Maryland v. Bernard Webster

Review Report
Dated February 19, 2003
FSA File No. 03-142

and

Trial Testimony of
Concepcion Bacasnot

Maryland v. Bernard Webster

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February 19, 2003

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Re: Maryland v. Bernard Webster
Our File No. 03-142

Serology Testimony of Concepcion Bacasnot

Dear Ms. Morrison,

I am writing to inform you of my concerns about the serology testimony of Baltimore County Police Department serologist, Concepcion Bacasnot, in the trial of Bernard Webster. I am in possession of Ms. Bacasnot's trial testimony and her three page laboratory report dated August 25, 1982.

In addition to the reference samples from victim, Sally Ann Bowen, and Bernard Webster, Ms. Bacasnot examined vaginal washings from Bowen and an apparent semen stain from the Bowen green bedspread. Bacasnot failed to detect spermatozoa in the bedspread stain; however, she detected abundant spermatozoa from the vaginal washing. Bacasnot proceeded to conduct an ABO blood grouping analyses on these two samples. In both samples she detected the water soluble A and B blood group substances.

Bacasnot also determined from reference samples that Bernard Webster possessed ABO type A and that he was a secretor based on the finding of the ABO A and presumably H antigen in his saliva. Sally Ann Bowen was determined to be ABO type B from her blood. Her secretor status was never determined.

Since the ABO blood group substances from secretors are found in both vaginal secretions and in semen, the finding of the A and B blood group substances in a commingled semen stain where the female is ABO type B results in two possible ABO types for the semen source. The semen source can be either an ABO type A secretor, like Mr. Webster; or the semen source can be an ABO type AB secretor. ABO type A secretors occur in approximately 33% of the Caucasian population and approximately 19% of the Black population. ABO type AB secretors occur in approximately 3% of both the Caucasian and Black populations. Taken together individuals who are either A or AB secretors occur in approximately 36% of the Caucasian population and approximately 22% of the Black population.

At trial Ms. Bacasnot testified that the ABO type of the semen source was ABO type A [TT at 2-116].

On cross-examination Bacasnot was asked the following:

Q: And isn't it true, on the last page of the report you said that Type AB blood was detected from a portion of the stain, right?

A: Yes, sir. That is a mistyping. It should have been typed Type A and Type B blood groups was [sic] detected from a portion of the stain. [TT at 2 - 120]

On redirect examination Bacasnot was asked the following:

Q: Okay. Would it be possible, Mrs. Bacasnot, in your professional opinion, for our --- Strike that. Could you find characteristics of type A and Characteristics of type B in vaginal washings in the female with a Type B, and the person who had intercourse with her with a Type AB. Would you have the same findings as you have here?

A: No, sir. It should be different. [TT at 2-121]

At the end of this testimony Ms. Bacasnot had falsely testified that the only possible ABO type for the semen source from the Sally Ann Bowen vaginal washing was an individual who was an ABO type A secretor, like Bernard Webster. If fact there is no scientific mechanism to distinguish between a mixture of an ABO type AB secretor with an ABO type B secretor and a mixture between an ABO type A secretor and an ABO type B secretor. In both mixture scenarios the A and the B and the H antigens will be present in the mixture. In other words there is no such thing as an AB antigen that is uniquely produced by ABO type AB individuals. That this scientific fact is the case is known by every competent and honest forensic scientist.

Ms. Bacasnot's lack of honesty in responding to the questions put to her concerning the possible ABO types of the semen source perverted the Court's and the jury's understanding of this evidence. This misrepresentation was a violation of her witness oath and falls within the definition of material perjury. If this evidence was material to the fundamental identity issue in the Webster trial, his trial could not have been fair due to this false testimony.

Ms. Bacasnot's false testimony in this case is clearly designed to bootstrap the State's case theory. Such false testimony in this case can not be expected to be isolated. Rather, it reflects a fundamental lack of candor and integrity that can only result from systemic tolerance or systemic encouragement. In my judgment, Ms. Bacosnot's testimony in all serology cases should be thoroughly reviewed. This review should also encompass other State forensic serology employees.

Sincerely,

Edward T. Blake, D.Crim.

Maryland v. Bernard Webster

Trial Testimony of Concepcion Bacasnot

Maryland v. Webster
Testimony of
Concepcion V. Bacasnot
[Conviction Vacated Based on DNA Testing Conducted at SERI]

Your Honor.

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Bacasn

Whereupon,

CONCEPCION V. BACASNOT,

a witness of lawful age, being called as a witness on behalf of the State, was duly sworn, qualified, and testified as follows:

Whereupon,

DIRECT EXAMINATION

BY MR. LAZZARO:

THE CLERK: Would you please state your full name and current duty assignment for the record?

A My name is Concepcion V. Bacasnot, Forensic Chemist, Baltimore County Police.

Q Miss Bacasnot, how long have you been a member of the Crime Lab of the Baltimore County Police?

A Seven years, sir.

Q Okay. You're not a detective or police officer, are you?

A No, sir; I am a civilian.

Q Okay. Would you please give His Honor and

THE COURT: All right.

Q Okay. Well, could you please just describe the contents, Miss Bacasnot, since defense counsel has no objection. What does that envelope contain?

A This contains two vials of blood from Bernard Webster.

Q Okay. And from whom did you obtain those vials of blood?

A From Detective Einolf.

Q Okay. And when was that?

A August 17th, 1982.

Q Okay. And with respect to State's Exhibit 7 for identification, would you please identify that, please?

A Yes, sir. I have my initials, my signature, here, and the date and the time I received it, and also I sealed this after analysis. I have my initials and the date that I did the analysis, and the contents are two vials of blood from Sally Bowen, which I got from Detective Einolf.

Q Okay. Now, with respect to these vials of blood that we're discussing -- you can put that back in -- once you receive them from Detective Einolf, they remain in your custody; is that correct?

A Yes, sir.

Q And that is throughout your analysis and even thereafter; is that correct?

A Yes, sir.

Q I show you what's been marked as State's Exhibit 8 for identification and ask you if you can identify that, please. Let the record reflect I have opened that.

A Yes, sir. I have my signature, the date, and the time I received it from Detective Derbyshire and the -- it's a vial of blood from Mr. Bowen.

Q Okay. When did you receive that?

A February 28th, 1983, at eight o'clock in the morning.

Q Okay. And, finally, State's Exhibit 9 for identification, would you please identify that?

A Yes, sir. I have my signature, the date, and the time I received it here, and also my initials and the date after I finished the analysis. It is a vial containing vaginal washings from Mrs. Bowen, Sally Bowen.

Q And from whom did you receive those?

A Detective Einolf.

Q And what was the condition of that vial when you received it?

A This was frozen when I got it.

Q And what date did you get it?

A August 17th, 1982.

Q Okay. Why did you receive it on that date?

A The request for analysis was admitted for that on August 17th.

Q Okay. And what does that prompt you to do?

A What I did, I defrosted it and took my samples, and I put it back in the freezer to make it frozen.

Q Okay. Now, you analyzed, aside from the vaginal washings, you analyzed all of the blood here that you have just testified about; is that correct?

A Yes, sir.

MR. LAZZARO: All right. Now, before we get into the procedure of your analysis, Miss Bacasnot, and your findings, with Your Honor's permission and for the benefit of the members of the jury, I would like to ask Miss Bacasnot a few questions with respect to blood, semen, and the analysis of that, and I would ask if Miss Bacasnot could leave the stand and testify from this easel, Your Honor.

THE COURT: All right.

MR. LAZZARO: She has some charts here. You may step over here, Miss Bacasnot.

A Can everybody see?

MR. LAZZARO: Can the members of the jury see

this? Okay.

Q Miss Bacasnot, I guess we'll start with the basic question, what is blood.

A Well, here is a definition of blood. It's a red fluid circulating throughout the body via the heart and lungs to transport oxygen, to carry nutrients and waste. Now, it is eight percent of the total body weight, so if I weigh a hundred pounds, eight percent of that,or eight pounds, is blood.

Now,the blood is composed of the following. We have two main things in blood: the particulate matter and also the liquid portion of the blood. When you get a vial of blood, most of the time you have a liquid substance and a solid substance. The solid substances are the particulate matter, which consists of the red blood cells, the white blood cells, and the platelets. The red blood cells carries your hemoglobin; the white blood cells are your protectors, in case there is a disease in the body, and they act as your defense.

Now, the blood plasma is fifty-five percent of the total volume of the blood, whereas the particulate matter is forty-four percent. I'm explaining this, because we'll be concerned with red blood cells and also the liquid portion of the blood.

Q Okay. Now, Miss Bacasnot, what are blood types and what are their significance?

A Okay. We have four blood types. Okay. I have in here the blood type, the designation, the Type O, Type A, Type B and Type AB, and the frequency that is based on the blood we receive in the laboratory, which corresponds to the book, of course. Now, you know that Type O is the most common. Type O is called the universal donor. It's 45.4 percent. We have Type A, which is 33.2. We have Type B, which is 17.4, and we have Type AB, which is the rarest, which is four percent.

Now, aside from that, you notice that if you go to a clinical laboratory and have your blood typed, they say you're Type O positive. That means there is the factor which is either positive or negative, and ninety percent of the population have RH positive, and ten percent have RH negative. That's why, if you get your blood sample typed, you'll say mine is O positive or O negative. That's what they say, you know.

Q Can you further break down the classification, aside from the blood type itself?

A In forensic chemistry, aside from being typed, we break it down into enzyme systems of which we have a PGM and an EAP. If I'm A Type on twenty percent

of the people in this courtroom may have Type O. Now, which one is it, this man's or mine, and breaking it down into enzymes further identifies the blood.

Now, for PGM enzyme, PGM1 is the most common, which is 57 percent. PGM2-1 is 37 percent, and PGM2 is six percent. Another enzyme system is called the EAP, erythrocyte acid phosphatase. A is 12.9, B is 35.4, C is 0.2, BA is 42.7, CA is 3.3, and CB is 5.5. The most common is BA. So if I give you a type, it can be O positive, PGM1, EAPA.

Q How do you go about determining the blood type from the characteristics?

A First is called the direct method, and the other is called the indirect method. We use the blood cells in the direct method, and in the indirect method we use the plasma.

Q Before you get to the secreters, what do you do chemically, scientifically, to determine the blood type if you have a vial of blood?

A Okay.

Q What do you do to determine what it is?

A If I have a vial of blood, let's take first the direct method. I said in the direct method we're using the red blood cells. I will put in here RBC, so this is your vial of blood. We have a special -- we

have special equipment to determine your blood type from this vial. We have depressions on glass plates. And what we do is, from this vial of blood we make a two percent solution of blood in salient. So now we have here another vial that contains the two percent solution. Then from this we get a few drops, let us say two drops, of these and put it in here, put it in here and put it in there.

And then to this first depression, we add anti-A to this depression. We add anti-B to this depression. We add anti-O, also called as anti-H, and then we allow that to rotate, you know, for eight minutes. After eight minutes, we have -- we then examine this by microscope and we observe the results microsopically. If the results look like this, there is precipitation or coagulation in this, there is none in there, then we call this Type A. If there is coagulation here and there's none in there, we call this a Type B. If there is none in here and there is positive results in O, or where you had your anti-O, you get a Type O. Now, if you have a Type AB blood, you will have positive results in both the A and the B but not in the O.

Q Now, what do you mean, Connie, when you say coagulation and --

A By coagulation, the cells stick to one another, so even though you shake it some more, they will not be separated, so you have to look for coagulation or precipitation, which indicates a positive result for the indicated blood type.

Q Now, did you in this case perform that test with respect to Mr. Webster's blood, Mrs. Bowen's blood, and Mr. Bowen's blood?

A Yes, sir.

Q Okay. Would you please tell the members of the jury and His Honor what the results of that test were? You may return to the stand for now.

A The victim's blood, or Mrs. Bowen's blood, was typed as B positive, PGM2-1, EAPB.

MR. VAHLE: Excuse me. Could I have that again, slowly?

A The victim's blood was Type B positive, PGM2-1, EAPB as in boy.

THE COURT: Okay.

A Mr. Webster's blood is A positive, PGM2-1, EAPB, secreter. Mr. Bowen's blood is O positive, PGM2-1, EAPBA.

Q Okay. Now, Mrs. Bacasnot, you testified that you analyzed vaginal washings that were obtained from Dr. Breitnecker that came from Mrs. Bowen in this case;

is that correct?

A Yes, sir.

Q Okay. First of all, Mrs. Bacasnot, if you know, where -- from where are these vaginal washings taken, specifically?

A Inside the vaginal canal.

Q Okay. And do you know the procedure by which they are taken?

A I have attended seminars by Dr. Breitnecker, and the way he explained it, that's how I will explain it here. You know, in what they do, usually, is swab the outside of the vagina and then put a small amount of water into the vaginal canal and collect that in a test tube. That's what we call vaginal washings.

Q Okay.

A And then they freeze it.

Q Okay. Now, before we go on any further with that, you used the term secreter. What does that mean?

A Secreter is a person, or an individual, whose blood types can be found in other body fluids, such as saliva, seminal fluid, perspiration.

Q Okay.

A Now, about 80 percent of the population are considered secreters, and, of course, the 20 percent are non-secreters. So if I am a screter, and my blood

is that correct?

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A Now, about 80 percent of the population are considered secreters, and, of course, the 20 percent are non-secreters. So if I am a screter, and my blood

type is Type O, if I give you my saliva, you can type it, and it will be consistent with the Type O blood group.

Q Can you determine, Mrs. Bacasnot, from the analysis of whole blood, as you described here before, whether a person is or is not a secreter?

A No, sir. You have to give me another body fluid.

Q Okay. How do you go about analyzing secretions, and specifically in this case vaginal washings, to determine the presence of any blood type?

A Okay. The first thing I do is to defrost the frozen vaginal washings and, second, I make a slide out of it. You know, I get a small piece of cotton tip, you know, like a cu-tip, wet that with the vaginal washing, and put that on a slide, smear a slide, and allow it to air dry and observe it microscopically. And then I also make a swatch, which is a piece of cotton cloth that I wet with the vaginal washings for typing. I don't use liquid vaginal washings for typing, I use the swatch, which is a piece of cotton cloth wet with the vaginal washings and allowed to dry at room temperature.

Q And what do you do with that?

A I cut that into small pieces, just like

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Q And what do you do with that?

A I cut that into small pieces, just like

removing a thread, and that's what I use for typing, and also I save that for future reference.

Q And, specifically, what do you do to ascertain the blood type?

A I do several tests. First, I have to use acid phosphatase, which is a color test which is an indication only but not a confirmatory test. I use the Florence test, which is the formation of crystals, and I also use the microscopic test, which confirms the presence of sperm.

Q Okay. And did you perform each of those tests in this case?

A Yes, sir.

Q And would you please explain the procedures involved in each of those tests?

A Do you want me to use the easel, sir?

Q Yes, if it will help, certainly.

THE COURT: Sit there for a minute. Did you make an examination of the spermatozoa and seminal fluid obtained in the vaginal washing?

A Yes, Your Honor.

THE COURT: Can you identify by blood type the original of the depositor of that seminal fluid?

A No, sir.

THE COURT: All right.

Q You may step down and use this easel if it will help you. I believe I asked you, Mrs. Bacasnot, what the procedures were which you utilize in each of the three tests that you mentioned.

A Okay. I will be discussing seminal fluid. Now, seminal fluid is a clear white-yellowish color viscous fluid which originates in the prostate gland in the male. The average ejaculation is from 2.5 ml. or cc to 5 cc. It contains between twenty-eight million to 225 million sperms per milliliter or per cc.

Now, the sperm cell is the male reproductive cell, and I have here a drawing of what a sperm cell looks like, and that is what we look for under the microscope. It has a head, a neck, and a long tail.

Now, to test, okay, here is the identification and grouping of semen. The first test that I discussed when I was sitting there was acid phosphatase, which is a color test. It is not -- it is only indicating the presence of, but it's not confirming the presence of, sperm. Then we have the Florence test here. And here we add iodine, and iodine stains the sperm, aside from its formation of crystals, which is from the chlorine in the fluid. And third is the microscopic examination. Usually, if the vaginal washing is fresh, plenty of sperm cells can be found using microscopic

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examination, even without staining. In this case, I did stain, and I did do microscopic examination for both.

Q What did that microscopic examination reveal?

MR. VAHLE: Objection.

THE COURT: Overruled.

MR. VAHLE: May we approach the bench?

THE COURT: All right.

(Whereupon, counsel approached the bench for discussion off the record.)

I N O P E N C O U R T

THE COURT: The objection to the last question is overruled. I will let the witness testify.

Q As a result of the microscopic examination in this case, what did you find?

A Numerous whole sperm, spermatozoa, was found from the slide I made of the vaginal washings.

Q Now, let me ask you how long is the male-- sperm, the spermatozoa, active after it's deposited?

A From twenty-four to forty-eight hours.

Q What happens after that time?

A You would only have heads. Bacteria attack the tail first, as opposed to the heads. You would only have heads.

Q I think you testified if one is a secreter,

you would be able to tell what the blood type is from his or her bodily secretions; is that correct?

A Yes, sir.

Q And likewise, if a secreter had intercourse, a male secreter had intercourse with a female, and you had the vaginal washings with the male ejaculant in those vaginal washings, you could, could you not, tell the blood type of the person who had intercourse with the female, could you not?

A Yes, sir.

Q Okay. Now, with respect to that, what test did you perform to try to ascertain whether or not the person who had intercourse with Mrs. Bowen was, in fact, a secreter?

A We did an absorption inhibition grouping method. This is the indirect method. Okay, we have a slide or special equipment that has depressions. It's made of glass and has depressions. As listed for the first one, I use a known O blood sample, which is my blood. I am a Type O. For the second one, I use a known A blood sample. For the third one, I had a known B blood sample. For the fourth, I have a known AB blood sample. So these are the four blood types.

Now, here I have an unstained control. It's a piece of cotton cloth, no stain, and it's been washed,

it's been dried, there's just nothing in there except the cotton cloth. Now, I have here a stain control, which I took, let us say, from the panty, if I'm testing a panty, so you will note that, based on my cotton cloth that I used in here and here, I ran my unknown, which is seminal fluid or vaginal washings, in six depressions, so each one checks one another.

Now, to these I add seals, and then you just rotate, watch it, you know, and put it in the oven and then put another seal, and wherever there is a positive result, if I have, for example, in my unknown, in the anti-A and B, I have a positive result, then I find that this person has a blood type which is equivalent to O. Now, if I have positive results here, only in the B, and remember, this is indirect method, the blood type I can conclude is a Type A. If I have positive results in the A, my conclusion would be based that this is a Type B. Now, if I have an AB, there will be no results on A and B, but there will be results in O.

THE COURT: Would you step up here for a minute? I think maybe the jury can hear you better. This lecture might be interesting, but I think it's going far afield.

Q Now, Mrs. Bacasnot, you performed such a test

on the vaginal washings in this case; did you not?

A Yes, sir.

Q And I think you just testified that the test you do for the secretion is, in detecting a blood type, is totally different from that which you do to the whole blood that you would test for blood type; is that correct?

A Yes, sir.

Q Okay. And what result did you obtain upon your analysis of the vaginal washings of Mrs. Bowen in this case?

A Type A and Type B blood group was detected from a portion of the stain that I made from the vaginal washings.

Q Okay. Now, you testified that Mrs. Bowen was Type B; is that correct?

A Yes, sir.

Q Now, do you have an opinion with respect to what the blood type is of the person who had intercourse with Mrs. Bowen?

A In this case it should have been a Type A.

Q Okay. And --

THE COURT: Okay.

Q Now, one more thing, Mrs. Bacasnot. I'm going to show you what's been marked as State's Exhibit 3 for

identification and ask you if you can identify this.

A I have my initials and the date I analyzed this particular item.

Q Okay.

A And also the tag on the back. I have my signature and the date and the time I received it.

Q Now, this is State's Exhibit 3 for identification. You performed a test on that; is that correct?

A Yes, sir.

Q And was that the same type of test that you performed on the vaginal washings?

A Yes, sir. There are some stains found in this item.

Q And in order to perform this test, what did you do to this?

A I had to make a cut, you know, cut a piece of the material and use that.

Q So you removed some of the material from this bedspread?

A Yes.

Q And you analyzed it in accordance with the way you described your procedure to the members of the jury?

A Yes, sir.

Q And what were your results, Mrs. Bacasnot,

after that analysis? green bedspread

A Type A and Type B blood group substances was found, or was determined from the stains that I cut from that green bedsheet.

THE COURT: Type A and B blood types were found on that bedsheet?

A Yes, sir.

THE COURT: Next question.

MR. LAZZARO: Your Honor, at this time I would move to introduce State's Exhibit 6, 7, 8 and 9 for identification into evidence.

THE COURT: They have already been identified. Do you want to put them into evidence?

MR. LAZZARO: Yes, Your Honor.

THE COURT: Then you don't say anything about identification, you offer them in evidence.

MR. LAZZARO: Well, they are referred to, Your Honor, as State's Exhibit 6 for identification, which they previously were marked as.

THE COURT: All right. They will be admitted in evidence.

(Whereupon, the vials were received and marked into evidence as State's Exhibits 6, 7, 8, and 9 respectively.)

MR. LAZZARO: And I move to introduce the

blanket, also, Your Honor, into evidence.

THE COURT: It's admissible.

(Whereupon, the bedspread was received and marked into evidence as State's Exhibit 3.)

MR. LAZZARO: Thank you, Mrs. Bacasnot.

Witness is with you.

Whereupon,

CROSS-EXAMINATION

BY MR. VAHLE:

Q The test of the washings, Mrs. Bacasnot, with blood Type A, and then we're talking from your previous chart of at least 33 percent of the population, right?

A Yes, sir.

Q Now, apparently, from the washings you can't get -- you can't give any of these other factors, right?

A Yes, sir. The only -- it's only the blood type.

Q So some of these apparently more definitive things are just not available through that sort of testing, right?

A Yes, sir.

Q Now, you did a report concerning all of this, didn't you?

A Yes, sir, on this case.

Q And isn't it true, on the last page of the report you said that Type AB blood was detected from a portion of the stain, right?

A Yes, sir. That is a mistyping. It should have been typed Type A and Type B blood groups was detected from a portion of the stain.

Q Well, you signed it. I mean, didn't you read it? I mean, this is pretty vital, an AB blood group, according to your testimony, is a lot rarer, and that would certainly indicate somebody else, wouldn't it?

A Yes, sir.

MR. VAHLE: No further questions, Your Honor.

MR. LAZZARO: Just a couple, Your Honor.

Whereupon,

REDIRECT EXAMINATION

BY MR. LAZZARO:

Q Mrs. Bacasnot, do you know how this error came to be present in this report?

A Yes, sir. If I'm typing the report, and because of my background, I just put Type AB, you know, whenever I see the results, the type of blood group substance is, but, unfortunately, I should have just typed this Type A and Type B blood group substances should have been -- may I explain?

Q Where did you learn to write the report as you did?

A Before we started our serology, our serology section, we read the report by the FBI, and the Maryland State Police, where we send our evidence before, and I just followed their procedures, and that's how they report their, you know, what their findings are.

Q Okay. Would it be possible, Mrs. Bacasnot, in your professional opinion, for our -- strike that. Could you find characteristics of Type A and Characteristics of Type B in vaginal washings in the female with a Type B, and the person who had intercourse with her with a Type AB, would you have the same findings as you have here?

A No, sir. It should have been different.

MR. LAZZARO: Okay. Thank you, Mrs. Bacasnot.

THE COURT: Thank you. You may step down.

MR. VAHLE: Your Honor, if I may have one --

THE COURT: I'm sorry.

MR. VAHLE: I have maybe one question on recross.

THE COURT: Certainly.

Whereupon,

RECROSS-EXAMINATION

BY MR. VAHLE:

Q You seem to suggest that, you know, the FBI school told you to write it this way and lend all this confusion. By your testimony, it seems to me that we wouldn't know, according to the FBI, whether it was A, B, or AB, right?

A May I answer?

MR. LAZZARO: Certainly.

A I did not say that the FBI taught me how to write this report, I said I read their reports that were submitted for several evidence that we had before, and that was sent to them, and I followed their procedure, but, see, the typing here is the error. In this case -- let me explain further.

THE COURT: You made a mistake. You should have said Type A and Type B.

A Yes, sir.

THE COURT: Instead of that, you originally put Type AB.

A Yes, Your Honor.

THE COURT: Okay. You've already answered that question.

MR. VAHLE: No further questions, Your Honor.

THE COURT: Thank you. You're excused.

John Williams, would you step up again, please, young man.

Whereupon,

JOHN LEWIS WILLIAMS,

a witness of lawful age, being recalled as a Court's witness, previously sworn, testified as follows:

THE COURT: John, be seated. You're still under oath to tell the truth.

As you were creosoting the fence outside of the Lambeth Apartments on July the 6th, you said that a fellow walked up to you from your right and said hey, how are you doing, words to that effect?

A Yes.

THE COURT: And that man then, you testified, went in the building?

A Yes.

THE COURT: When he went in the building, do you recall, and when you saw him outside for the first time, how was he dressed?

A He had white T-shirt, short sleeve, and -- beige-color khaki pants and white tennis shoes, low cut.

THE COURT: When he came out of the building a half an hour later, how was he dressed?

A The same way.

THE COURT: The same way?

A Yes, sir.

THE COURT: He had the same khaki pants on?