 time.

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

11 A About 27 years.

12 Q Okay. And in a case of this magnitude, can you tell  
13 us what your procedure would be with regard to persons that  
14 were victims, injured, in the hospital and maybe their final  
15 physical outcome not being known to you? Do you take any  
16 type of extra precautions?

17 A Yes, we would make every effort to question them as  
18 early as the medical people would allow us to do so.

19 Q During that questioning do you use any type of  
20 support mechanism like a tape recorder or a video camera to  
21 insure the accuracy?

22 A We have used those yes.

23 Q Well, my question was: What is the procedure of a  
24 professional police officer with your years of experience  
25 when you are investigating and you want to preserve the

1 evidence?

2 A Well, that would depend on the circumstances. If  
3 they were in a local hospital, I would go there personally  
4 and take along a recorder or possibly a video recorder.

5 Q As a matter of fact in this situation you did make a  
6 recording and did record the telephone conversation with  
7 Mr. Warren; didn't you?

8 A Yes, that's correct.

9 Q And why did you do that?

10 A Well, first of all, all of our incoming calls are  
11 recorded.

12 Q But you called him back. That wasn't an incoming  
13 call that you recorded. You called back the hospital; isn't  
14 that correct?

15 A Yes, I did.

16 Q On a different line. That wasn't an incoming that  
17 automatically is recorded. You took a tape recorder to the  
18 phone and recorded that information with regard to the  
19 conversation; didn't you?

20 A No, that is not correct.

21 Q How did you record it?

22 A I called him back on one of our regular lines that  
23 is recorded.

24 Q So you have the mechanism built in; is that correct?

25 A Yes.

1 Q Now, why did you do that?

2 A To record the telephone call.

3 Q How many telephone calls did you have to him?

4 A Two, I believe.

5 Q And how many telephone calls did you record?

6 A We recorded the first one. The second one I don't  
7 recall whether or not that was recorded or not. I don't  
8 believe it was.

9 Q Now, Captain Stanley, 27 years of service, and you  
10 are trying to determine from this victim the identity of his  
11 assailant as best as is possible?

12 A Yes, sir.

13 Q And, in fact, the first telephone call you had a  
14 discussion about the first name; is that right, and you  
15 recorded that?

16 A That's correct.

17 Q And then you had a meeting with Patrolman Hickman in  
18 Galion and with Chief Smith in Crestline based on the  
19 physical description, to try to attain a last name; didn't  
20 you?

21 A That is correct, yes.

22 Q So you were still trying to learn information about  
23 the assailant and didn't record the second conversation?

24 A Well, that isn't something we necessarily have  
25 control over.

1 Q You have control. You had control the first time  
2 when you called and recorded the information. You wanted to  
3 make sure you got everything he said down; didn't you?

4 A He called me. All incoming phone lines, unless the  
5 first three are full and it would happen to come in on the  
6 fourth line.

7 Q I understand how that works. I am interested in how  
8 you would, with 27 years of experience, are cautious enough  
9 to record conversations with Mr. Warren about the first name  
10 and then when you call back to get the last name, wouldn't  
11 you say that was equally important?

12 A The recording--

13 Q Yes or no, was that equally important?

14 A It was certainly important.

15 Q You had two names: Kevin Keith and Kevin Thomas; is  
16 that correct?

17 A That is correct.

18 Q When you called back a second time, you were trying  
19 to relate and match up and see if he could identify the last  
20 name?

21 A That is correct.

22 Q And you didn't think it was important enough to  
23 record or is it your testimony that you just don't recall  
24 whether you recorded it or not?

25 A I don't recall, sir.

1 Q Could you check and see?

2 A Yes.

3 Q Now you called the hospital back.

4 MR. BANKS: May I use the blackboard, Your  
5 Honor?

6 THE COURT: Certainly.

7 Q (Mr. Banks) Can you see this Captain Stanley?

8 A Yes.

9 Q You called the hospital back and gave him the name  
10 of Kevin Keith; is that right?

11 A I mentioned four names to him, one at a time.

12 Q You mentioned Kevin Keith?

13 A That is correct.

14 Q And the second one, or one of the four was Kevin  
15 Thomas?

16 A That is correct.

17 Q Now what was the third name?

18 A There were two other names I simply made up.

19 Q Well tell us what they were?

20 A I did not make a notation of that.

21 Q Do you have any notes that would reflect what the  
22 other two names were?

23 A No, I don't.

24 Q So are you sure you gave him four names or don't you  
25 recall whether it was just these two?

1 A I am certain I gave him four names.

2 Q You just don't know what they were?

3 A That is correct. The first names of these two  
4 others would have been Kevin and I made up the two other  
5 last names.

6 Q With your 27 years of experience, isn't your  
7 responsibility in a case of this importance to keep some  
8 type of notes, some type of record, as to what you do and  
9 particularly when you are trying to get a person to identify  
10 the name or stature of a person? Wouldn't your experience  
11 tell you that you should have done that?

12 A No, it wouldn't.

13 Q Now when you gave those four names or at least the  
14 two and the two we don't know, you reported that Mr. Warren  
15 said he was 75 percent sure it was Keith; is that correct?

16 A Yes.

17 Q Now on the telephone call that you made, where did  
18 you make the call from -- your police department?

19 A Yes, I did.

20 Q In Crestline?

21 A Bucyrus.

22 Q I'm sorry. Okay.

23 And it was recorded?

24 A That's correct.

25 Q And you have a copy of that recording?

1 A Yes, we do.

2 Q And you said that he identified in this particular  
3 telephone conversation the name Kevin; is that right?

4 A Yes.

5 Q Handing you what has been marked as Exhibit 4.  
6 Would you take a little time to look at that please.

7 A Yes.

8 Q Can you identify it?

9 A Yes, that appears to be the typewritten transcript  
10 of that particular phone call.

11 Q And is the phone call a conversation between you and  
12 Richard Warren; is that correct?

13 A Yes.

14 Q Could you go carefully through that and tell me or  
15 show me and the Court where Mr. Warren told you that the  
16 name was Kevin?

17 A All right. (looking through the document)  
18 And your question again, sir?

19 Q The question is would you point out to me where  
20 Richard Warren told you that the shooter's name was Kevin?

21 A According to this transcript-- I was told that  
22 originally by the nurse.

23 Q That's not what you told me. I asked you about the  
24 transcript and the telephone conversation whereby you said  
25 Richard Warren identified the shooter to you as a Kevin.



1 Please show me in the transcript of that telephone  
2 conversation where the name was--

3 A It was first mentioned by the nurse and later on--

4 Q I am asking you--

5 MR. WISEMAN: Please let him finish.

6 Q (Mr. Banks) I apologize, please finish answering.

7 A Okay, then later on, the second page, I responded to  
8 him by indicating if Linda recognized Kevin. And I do not  
9 see any transcription where he actually mentioned the name  
10 Kevin.

11 Q Do you believe that that is an accurate  
12 representation of the telephone conversation you had?

13 A To the best of my knowledge it is, yes.

14 Q And nowhere in there does Richard Warren mention a  
15 Kevin as the shooter. You mentioned it to him. Isn't that  
16 a fact?

17 A After I was told by the nurse.

18 Q Well, I am not talking about what you were told by  
19 the nurse. I am talking about Richard Warren and what you  
20 were told by him.

21 A That's correct.

22 Q As a matter of fact, you were at the scene of the  
23 shooting and the METRICH Unit brought up Kevin Keith's name  
24 first; isn't that correct?

25 A I'm sorry would you repeat that?

1 Q The METRICH Drug Trafficking Force was at the scene  
2 that night and were the first ones to mention Kevin Keith's  
3 name?

4 A Not to me, sir.

5 Q Are you a part of the METRICH Unit?

6 A No I am not.

7 MR. BANKS: May I have just a moment, Your  
8 Honor.

9 THE COURT: Certainly.

10 Q (Mr. Banks) Now, you were a part of the photo  
11 lineup; weren't you?

12 A No.

13 Q You had nothing to do with picking out the pictures  
14 that were going to be in the photo lineup?

15 A No, I did not, sir. I directed another officer to  
16 handle that.

17 Q What officer would that have been?

18 A That would have been Officer David Koepke.

19 Q And since you had two names that fit the physical  
20 description and based on your involvement and experience,  
21 did you instruct him to put Kevin Keith's picture in there?

22 A Yes, I did.

23 Q Did you instruct him to put Kevin Thomas' picture  
24 in?

25 A No, I did not.

1 Q So two of the people you knew from Crestline that  
2 fit that description and you only focused on one in the  
3 lineup?

4 A That's correct.

5 MR. BANKS: Nothing further.

6 CROSS-EXAMINATION

7 BY - MR. WISEMAN:

8 Q Where did you first hear the name Kevin Keith,  
9 Captain?

10 A From the nurse at the hospital that placed the call  
11 to me on Mr. Warren's behalf.

12 Q Do you know the name of this nurse?

13 A Amy Gimmets.

14 Q And what did she tell you?

15 A She told me that-- May I read it?

16 Q Yes.

17 A She said:

18 "Hi, this is Amy Gimmets. Letting you know that  
19 the name of the patient -- the patient has  
20 identified the assailant. I guess, his first name  
21 is Kevin. He doesn't know the last name but he  
22 said if you talk to Dameon who was Marcella --  
23 which is I guess the victim, her brother is  
24 Dameon, and Dameon knows Kevin's first name. And  
25 apparently the patient and Marcella were boyfriend

1                   and girlfriend."

2           Q           So armed with that, you made the second phone call  
3 or you contacted Mr. Warren at the hospital?

4           A           Yes, that is correct.

5           Q           Was there a reason why you did this over the phone  
6 as opposed to taking the time to go down there?

7           A           Well, according to my information from the nurse,  
8 Mr. Warren had just come out of surgery and, of course, he  
9 had been shot and his condition was still tenuous at least  
10 to my understanding. So it was certainly important for me  
11 to gather all of the information I could immediately, should  
12 there be a reversal in the medical condition before the  
13 detectives could actually arrive in Columbus and personally  
14 interrogate him.

15          Q           Okay. Your testimony earlier was that when you  
16 talked to Mr. Warren you supplied four possible last names?

17          A           That is correct.

18          Q           Can you just tell us in your own words exactly how  
19 you did that? What did you actually say to Mr. Warren and  
20 what was his response?

21          A           I simply gave him four names. I am not sure the  
22 exact order. The names included Kevin Thomas and Kevin Keith  
23 and then I simply made up two other names.

24          Q           Excuse me, did you say Kevin somebody else?

25          A           Yes, Kevin somebody else.

1 Q And what was his response?

2 A He said, "I think it is probably Kevin Keith; that  
3 sounds like the correct last name."

4 Q And that is the response you had?

5 A Yes, that's correct.

6 Q And did you do anything at all to suggest one name  
7 or the other was something he should choose?

8 A No, I didn't.

9 Q Did you make an effort to speak the names neutrally?

10 A Yes, I did.

11 Q Do you have any explanation why the second call was  
12 not recorded?

13 A The only explanation I can think of is the first  
14 three lines, the recorded lines were full and we had many  
15 many incoming calls, particularly from the press that day  
16 and the fourth could have been the only line I could have  
17 used and it is an unrecorded line.

18 Q Do you know which line you called on?

19 A No, I don't.

20 Q Did you intend for the call not to be recorded?

21 A No, I did not.

22 MR. WISEMAN: Thank you. No further  
23 questions.

24 THE COURT: Mr. Banks, you may inquire.

25 MR. BANKS: Yes, Your Honor, briefly.

REDIRECT-EXAMINATION

BY - MR. BANKS:

Q Captain, did you tape the conversation between the nurse and yourself?

A Yes.

Q Okay, that was all part of this, of the first call, so that was on the tape?

A That is correct.

Q The part of the first call when you called back?

A Yes, it is.

MR. BANKS: Thank you.

THE COURT: Are we through with this witness?

MR. BANKS: Yes, Your Honor, we are finished.

THE COURT: You are excused John, thank you.

MR. BANKS: Your Honor, I don't think we need the next witness to be called. Based on that information, we rest.

THE COURT: All right. Does the State wish to call any witnesses?

MR. WISEMAN: No, just argument.

THE COURT: All right are you ready to proceed on arguments?

MR. BANKS: Yes. Your Honor, it is apparent