

NAACP

DER

LEGAL
DEPARTMENT

CASE FILES

NEW YORK

People v. Robinson

GENERAL CASE MATERIAL

1967-69, undated

1-333
9227-9
August 33508

County Court

County of Erie

The People of the State of New York,

AGAINST

Heraldine Robinson
Defendant.

APPLICATION AND ORDER FOR BAIL

Mch 22 1 FD 11 dx

~~FOR~~

District Attorney

224 Erie County Hall

Buffalo, N. Y.

At a Term of the County Court held at the Erie County Hall, in the City of Buffalo, N. Y., on the 9th day of Aug. 1967

Present: Hon. *James W. Marshall* Justice Supreme Court
County Judge
County Court: County of Erie

FILED
AUG 9 1 49 PM '67
ERIE COUNTY CLERK'S OFFICE

The People of the State of New York
AGAINST
Heraldine Robinson
Defendant.

The defendant herein now being in custody under an indictment for the crime of 175-1 PL 1825 PL 1751 a 242-5 and an application having been made by him to be admitted to bail pending the disposition of said indictment, it is

ORDERED that the said application of the defendant be and the same is hereby granted and bail is hereby fixed at the sum of \$ 5000.00 and upon the execution of an undertaking in that amount with properly qualified sureties the defendant may be released from such custody.

James W. Marshall
Justice Supreme Court
County Judge

GRANTED
August 9th 1967
A. J. Keller
SPEC. DEP. CLERK

Application for Bail After Indictment

§556-A C. C. P.

County Cattaraugus Court: County of Erie

The People of the State of New York,

- vs -

Heraldine Robinson
Defendant.

An Indictment Having Been Found on the 9th day of August nineteen hundred and 67 in the Cattaraugus County of Erie County charging the above named defendant Heraldine Robinson with the crime of 1751-1 P.L.S. 1825 Pt 2 42-5, 1751-a the above named defendant Heraldine Robinson hereby makes application to be admitted to bail pending the disposition of said indictment and for that purpose makes the following statements:

(1) That no previous application has been made at any time for bail by, on behalf of, or with respect to said defendant Heraldine Robinson in connection with any crime so charged, except (State any and all applications so made, to whom made and disposition thereof). NO

(2) That the defendant Heraldine Robinson has never previously been convicted of any crimes whatsoever in this state or elsewhere except as follows: (State time, place and court of conviction and nature of crime.) NONE

x. Heraldine Robinson
Defendant.

State of New York
County of Erie
City of Buffalo

} ss.

Heraldine Robinson being duly sworn

deposes and says that he is the defendant named in the above application for bail and that the statements made in said application are true.

Sworn to before me this 9th day of August, 1967

x. Heraldine Robinson

Qualified in Erie County
My commission expires 3-30-68
John H. Smith
Notary Public

Dup.

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STATE OF NEW YORK
COUNTY COURT : COUNTY OF ERIE

THE PEOPLE OF THE STATE OF NEW YORK

-vs-

Indictment
33,508-A

GERALDINE ROBINSON,

Defendant

PROCEEDINGS held before the HONORABLE
FREDERICK M. MARSHALL, Erie County Judge, Part III,
Erie County Hall, Buffalo, New York, on Monday,
December 18th, 1967.

FILED
DEC 19 11 47 AM '67
ERIE COUNTY
CLERK'S OFFICE

APPEARANCES:

MICHAEL F. DILLON, ESQ.
District Attorney, Erie County
ROBERT J. BOLM, ESQ.
Assistant District Attorney

PRESENT:

GERALDINE ROBINSON, Defendant

333

1	THE COURT:	Come up please, Miss Robinson.
2	COURT CRIER:	Miss Robinson, this way, please.
3	THE COURT:	Do you have the indictment number?
4	MR. BOLM:	Yes, your Honor; indictment number:
5		33,508-A, the People against Geraldine
6		Robinson. I will stand in for Mr.
7		Notaro; he is in City Court this
8		morning, your Honor.
9	THE COURT:	Yes. Last week you were here and I
10		tried to explain your rights.
11	DEFENDANT:	Yes.
12	THE COURT:	And you indicated you wanted a week
13		to decide what you wanted to do. Have
14		you reached a conclusion?
15	DEFENDANT:	Yes, I have.
16	THE COURT:	What is it?
17	DEFENDANT:	I am not going to accept this public
18		defender after all. I'll defend
19		myself.
20	THE COURT:	You're going to defend yourself?
21	DEFENDANT:	Yes, sir.
22	THE COURT:	Do you think you are capable of doing
23		it?
24	DEFENDANT:	I think I will do just as good a job
25		as this public defender will.

1	THE COURT:	Is there some other lawyer you want?
2	DEFENDANT:	Besides him?
3	THE COURT:	Yes.
4	DEFENDANT:	Well, do I have a choice?
5	THE COURT:	Well, you might. Who are you thinking
6		of?
7	DEFENDANT:	I don't want a public defender, anyway.
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13		defend yourself?
14	DEFENDANT:	Yes.
15	THE COURT:	And you will make all the motions which
16		you think will have to be made against
17		the indictment and take all the steps
18		to protect your interests? You
19		realize it's your life that you're
20		putting -- it's your future that is
21		being put to the test here; you know
22		that?
23	DEFENDANT:	Yes.
24	THE COURT:	Have you ever been in a mental insti-
25		tution, mental hospital or anything of

1 THE COURT: (Continuing) that nature?
2 DEFENDANT: No.
3 THE COURT: What is your education?
4 DEFENDANT: Pardon?
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6 DEFENDANT: I went to tenth grade at Fosdick
7 Masten.
8 THE COURT: And you feel that you're perfectly-
9 capable of defending yourself, is that
10 right?
11 DEFENDANT: Yes.
12 THE COURT: Now, the reason I'm asking you these
13 questions is not to change your mind,
14 but just to be sure you understand you
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16 represented by a lawyer.
17 DEFENDANT: Yes.
18 THE COURT: You, also, have a right to represent
19 yourself. But, it's a very unusual
20 situation where a layman comes in and
21 wants to represent himself because
22 there are a lot of legal pitfalls, a
23 lot of legal pitfalls that a lay per-
24 son may fall into not having studied
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4 THE COURT: Can you tell me, do you -- are you
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9 DEFENDANT: Yes.
10 THE COURT: And do you now specifically waive your
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12 DEFENDANT: My decision is still as it was; I
13 don't want a public defender.
14 THE COURT: Well, do you specifically waive your
15 right to a lawyer?
16 DEFENDANT: Yes.
17 THE COURT: I can't hear you?
18 DEFENDANT: Yes.
19 THE COURT: Will you tell me why you'r waiving
20 your right to a lawyer?
21 DEFENDANT: Because I don't think I'll get a fair
22 trial with a public defender, that's
23 why I don't want one.
24 THE COURT: Are you familiar with the rules of
25 evidence that prevail during the

1 THE COURT: (Continuing) course of a trial?
2 DEFENDANT: Yes.
3 THE COURT: You are?
4 DEFENDANT: Yes.
5 THE COURT: Where did you learn them?
6 DEFENDANT: I read books.
7 THE COURT: You read books?
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9 THE COURT: Are you familiar with the procedure as
10 to how a trial proceeds?
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12 friends of mine, some lawyer friends
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14 THE COURT: And you realize it's going to be
15 necessary for you to select a jury and
16 to question jurors?
17 DEFENDANT: Yes.
18 THE COURT: And to decide which jurors to deter-
19 mine whether or not you're guilty or
20 not guilty?
21 DEFENDANT: Yes.
22 THE COURT: All right. Then, as I understand it,
23 and you tell me if I am wrong, you're
24 intelligently and understandingly and
25 knowingly waiving your right to a

1	THE COURT:	(Continuing) lawyer, to counsel, and
2		it's your desire to try your lawsuit
3		by yourself?
4	DEFENDANT:	Yes.
5	THE COURT:	All right. I want to reiterate that
6		if you want to consult with counsel,
7		consult with a lawyer, not to have him
8		represent you, but to give you inform-
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10		should not do, you have Mr. Weissfeld
11		at your disposal. Do you understand
12		that?
13	DEFENDANT:	Yes.
14	THE COURT:	All right. You're on bail now?
15	DEFENDANT:	Yes.
16	THE COURT:	Where are you living?
17	DEFENDANT:	97 Orange.
18	THE COURT:	Is this where you have been living?
19	DEFENDANT:	Yes.
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22	THE COURT:	You don't let me know, you let the
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1 THE COURT: (Continuing) you make any efforts
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3 DEFENDANT: Yes, I did.
4 THE COURT: And you couldn't get one?
5 DEFENDANT: I decided I didn't want one.
6 THE COURT: I see. All right, that's all; thank
7 you. Make a record of that; give a
8 copy to the District Attorney; file a
9 copy.

10 *****

11 I hereby certify that the foregoing is a tran-
12 scription of the official stenographer's minutes of
13 the testimony and proceedings upon the trial
14 of the case of the People of the State of New
15 York vs Walter J. Robinson

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17 Vincent F. Lanza
18 Official Erie County Court Reporter

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FILED
DEC 19 11 47 AM '67
ERIE COUNTY
CLERK'S OFFICE

Orig

1 STATE OF NEW YORK
 2 COUNTY COURT : COUNTY OF ERIE
 3 *****
 4 THE PEOPLE OF THE STATE OF NEW YORK
 5 -vs- Indictment
 6 GERALDINE ROBINSON, 33,508-A
 7 Defendant
 8 *****
 9 PROCEEDINGS held before the HONORABLE
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 11 Erie County Hall, Buffalo, New York, on Monday,
 12 December 18th, 1967.
 13
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 15
 16 APPEARANCES: MICHAEL F. DILLON, ESQ.
 17 District Attorney, Erie County
 18 ROBERT J. BOLM, ESQ.
 19 Assistant District Attorney
 20
 21
 22 PRESENT: GERALDINE ROBINSON, Defendant
 23
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 25

FILED
 Dec 10 11 47 AM '67
 ERIE COUNTY
 CLERK'S OFFICE

11 333

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COUNTY COURT STENOGRAPHERS		

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 16 York vs. Geraldine Robinson
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 18 Vincent F. Lawra
 Official Erie County Court Reporter

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FILED
 Dec 18 11 47 AM '87
 ERIE COUNTY
 CLERK'S OFFICE

Sept. 26, 1968

Charles McKinney

522.00

For: Expenses of trip to Buffalo, N.Y., Sept. 24, 1968,
(\$22.) and retainer for legal fees re case of
Mrs. Geraldine Robinson, Buffalo, N.Y. (\$500)

105

38

522.00

9-27
Sent by messenger

Charles McKinley

8.00 fare to - from airport
2.00 search warrant
10.00 meals & cab fare in Buffalo
20.00 expenses incurred on 9/24/68

522.00

Re: 9/30/68

~~R.T. air fare Buffalo -
Overnight accommodations - \$20 (1 night)
Meals, cab fares (1 day) 25~~

~~Taxi
transportation
to & from Buffalo~~

~~45
22
67.00
30
97~~

Geraldine's
maiden
name -
JM

POINT 4 ^{2nd page}
misspelled
is probably
a mistake
in name -
that is
over

Sec. 335 F.C.A.

Form 3-7 (Neglect)
1000 1-67

Family Court of The State of New York
COUNTY OF ERIE

In the Matter of
JOINTER CHILDREN:
Christe December 25, 1965, Robinson
Terrance born March 29, 1961
Avertios born May 20, 1962
Barnell born July 10, 1960
Jami Monique January 22, 1964
~~X~~Child ren. under Sixteen ~~(Eighteen)~~ Years
of Age Alleged to be Neglected

Docket No.

SUMMONS

TO..... Eugene Robinson..... Geraldine Jointer Robinson
..... address unknown..... 15 Storz Street
Residence Address..... Buffalo, New York

A petition under Article 3 of the Family Court Act having been filed with this Court alleging that the above named child ren. ~~xxx~~ (are) a neglected child ren.; a copy of said petition being annexed hereto;

YOU ARE HEREBY SUMMONED to appear before this Court at 25 Delaware Avenue, Buffalo, New York, on October 1, 1968, at 9:30 o'clock in the fore noon of said day to answer the petition and to show cause why said child ren should not be adjudicated to be a neglected child ren and dealt with in accordance with the provisions of Article 3 of the Family Court Act.

~~YOU ARE FURTHER DIRECTED to produce the above named child xxx at the time and place as stated.~~

On your failure to appear as herein directed, a warrant may be issued for your arrest.

Dated: September 5, 1968.

BY ORDER OF THE COURT,

Frank J. Boccia

.....
Clerk of the Court

Part 2, 3rd floor

Sec. 331, F.C.A.

Forms 3-6 (Neglect)
2000 10-67

Family Court of The State of New York
COUNTY OF ERIE

In the Matter of
Darnell Pointer b. 7-10-60
Terrance Pointer b. 3-29-61
Exertios Pointer b. 5-20-62
A Child ~~ten~~ under Sixteen (~~eighteen~~) Years
of Age Alleged to be Neglected

Docket No.

NEGLECT PETITION

Jami Monique Pointer b. 1-22-64
Christe Robinson b. 12-25-65

TO THE FAMILY COURT: The undersigned Petitioner respectfully shows that:

1. Petitioner, who resides at Rm. 836 Ellicott Square Building-295 Main St, Buffalo, New York, is a person authorized to file a petition under Article 3 of the Family Court Act, by reason of the fact that he is a caseworker of the Protection Service, E.C.D.S.S.
2. HE Darnell, Terrance, Exertios are male children, Jami Monique ~~Christe~~ are a female child ~~ten~~ under the age of sixteen/~~eighteen~~ years.
3. Said child ~~ten~~ reside with their Mother Geraldine (Pointer) Robinson at 15 Storz Street, Buffalo, New York.
4. The father of said child ~~ten~~ is not established except for Christe b. 12-25-65 who resides at Her father is Eugene Robinson-address unknown, New York, and the mother of said child ~~ten~~ is Geraldine (Pointer) Robinson who resides at 15 Storz Street, Buffalo New York. The person legally responsible for the care of said child ~~ten~~ is the Mother only. 15 Storz St, BfLo who resides at except for Christe, whose father is Eugene Robinson, New York address unknown.
5. (Upon information and belief), said child ~~ten~~ is/are neglected, in that: (specify grounds of neglect under Section 331 of the Family Court Act)
 1. Upon information and belief Geraldine Robinson, has failed to properly care for her home and ~~is~~ its conditions, over a 4 month period, ~~*~~ allowing the home to degenerate into a condition not suitable for human habitation. As can be testified to by Mr. John Collins her P.A. worker and the petitioner causing a health hazard to her children.--2. Garbage and trash litter the yard and environs, and no effort has been made to correct it. This also creates a health hazard.--3. Neighbors have complained to the Family Service Society Reach Out workers, that the children "eat out of trash cans at night."--4. Miss Pointer, supervisor at Family Service, states the apartment is in severe disarray, facilities are lacking, the children are ill clothed, and the oldest children were not sent to school by the mother on 9-4-68. This was observed on 9-4-68 by Miss Pointer.--5. Mrs. Robinson has a continuing poor attitude toward the children as witnessed by her statements to workers as documented on the indicated dates: a. She feels her 8 year old son is mature enough to supervise the other 4 children. Continued on Page 2

6. (Upon information and belief) Geraldine Robinson and Eugene Robinson the parents of said child ~~ten~~ is (are) who ~~is~~ (are) responsible for the neglect of said child. ~~ten~~

WHEREFORE, petitioner prays that an order be made determining the said Pointer and Robinson Children to be a neglected child ~~ten~~ and otherwise dealing with said child ~~ten~~ in accordance with the provisions of Article 3 of the Family Court Act.

Dated: September 3rd, 1968

Frank J. Pellegrine
Petitioner

STATE OF NEW YORK }
COUNTY OF ERIE } ss.:

Frank J. Pellegrine

says that I am the petitioner in the foregoing petition; that said petition is true of my own knowledge, except as to those matters therein stated to be alleged upon information and belief, and as to those matters, I believe it to be true.

Frank J. Pellegrine
Petitioner

Sworn to before me this 5th day of September, 1968

Joan M. Winkelman
(Warrant) (Deputy) Clerk of the Family Court
Notary Public

JOAN M. WINKELMAN
Notary Public, State of New York
Qualified in Erie County
My Commission Expires March 30, 1967

RE: Pointer and Robinson Children

Page 2

- b. May 19, 1968 She gave no indication to Children's Aid Society workers, Protection Service, or Public Assistance workers that she would not leave her children unsupervised. She also made this statement on May 27, 1968.-----
- c. May 27, 1968-she feels that there is nothing wrong with her methods of child care and on occasion states she has no intention of planning differently.---6. The household furnishings are not sufficient for the family. Mrs. Robinson has made little effort to correct these conditions. Over the past seventeen months the Public Assistance Division has authorized \$567.13 in furnishings however little of it is in evidence.--7. Mrs. Robinson is presently under indictment as part of the Sostre case of 1967, for frequenting a location where narcotics are sold, and resisting arrest.---8. On September 4, 1968 Mrs. Joyce Noble, Social Case Supervisor, for the Children's Division witnessed Mrs. Robinson feeding the children white beans on for supper. Mrs. Robinson stated her check had not arrived but she could get credit for food if it was needed. She stated she was uninterested in inquiring about the check and gave no reason for there being no food present, if credit was available.---9. The Robinson children are always very poorly clothed. Mrs. Robinson on the other hand always dresses in high fashion in expensive clothes.

Upon information and belief Geraldine Robinson and Eugene Robinson, the parents of said children, are who are responsible for the neglect of said children.

WHEREFORE, petitioner prays that an order be made determining the said Pointer and Robinson Children to be a neglected children and otherwise dealing with said children in accordance with the provisions of Article 3 of the Family Court Act.

Dated: September 5, , 196 8

Frank J. Pellegrine
Petitioner

STATE OF NEW YORK ss.:
COUNTY OF ERIE

Frank J. Pellegrine says that I am the petitioner in the foregoing petition, that said petition is true of my own knowledge, except as to those matters therein stated to be alleged upon information and belief, and as to those matters, I believe it to be true.

Frank J. Pellegrine
Petitioner

Sworn to before me this 5th day
of September , 196 8 .

Joan M. Winkelman
(Warrant) (Deputy) Clerk of the Family Court

JOAN M. WINKELMAN
Notary Public, State of New York
Qualified in Erie County
My Commission Expires March 30, 1969

Nov. 26, 1968

Charles McKinney

600.00

For: Fee for hearings re State v. Geraldine Robinson.

(~~\$500-fee~~
~~100-fee for local counsel~~)

105

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600.00

March 31, 1969

MR. CHARLES T. MCKINNEY
401 Broadway N.Y. 10013 (22nd floor)

44.00

(American Airlines)

MARCH 24, 1969

(AIRLINE TICKET REIMBURSEMENT)

RE: GERALDINE ROBINSON
(Martin Sostre case)

Buffalo, N.Y. to New York City -(Round trip)

105

38

44.00

JOAN FRANKLIN

4/27 picked up

512,100

*Charles McKinney
Stokes Hilton - Niagara Falls
Buffalo N.Y.
Baltimore, MD*

Charles McKinney

May 13, 1969

People of the State of New York
v. Robinson

\$500.00

Re Trial Expenses

5/9 - 5/15

105

38

500.00

✓ 5/20 by m^cClain
Someone picked it up from him - for him
(per. Pearl Harder)

Duncanson received a call
from m^cKenney - thus the request

CHARLES MCKINNEY

May 22, 1969

500.00

Re: Trial Expenses

PEOPLE (STATE OF NEW YORK V. ROBINSON)

105

38

500.00

✓ J/28

~~J/10 - J/28~~
16 - 33

J/16 - J/23

5 20 -
44
22

566 -

30025 JUL 18 '69

CHARLES T. MCKINNEY
COUNSELOR AT LAW
401 BROADWAY
NEW YORK, N.Y. 10013
966-2264

July 7, 1969

National Association for the Advancement
of Colored People
1790 Broadway
New York, New York

Attention: Legal Department

Re: People v. Geraldine Robinson

BILL FOR PROFESSIONAL SERVICES RENDERED:

Court appearances (on trial) May 9, 12, 13, 14, 15, 16, 19, 20, 21, 22, 23, 26, 27, 28, 29; June 20, 1969 @ \$100.00 per diem	\$ 1,600.00
Prior court appearances between September, 1968 and May, 1969 @ \$ 100.00 per diem (5)	500.00
Office and out-of-court preparation @ \$75.00 per diem (12 days)	900.00
Total fee	<u>\$ 3,000.00</u>

Expenses incurred:

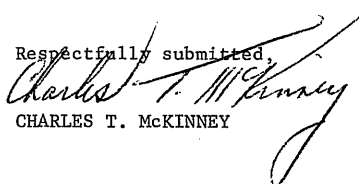
Air-fare @ \$50.40 round-trip (5)	\$ 252.00
Air-fare @ \$55.80 round-trip (1)	55.80
Hotel bill (including some meals and phone calls)	613.62
Meals and phone calls (not included in hotel bill)	120.00
Hotel and other gratuities	40.00
Cab fares, transportation to and from air- ports and other transportation	150.00
Investigation expenses (including subpoena fees)	282.40
Total expenses	<u>\$ 1,513.82</u>

-2-

TOTAL FEE AND EXPENSES	\$ 4,513.82
RECEIVED ON ACCOUNT TO DATE	1,500.00
	<hr/>
BALANCE DUE AND OWING	\$ 3,013.82

This statement does not reflect travel expense incurred earlier and already reimbursed.

Respectfully submitted,


CHARLES T. McKINNEY

CTM/1fb

Registration
Office

Charles McPheeley -

500 - ^{up fee} schedule

See

100 - ^{up} appearance
other counsel

→ Mad F. Buffalo
Eric Kautz
Chim. Hall
Court

500 - self
100 - other counsel

August 6, 1969

Charles T. Mc Kinney, Esq.

1,500.-

Fee: People v. Geraldine Robinson (Sostre case)

See letter of July 7, 1969, attached to requisition
of 8/7/69 in the sum of \$1,513.82

105

38

1,500.00

✓
9/5

Void as of 12/10/69

CHARLES T. MC KINNEY, ESQ

August 7, 1969

1,513.82

EXPENSES:

Re: People v. Geraldine Robinson (Sostre case)
see attached

Balance of \$1,500 due on Fee
An additional requisition will be made

105

839

1,513.82

*Please draw a
new voucher
for \$ 1,513.82
for expenses,
noting that a
balance of
\$1,500 is due
on fee*

*written
& confirmation
await from
McKinney
to be*

Void 1,513.82

new check 813

new check 700

C L 2 MC

adv here that I.V.

had not be paid

th4 2 re no funds

dec v of usk v

pd th4 submit

700: directly - .x.

cc: Defense K

cc: 8.07

*(McKinney
Martin
Sostre
Defense
Committee)*

Telex

WESTERN UNION

SENDING BLANK

Telex

CALL LETTERS BRW	11/25/69	CHARGE TO	NAACP 1790 B'way N.Y.C
CHARLES MCKINNEY 401 BROADWAY NEW YORK, N.Y. 10013			
SECOND REQUEST URGENT YOU CONTACT ME ABOUT SEVEN HUNDRED DOLLARS OWED TO MARTIN SOSTRE'S DEFENSE COMMITTEE			
JONA FRANKLIN AL 5 - 2498 245-2100			
<i>+ call to 966-2264 Miss Collins (11/25/69)</i>			

Send the above message, subject to the terms on back hereof, which are hereby agreed to

PLEASE TYPE OR WRITE PLAINLY WITHIN BORDER—DO NOT FOLD

1267—(R 4-55)

Telefax

WESTERN UNION
SENDING BLANK

Telefax



CALL LETTERS	BRW	11/10/69	CHARGE TO	NAACP 1790 Broadway N.Y.C
Charles T. McKinney <i>401 B'way edge 1013</i>				
<i>get into address</i>				
"URGENT THAT YOU CONTACT ME ABOUT SEVEN HUNDRED DOLLARS WHICH IS OWED TO MARTIN SOSTRE'S DEFENSE COMMITTEE				
JOAN FRANKLIN				
AL-52498 245-2100				

Send the above message, subject to the terms on back hereof, which are hereby agreed to

PLEASE TYPE OR WRITE PLAINLY WITHIN BORDER—DO NOT FOLD

1269—(R 4-55)

47952 DEC-8 '69

CHARLES T. MCKINNEY
COUNSELOR AT LAW
401 BROADWAY
NEW YORK, N.Y. 10013

966-2264

December 1, 1969

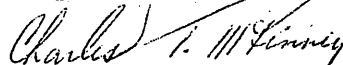
National Association for the
Advancement of Colored People
1790 Broadway
New York, New York

Attention: Legal Department

To Whom It May Concern:

I hereby authorize you to pay to the Martin
Sostre Defense Committee in Buffalo, New York, the sum
of Seven Hundred (\$700.00) Dollars. It is understood
that said sum shall be deducted from monies due and owing
to me for professional services rendered in connection
with the case of People v. Geraldine Robinson.

Very truly yours,



Charles T. McKinney

CTM/lb

ATTN: MR. MC CLAIN

12/10/69

Mr. Mc Clain: Kindly void requisition of August 7, 1969 - \$1,513.82 - made out to Mr. Charles T. Mc Kinney - regarding the case of People v. Geraldine Robinson (Sostre case). Two new separate requisitions have been made up as of this date - one for Mr. Mc Kinney in the sum of \$700.00a- and another for the Martin Sostre Defense Committee in the sum of \$813.82. McKinney's authorization is attached. S. Davis

Dec. 10, 1969

CHARLES T. MC KINNEY, ESQ.

813.82

People v. Geraldine Robinson (Sostre case)

(see attached)

105

39

~~xxx~~ 813.82

Charles T. Mc Kinney

*none due
to Mc Kinney
accord to Mr R Mc-claim
he will call again.*

[undated]

Memo to: Mr. Robert L. Carter

from: Joan Franklin

Re: Case of Mrs. Geraldine Robinson

Prior to my going to Milwaukee this last time, I brought to your attention a letter received from Mrs. Geraldine Robinson requesting legal assistance from the N.A.A.C.P. ^{W. dir.} and defense of criminal charges against her. She is charged with selling dope and with resisting arrest. As you know, she is co-defendant with Mr. Martin Sostre, whom I have undertaken to represent as an individual. You asked that I submit to you a memorandum after ~~investigating to the extent that I could the Branch's and State~~ ^{CE [unclear]} Conference's President's attitude toward the case of Mrs. Robinson. Attached is a letter written to me by Donald R. Lee, President of the New York State Conference, which is self-explanatory.

On approximately July 15, ¹⁹⁶⁷ at 1:00 A.M., Mrs. Robinson and Sostre were arrested by State and City police officers and an F.B.I. agent. ~~Co Sostre [unclear] [unclear] [unclear]~~ Sostre was charged with inciting persons to riot, arson and sale and possession of dope and resisting arrest. Mrs. Robinson was charged with the offenses previously referred to. Two other persons in the ~~store~~ ^{store}, black youths, were charged with frequenting a place where dope was sold.

- 2 -

Prior to the arrest in June, Buffalo had had a riot. Mr. Sostre had been approached ~~subsequently~~ ^{hereafter but prior to his arrest} by police officers and asked to inform ^{them} ~~him~~ of the names of persons who had played prominent roles in the riot. He gave them no information. After the arrest of Sostre and Mrs. R., numerous newspaper articles appeared in which the Chief of Police, Felicetta, and Amico, Head of the Narcotics Division, which contains the Subversive Squad, made statements repeatedly about the case, referring both to the dope charge and to Mr. S's participation in dope traffic which brought him a weekly profit of \$500⁰. Statements were also made indicating that he had trained a corps of youth for arson. He was constantly referred to as a black nationalist. Recently, both Felicetta and Amico ^{have} ~~had~~ appeared before a U.S. Senate investigating committee and given testimony, again tying in Mr. S. with the black rebellion in Buffalo in June of '67.

S was held initially on bail set at \$50,000. The bail was later reduced on his ^{application} ~~application~~ to \$25,000 and subsequently to \$12,500 or \$25,000 in property. S undertook an investigation of persons being held in the county jail to determine the rates at which their ^{bill} ~~bill~~ was set and drew up a memorandum which showed that he was being held at a higher ^{bill} ~~bill~~ than persons normally charged with the offenses which he was alleged to have committed, ~~were~~. Although he made numerous subsequent applications, from July 15, 1967 until his trial in March 1968, he remained in prison. Mrs. ^{R.} ~~R.~~ ^{bill} ~~bill~~ was set at \$5,000 and she was set free.

- 3 -

It is necessary for me to refer to the Sostre case constantly because Mrs. Robinson, a person who worked at the bookstore with Sostre, is only a victim in the police effort to frame Sostre. Her case cannot be understood apart from his.

According to the police account of events happening in July 15, at approximately 11:55, a man by the name of Art~~o~~ Williams, a black informant, and a Buffalo policeman, Steverson, went to Sostre's bookstore at 1412 Jefferson Avenue and Williams requested that he be sold narcot^{ic}s in the language commonly used in such circumstances. Sostre is alleged to have responded, "I don't do business before strangers," and at that point Williams and Steverson walked out of the door where Steverson stood in position where he could observe Sostre. Williams went back in the store and purchased a glassing^e packet, which was supposed to ~~contain~~ ^{have} heroin. He left the shop. The two men rendezvoused with a City and State policeman as well as an F.B.I. agent. They next went to Sostre's shop and they were alleged to have had a search warrant and to have arrested Sostre. According to newspaper accounts, Mrs. R. attacked one of the police officers. According to the transcript in Sostre's case, it was Sostre who attacked a police officer. At any rate, Sostre and Mrs. R. were arrested and at least two bystanders were placed under arrest. Supposedly, the officers found 10 additional glassing packets in the store. Meanwhile, across the street, starting three days previously, two police officers had been stationed who had taken moving pictures of persons going in and out of Sostre's shop. The transcript shows, among other things, that the police officers had great difficulty determining ~~out~~ ^{how} many persons were present in the shop, where Sostre was standing, how many police officers were involved in the struggle, which police officers were involved, etc., who announced the fact that a search warrant had been obtained.

4

Apart from the numerous conflicts in police testimony, the facts, as developed at trial in terms of Sostre's selling dope, do not fit into any logical or rational pattern when you consider Mr. Sostre's personalty and background over a period of years. Approximately 14 years ago, Sostre was convicted on a dope charge and served 12 years in a New York State prison. While in prison, he became a Muslim convert and is the individual who prosecuted the case, ~~xxxxxxxx~~ acting as his own lawyer, which cushioned the right of Muslims to practice their religion inside the prison walls. After he served 12 years in prison, ~~xxxxx~~ he came out in approximately 1964 and shortly thereafter he moved to Buffalo, worked in a steel plant and began selling books on a part-time basis. He eventually opened his bookstore on a full-time basis and began, ~~while at the same time~~ giving numerous lectures in the community related to his political beliefs. I have been told that on numerous occasions he spoke before student groups at the University of Buffalo. His bookstore became a gathering place for both white and black campus students as well as persons in the black community. This was the reputation he had achieved in Buffalo at the time of the June riot. I had spoken with Mr. Sostre and it is inconceivable that a man having the political beliefs he has could, at the same time, undermine his beliefs by carrying on a business in dope. At the same time, despite the charges of Felicetta and Amico as to his profitable drug business, Mr. Sostre never had sufficient funds to pay his bail or to obtain a lawyer who could have defended him at trial.

He was at one stage represented at trial by a firm of lawyers including Lipsitz, who has been very prominent in Buffalo in Civil Liberty areas. Lipsitz himself was head of the Buffalo Civil Liberties Union.

NAACP

LEGAL
DEPARTMENT

CASE FILES

NEW YORK

People V. Robinson
Lawyers Notes & Drafts
Undated

FOLDER

Geraldine Robinson

at 11:10

53 She knows Wm
Approximately a year
knew Wm & Stevens
picked up Wm

drove him to Stevens
introduced him to Stevens

54
55
56
57
58
59

left police Dept
knew Wm & Stevens
knew Wm & Stevens

returned at approx 11:15 pm

searched Williams

58 left police Dept 11:30

58 Stevens & Wm left at 11:45

59 She saw them returning 10 minutes
later

10
11:10 / 40
11:40

Journal
1663-3700

29-4200

11:10
11:30
11:40
11:50

Ms
A. M. M.
222

810
1

GR

362 415

567

48

485

180

303

Wilson 1394
415

Oliver

Webster

It is established that
no film taken & that next time
film may be available desirable
to inspect

measured

8/20

De Castro called May 12
+ gave info of how info was
checked on

Not received
not the correct
reported

7/18/1967 - Latona
Faller - retired

Received 6/5

10/9/67 Faller

Not received
not the correct

10/19/67 Faller

Received 6/5

1/31/68 Faller

Will have to get it

Received 6/5
with file
will file

Aug 8, 1967 -
Abbasgand Lavin

Received 6/5

Oct 6, 1967 - De Castro -
Request for

Received 6/5

11/29/67 - Mr Robert
KIENER

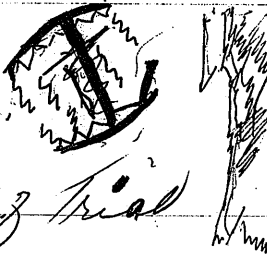
Received 6/5

1/4/68 - De Castro

Received 6/5
9/5/70

3/4/68 Richard M. Duran

not to be used if -
to be used in July selection -
and need file



Conduct of trial

Appellant:

Conduct of the trial
during the course
of the trial, the

Appellant

refrained

from participating

on the theory that

and has been ~~equally~~

commenced process

of appeal application pending

and inability to locate

has witnesses ^{and maintained} _{objection}
to the entire _{procedure}

of appeal & report

Affidavits
The Court on ^{of Criminal} _{Charge}

100
120
150
180
210
240
270
300
330
360
390
420
450
480
510
540
570
600
630
660
690
720
750
780
810
840
870
900
930
960
990
1020
1050
1080
1110
1140
1170
1200

10, 11, 12
40, 50, 53
55, 57,
65, 67,
131, 71,
79, 88,
89, 90,
93, 103,
106, 111,
156-157

Crust

① - Comments:
- ^{1-14-1900s} ~~1-14-1900s~~ - call witnesses
- appointed counsel
Charged

Sentence
1- witness

Procedure

OK
transcript
- reportedly ~~had~~ witnesses
- failed to reveal charge

Appointed Counsel

Nature of
open to comment -
- as to witnesses
- effort to assist court

Clipped,
dated,
p. 46

Prosecution - 5/16/44 - 89-90
ready files

Williams:

32
34
36
38
39

Whole thing done
part. in 1st part of 4/7
leaf p 39

Stevenson:

4
48 - Agent Stevenson to
I.D. of boy
B. no bases for
I.D. since
init. ab. were
not quoted
in his presence
(49)

Steinmetz

52

Grumacher

1.67 money properly used
init. ab. - (66)

Conrad '45

Sample - 1/10 - pers. (pers. in I.D. handed) sent to Conrad

Search
warrant
present
by name of
L. W. [unclear]
officer

check to
open the
up

Vancouver
118

✓

Addressed to the 1st of June

dehydrated / Accepted number
filed / filed

My question I have is what will
the corpus be productive
of that an appeal would
not be
basically a different form
don't believe that's correct

[Faint, mostly illegible handwritten notes on lined paper, possibly including names and dates.]

1-172

208-415

→ Buffalo

492-566

(to 619 to be completed.)

11:20-
11:45

Dowd
Alford v. United States

2m

346 U.S. 506, 74 Ct. 562 (1954)

Shaw
v. ...

There Appellant prevented
from filing appeal because of
warrant within statutory time
of such appeal, held = denial of
judicial protection

Remedy = try to obtain appellate
review to which he = originally
entitled (if not no relief)

134 F. Supp

Spencer v. Weisauer (Encl. Jan 1969)
No ~~complaint~~ appeal filed as transcript
obtained by Ct app't & lawyer for app
to be moved for a new trial
the writ is issued



but, bld, w:

Sections indicate

There was a
preliminary trial

had a corpus as
a remedy

Effect of ^{pre-trial}
had on the
alternative
release

Bill
remedy & conviction

Appeal -

we go different

appeals now as against
the

remedy -

w/ be retrial

Gov has
time
to
will
is
successful
appeal

Gov has
time
to
will
is
successful
trial

Not an ultimate
discharge, full jurisdiction
to suit the case
Effect of appeal

Under California

386215 938, 181E d 24 493,
87 100 1396 (1394)

John
T. Reynolds
further
proceeding

Right to first appeal

② These appeals cannot
include ~~no~~ right to appeal
& D requested another
lawyer which was denied
filled by ~~himself~~ pro se
to was held

1959

Must go further than that

I support Client's
② Appeal to best of
position

(u) If wholly favorable
my advice is to leave
it with law. The request
must be accompanied
by a brief summary
of any arguably supporting
appeal

At myke, I see whether
wholly favorable

Cook

Cassie J. Smith

359 N. Montgomery St.

Newburg N.Y.

within 200 feet

Apartment B 12g

Haw

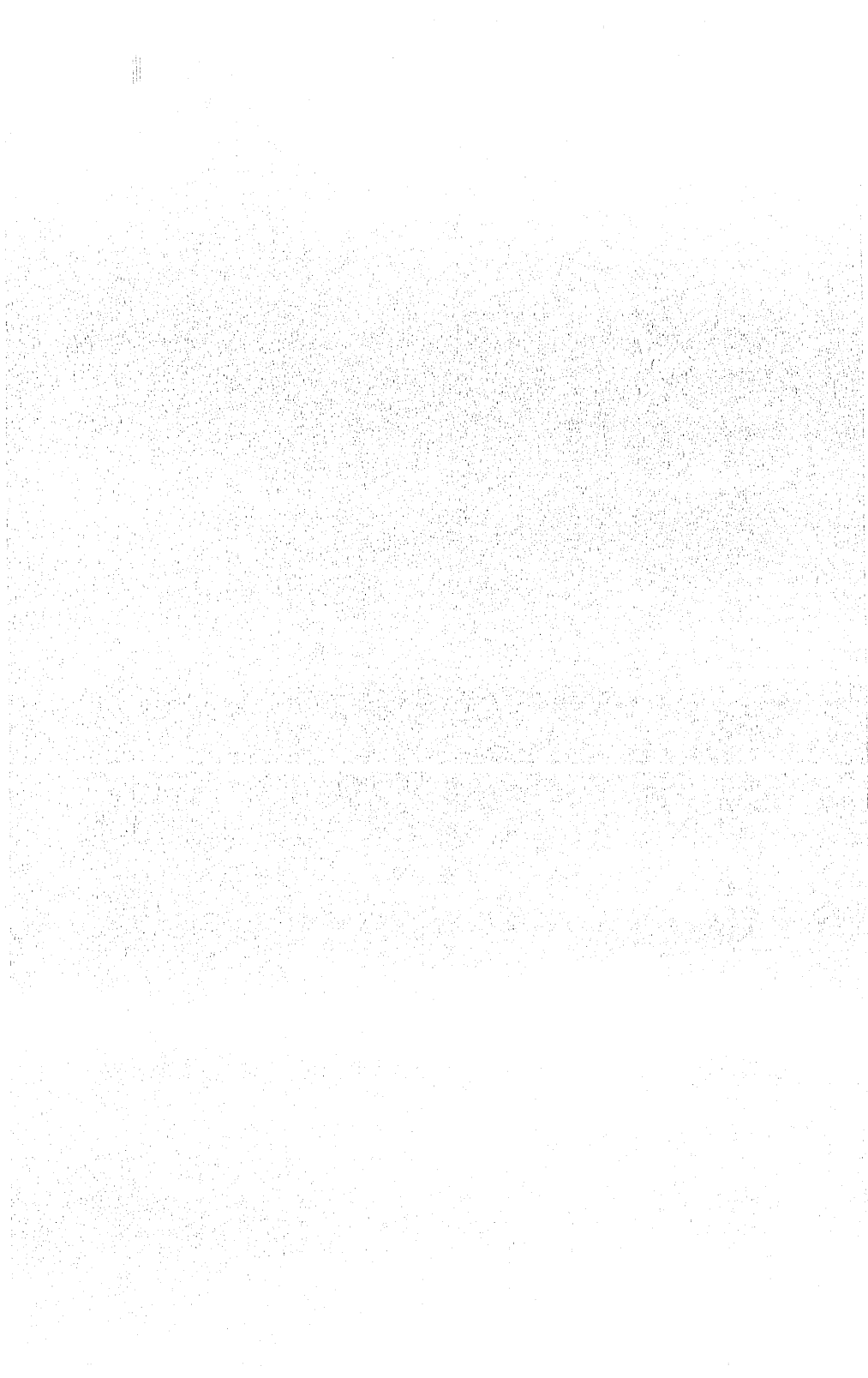
Duty

Jo

Colonade
paved street

Hallmark

~~Handwritten scribbles and illegible text, possibly including names like 'M', 'W', 'A', 'C', 'D', 'E', 'F', 'G', 'H', 'I', 'J', 'K', 'L', 'M', 'N', 'O', 'P', 'Q', 'R', 'S', 'T', 'U', 'V', 'W', 'X', 'Y', 'Z'.~~



pp. 208. 387
typed by
Sharon -

&
enclosed -

I'll be @
Rosemary
Neidenberg's
tonight
638-3513

p.208 Proceedings of Tuesday, May 20th, 1969, commencing at approximately

TESTIMONY OF ARTO WILLIAMS

DIRECT EXAMINATION BY MR. DOBOZIN:

Q Arto, how old are you today?

A 31.

Q And where were you born?

A Winston-Salem, North Carolina.

Q Okay. And in July of 1967 were you a resident of the City of Buffalo; did you live in Buffalo?

A Oh, yesx.

Q And during the time that you lived in Buffalo, in July of 1967, were you employed by the Buffalo Police Department?

A Yes.

p.209 Q And in what capacity were you employed by the Buffalo Police Department?

A Informant.

Q As an informant?

A Yes.

Q Were you employed by anybody else as an informant after or before July of 1967?

A No.

Q That was the only one that you worked for during July of 1967?

A That's correct.

Q And more specifically, on July 14th, 1967, did you work as an informant?

A I did.

Q And Arto, did you know one Martin Sostre before July 14th, 1967?

A Yes.

Q And how long had you known Martin Sostre?

A About a year and a half.

INTERRUPTION

p.210 Q Okay. Now, Arto, did you know on July 14th, 1967, Geraldine Robinson?

A Yes, I did.

Q Did you know her by name?

A No.

Q And how did you know her? What was the ... how did you know her, by any particular name?

A No.

QA And did you know of any relationship between her and Sostre?

MR. McKINNEY: Objection.

THE COURT: Sustained.

Q What -- well, did there come a time on July 14th, 1967, that you saw Geraldine Robinson?

A I did.

Q And had you seen and talked to her before July 14th, 1967?

A No.

Q Was that the first time you saw her?

A Yes. No, it was not the first time that I have seen her.

Q You had seen her on other occasions?

A I used to go to school with her.

Q You used to go to school with her?

A Yes.

p. 212 Q Now on July 14th, 1967, where did you see Geraldine Robinson?

A Would you repeat that?

Q On July 14th, 1967, where did you see Geraldine Robinson?

A Afro-Asian Bookstore, something like that.

McKINNEY OBJECTS

Q Do you know where the Afro-Asian Bookstore is located, on what street?

A 1412 Jefferson.

Q That is in the City of Buffalo?

A Yes.

Q And at the time that you saw Geraldine Robinson was she alone or in the company of someone?

A In the company of someone.

Q And who was that that she was with?

A Martin Sostre.

p. 213 Q And, by the way, Arto, have you ever been convicted of a crime?

A I have.

Q And how many times have you been convicted of a crime?

A I can't recall offhand, about a dozen times, convicted of a crime? No, not that many times.

Q How many times were you convicted of a crime?

A About four times.

Q About four times? And do you recall the crimes you were convicted of?

A Yes.

Q What crimes were you convicted of?

A Armed robbery, possession of narcotics, and grand larceny.

Q Do you recall any others?

A You say convictions?

Q Yes.

A No.

Q Now Arto, have you ever used narcotics?

A I have.

Q More specifically, have you ever used heroin?

A Yes.

Q And by the way, prior to July 14th, 1967, before July 14th, 1967, were you ever certified as an addict?

A Yes.

Q Now, on July 14th, 1967, were you using, or had you used, narcotics, heroin?
p.214

A No.

Q Why do you say that? How can you say that?

A How can I say that?

Q Where were you, early in the day, July 14th, 1967?

A Erie County Jail.

Q And how long had you been there?

A About June 20th.

Q From June 20th to July 14th?

A Of '67, yes.

Q Now, when you were working as an informant for the Buffalo Police Department did you receive pay?

A No.

Q Did -- were you -- did they ask you to work as an informant, or did you ask them to work as an informant?

A I asked.

Q You asked them to work as an informant?

A Yes.

Q And did anybody ever give you drugs?

A No.

Q I am talking of the Buffalo Police Department, or of the Federal Bureau of Narcotics, or the New York State Police?

A No.

Q Now on July 14th, 1967, did there come a time that you saw Alvin Gristmacher?
p.215

A Yes.

Q You did know Alvin Gristmacher before July 14th?

A Yes.

Q Where did you see Alvin Gristmacher?

A I don't know, I just ---

Q You are not sure?

A No.

Q Did there come a time that you saw Alvin Gristmacher when you were out of the jail?

A Repeat the question before that.

INTERRUPTION

Q Yes, July 14th, 1967, do you remember when you -- when you saw Alvin Gristmacher

p.216
A It was about two or three o'clock in the evening.

Q Afternoon?

A Afternoon.

Q And where was that?

A Buffalo Police Department.

Q And did there come a time that you saw Alvin Gristmacher later in the evening?

A Yes.

Q And when you saw Alvin Gristmacher in the evening, where was that, do you recall?

A Winslow and Fillmore.

Q That would be in the City of Buffalo?

A Yes.

Q And did you go someplace after seeing Alvin Gristmacher?

McKINNEY OBJECTS to the leading.

Q Now, Arto, after you were in the company of Mr. Gristmacher, of Officer Gristmacher, where did you go? Do you recall?

A Buffalo Police Department.

Q And when you arrived at Buffalo Police Department, did you meet anybody else?

A State Trooper Steverson, something like that.

Q State Trooper Steverson?

A Lewis Steverson, something like that.

Q Were you introduced to Trooper Steverson?

A Yes, by Alvin Gristmacher.

INTERRUPTION

p.218
Q Now, Arto, what if anything happened after you met State Trooper Steverson at the Buffalo Police Department?

A We drove around for awhile, and came back to the Buffalo Police Department. And as I recall --

INTERRUPTION

A As I recall, I think Alvin Gristmacher and State Tpr. Steverson went into the Police Department. And then they came back out and then took me out of the car and searched me.

Q Who searched you?

A Alvin Gristmacher.

Q And after you were searched, what if anything did you do after that?

A Oh, he gave me fifteen dollars, a ten and five singles.

Q Who gave you that?

A Alvin Gristmacher.

Q And then what happened?

A Then we proceeded to Woodlawn and DuPont.

Q Who was with you at that time?

A Gristmacher and Trooper Steverson.

p. 219
Q And the three of you were in the car?

A Yes.

Q And this was at Woodlawn and DuPont?

A Yes.

Q And when you reached DuPont and Woodlawn, what did you do if anything?

A Trooper Steverson and I got out of the car and walked back down Woodlawn, down Jefferson, over to the African-Asian Bookstore, and both of us went in at the same time. I approached Martin Sostre and asked, was he doing any business, and he says "Yes." And I asked him, could I cop a bag. And he says he didn't want to do any business with State Trooper Steverson in the store, because he didn't know him. So Trooper Steverson and I went back out the store, right in front of the -- right in the doorway. I told him to wait there, and I went back in, and I asked him, "Will you do any business?" He says "Yes." I gave him the money and he passed it to Geraldine Robinson. She counted it and told him it was all there.

THE COURT: I can't understand you. I think you have to speak a little louder. The last thing I have there, Steverson was in the doorway. Now, what happened after that?

p. 220
A I went back into the store, and I asked him, would he do any business then. He said, "Yes." I gave him the money. He passed it to Geraldine Robinson. She counted it and told him it was all there.

Q Now, at the time that you and Trooper Steverson were together and you had a conversation, the first conversation you had with Martin Sostre, when Tpr. Steverson was there?

A I asked, was he doing any business.

Q Yes. Where was Geraldine Robinson in the store at that time?

A She was standing right beside him almost.

Q About how far away?

A As her and the lawyer is right now.

Q And did you whisper, did you -- how did you speak?

MR. MCKINNEY: Oh, Your Honor, I object. Did you whisper. The question is suggestive, it's leading.

HOBOZIN: How did you speak?

THE COURT: I will let that question be answered.

A As I am speaking now, very clearly, you know, anyone could have heard it, standing in the store.

p. 221
Q And did -- how much money did you give to Sostre?

A Fifteen dollars.

Q Did Sos'-- did you have any conversation with anybody in reference to how much money was supposed to have been paid? I am talking about on July 14th 1967, when you and Trooper Steverson were there.

A In the store?

Q In the store.

A No.

INTERRUPTION

Q Did anybody, Arto, tell you how much money you were supposed to pay?

A No, no one told me that.

Q Pardon?

A No.

INTERRUPTION

Q And after you gave the money, the only conversation, the only words by anybody ~~xxxxx~~ was from whom? After you gave the money who said anything after that?

A Geraldine Robinson.

Q Did anybody else say anything?

A No, not that I recall.

Q And what did she say?

A She said, the money was all there.

Q And after she said this, what if anything, did anybody do?

A Martin Sostre proceeded to the back of the bookstore. He was gone about a minute, maybe not even that. Then he came back, and handed the bag across the counter to me.

Q And you took the bag?

P.223

Yes.

Q Where was the money during this entire transaction, during the time that Sostre went to the back of the bookstore, came back, and handed you the bag? Where was the money?

A Geraldine Robinson's hand.

Q And after you received the bag, what did you do?

A I told her to be cool, and left the store.

Q You turned around and left?

A Yes.

Q And where was Officer Steverson, to the best of your recollection, at the time that you were in the store?

A Still standing in the doorway.

Q And when you walked out, was Officer Steverson still in the doorway?

A Yes.

Q And did he leave with you?

A Yes.

INTERRUPTION

p.224

Q Where did you go after you left the store, if anyplace?

A We proceeded back up Woodlawn to DuPont, back to the car.

Q And this bag that you had, where was that, if any place?

A In my hand.

Q And from the time that you received it, from Mr. Sostre -- well, strike that. After where did you go to, any particular place, after you left the store?

A Back to the car.

Q Did you get in the car?

A Yes.

Q What did you do after you got in the car?

A I gave the bag to Alvin Gristmacher.

Q And from the time you left the store, at 1412 Jefferson Avenue, to the time that you got into the automobile, where was the bag?

A In my hand.

Q You hadn't dropped it, thrown it away, picked up anything at all?

A No.

p.225 Q Now, does Geraldine Robinson appear here in the court room today?

A Yes.

Q Would you point her out, please?

A Sitting at the table.

Q And which one is she?

MR. MCKINNEY: Well, obviously it's not me!

Q I just want to make sure. Are you referring to the woman at the table?

A Yes, I am.

Q Okay. Will the record please note that the witness has identified the defendant, Geraldine Robinson. Now, at the time you were searched, was anything removed from your person?

OBJECTION to the leading

Q At the time that you were searched, what if anything was removed from your person?

p.226

A It's been two years.

Q You don't recall what was removed from your person?

A No.

Q After the search was --

A I know everything I had in my pockets was kept from me.

Q You didn't have anything on your person?

A No.

Q You didn't have any glassine envelope, did you?

A No.

Q Now, I show you People's Exhibit #1 marked for Identification, and I ask you if you recognize the contents therein?

A The contents?

Q Yes, the contents of this white envelope; do you recognize that?

A I recognize the envelope.

Q You recognize which envelope?

A This one, the small one.

Q The small one. Okay. And is there anything on that which you recognize?

A Yes.

OBJECTION to the leading.

Q How do you recognize the envelope, Arto?

A My initials are on it.

Q And do you recall when you put those initials on there?

A I recall the date.

Q What was the date?

A July 14th, it could have been the 15th, after twelve o'clock.

Q Okay. Was it -- do you recall whether it was, whether or not it was dated, the envelope?

A Yes, I do not.

INTERRUPTION

p. 228
Q Now, you said that you gave fifteen dollars to Sostre. Do you recall where you received that fifteen dollars, if you did?

A Yes.

Q And where?

A From Alvin Gristmacher.

Q Did you have any other money on you, at the time you walked into the Afro-Asian Bookstore?

A No.

Q No further questions.

CROSS-EXAMINATION BY MR. MCKINNEY:

Q Mr. Williams, you would prefer to be called Mr. Williams, wouldn't you, rather than Arto?

A Doesn't matter.

Q Well, Mr. Williams, how long have you been in Buffalo these part few days?

A A week.

Q Where are you living now?

DOBOZIN OBJECTS

p. 229
Q Mr. Williams, you testified on Direct examination that you have been convicted of three crimes, is that correct, sir?

A I did.

Q Is that your best recollection as to the specific numbers of crimes that you have been convicted of?

A That is my best recollection.

Q Now, on July 14th, 1967, the morning of that day, you were in the Erie County Jail, were you not?

A Yes.

Q And how long prior to that time had you been in the Erie County Jail?

A Since June 20th.

Q And at any time, for any period of time, between June 20th and July 14th, did you go outside of the confines of that jail?

A What do you mean, outside?

Q Did you go outside the building?

A No.

Q And when you went there on June 20th, that was as a result of having been arrested, is that right?

A That's correct.

Q What charge had you been arrested on?

DOBOZIN OBJECTS

p.230

MR. McKINNEY: I am talking about his recollection of why he was in the Erie County Jail.

THE COURT: I will let him answer that question.

A Grand Larceny.

Q And is that the Grand Larceny of which you testified you were convicted?

A Repeat the question.

Q Is that the Grand Larceny that you say you were convicted of?

A I didn't say what I was convicted of.

Q Didn't you testify on Direct Examination that you had been convicted of Armed Robbery, Possession of Narcotics, and Grand Larceny?

A I did.

Q All right. Now, is the Grand Larceny for which you had been arrested and placed in the Erie County Jail, the same charge of Grand Larceny that you were convicted of, that you mentioned in your Direct examination?

p.231

A Yes.

Q And when were you convicted of the Grand Larceny charge?

A Around July of '68.

Q Pardon?

A Around July of '68.

Q Do you recall what date in July of 1968?

A I do not.

Q That was approximately a year after you went to the jail, is that correct?

A That is correct.

Q Now, at the time that you were placed in jail on July -- on June 20th, was bail fixed? Did you have bail fixed in the case?

A I don't recall.

Q You don't recall whether or not the judge fixed bail when you appeared before ---

A I do not recall.

Q Do you recall whether or not sometime after you were placed in Erie County Jail, bail was fixed by any judge, or a court of competent jurisdiction?

A I do.

Q When was such bail fixed?

A When was bail fixed?

Q That's correct, that is my question.

p. 232
A Or do you mean, when did I appear before the judge for bail?

Q When was your bail fixed by a judge, or court, on that charge?

A I came before the judge on the 14th of July, 1967.

Q And that's when your bail was fixed, is that correct?

A I guess so.

Q Who was with you, in court, on that day?

A No one.

Q Well, how did you happen to appear in Court on July 14th, 1967?

A I was called over.

Q Was your case scheduled to be tried on that day?

A I guess so.

Q Did your case go to trial on that day?

INTERRUPTION

A I appeared for bail that day.

Q You did not appear for trial?

A I am not a lawyer, I don't know what trial really means.

Q Well, now, Mr. Williams, you have had plenty of experience with the law.

DOBOZIN OBJECTS

Q You don't know what bail is, Mr. Williams?

A I know what bail is.

Q You know what you go to Court you have bail fixed?

A That's what I went up on the 4th, I mean the 14th of July.

Q All right. Now, did you make a request to be brought before the Court for the fixation of bail?

A No.

Q Had you been before the Court at any time between June 20th and July 14th for the fixation of bail?

p. 234
A No.

Q And you did not request to be brought before the Court on July 14th for the fixation of bail, is that correct?

A No.

Q Well, you mean, no, that's not correct, or no, you did not ask to be brought before the Court?

A I did not ask.

Q And you appeared before the Court and then bail was fixed, is that correct?

A That is correct.

Q Who made the application on your behalf?

A I don't know.

Q Did you have a lawyer?

A I think I stated I didn't have a lawyer.

Q Did a lawyer appear before you, before the judge, when you appeared for bail?

A No.

Q Did someone other than yourself speak to the Court and make an application for bail in your behalf?

A I do not know.

Q All you know is that bail was fixed by the judge, is that correct?

A That is correct.

Q Did you hear the judge say, I fix bail in such and such an amount of money?

p.235

A No.

Q Do you know what judge you appeared before?

A I think it was Judge Gaughan.

Q Judge who?

A Judge Gaughan.

Q Did Judge Gaughan say to you, bail is fixed in a certain amount of money?

A I guess, like I said, it was two years, I don't recall.

Q You don't recall. Well, how much bail was fixed in your case, almost a month after you had been arrested, on the 14th of July, 1967?

A I was released in my recognizance.

Q Oh, you mean you were in jail for approximately 34 days without any bail being fixed, and then on July 14th you were released without any bail at all? Is that correct, sir?

A Thirty-four days, you say?

Q Well, approximately?

A Would you repeat the question?

Q Are you telling us now that you were in jail for a period of, in excess of ten or twenty days, without any bail, and then all of a sudden, on July 14th, you were released without any bail being posted?

p.236
A That is correct.

Q And before that date you couldn't get out for any amount of money, is that correct?

DOBOZIN OBJECTS

Q I will reframe it. Mr. Williams, when you were arrested, on or about -- are you paying attention, sir?

A I hear you.

Q When you were arrested, on or about the 20th of June, 1967, you appeared before a Court, and were arraigned on that charge of Grand Larceny, were you not, sir?

A I guess so.

Q Don't you remember?

A I appeared before a judge.

Q And at the time that you appeared before the judge, was not an application made for the fixation of bail?

A Well, as I understand it, if you have a felony, you can't get bailed in City Court, it has to come across
p.237 the street.

Q I see. So that no bail was fixed at that time?

A That is correct.

Q Which means that you were not free to leave the jail, isn't that correct? You couldn't -- there was no bail fixed for you to post, so you could get out of jail, isn't that correct?

A I don't know.

Q Did you want to remain in jail?

INTERRUPTION (DOBOZIN OBJECTS)

Q Prior to July 14th of 1967, had you appeared in the County Court?

A No.

Q Prior to July 14th, 1967, if you know, had you been indicted for the crime of Grand Larceny?

DOBOZIN OBJECTS

Q
p.238 Mr. Williams, had you, on July 14th, 1967, or before
p.239 that date, been indicted for the crime of Grand Larceny?

A What date did you say?

Q July 14th, 1967.

A No, I hadn't been indicted.

Q So that your case was still pending before the Grand Jury, isn't that correct?

A I wouldn't know where it was pending.

Q Now, when, for the first time, before July 14th, 1967, did you see Sgt. Gristmacher?

A Before the 14th, you said?

Q Yes.

A I do not recall the date I seen him, but sometime in June.

Q Was that after you had been arrested and were in the Erie County Jail?

A Yes.

Q And under what circumstances did you see him? Withdraw it. Where did you see him for the first time?

A When I was in jail.

Q Well, is that where you saw him?

A I am asking you, is that what you want to know?

Q I ask the questions, Mr. Williams, you will answer, please.

A I don't understand the question. I think it has to be clarified.

p. 240

Q I will rephrase the question. Where for the first time did you see Sgt. Gristmacher after June 20th of 1967?

A At the Erie County Jail.

Q Did you write to him and ask him to come to see you?

A That is correct.

Q Did you write to him directly?

A No.

Q To whom did you write?

A I didn't write to anyone directly, I just wrote to the Narcotics Bureau.

Q And did you recall when you wrote to the Narcotics Bureau?

A The specific date?

Q Well, to the extent that you can recall, as close to the date as you can remember.

A Sometime in June.

Q That was while you were awaiting action, from the Grand Jury, or awaiting trial, is that correct?

A That's while I was waiting, yes.

Q At the time that you were arrested, in June of 1967, did you have any other cases pending against you?

DOBOZIN OBJECTS

Q Well prior to your arrest in June of 1967, Mr. Williams, had you been convicted of an Armed Robbery charge?

A X Yes.

Q Had you been convicted of Possession of Narcotics?

A Yes.

Q So that at the time that you were arrested, on the Grand Larceny case, you had only been convicted of the two crimes, is that correct?

A That is correct.

Q Now when were you convicted of the Armed Robbery case?

DOBOZIN OBJECTS

A 1956, March 8th.

Q And when were you convicted of the Possession of Narcotics?

A I do not recall the date, or the year.

Q Was that before or after the Armed Robbery conviction?

A It was after.

Q Now, at the time that you were arrested in June of 1967, were you using narcotics?

P. 242
A At the time I was arrested?

Q Yes.

A Yes.

Q And how long prior to that time had you been involved in the use of narcotics?

A About five years.

Q And what kind of narcotics did you use?

A Heroin.

Q Do you know the term, skin popper?

A No.

Q Do you know the term, mainliner?

A I have heard it.

Q Well, were you a skin popper or a mainliner?

A A mainliner.

DOBOZIN ASKS WHAT IT MEANS

Q Mr. Williams, will you tell the jury what a mainliner is?

A Me tell the jury what a mainliner is?

Q Yes sir.

THE COURT: Well, do you know what the expression mainliner is? What does it mean to you?

A To go into your vein.

Q (McKINNEY:) I am sorry, I didn't hear you.

A To inject the heroin into your vein.

Q And in June of 1967, how often did you inject heroin into your veins?

A Maybe twice, three times a day.

Q And what quantity of heroin did you inject?

A I doubt if anyone would know that.

Q Well, what quantity did you believe that you were injecting?

A I still wouldn't know the answer.

Q Well, Mr. Williams, what price bag did you have to inject in your veins, each time that you did so?

A Fifteen dollar bag.

Q And how many times a day did you do this?

A I said two or three times.

P. 244
Q In June of 1967, were you employed, prior to June 20th of 1967?

A I was.

Q Where were you employed?

A At a nursing home out on, I can't recall the street, it's King Manor Nursing Home.

Q How long were you employed there?

A Maybe five months.

THE COURT: Did you say five months?

A Yes.

Q Is that a nursing home, similar to a hospital?

DOBOZIN OBJECTS

Q How much did you earn at your job?

A I do not recall.

Q Did you earn thirty dollars a day?

A I doubt it.

Q Is it true, Mr. Williams, that you purchased -- withdraw it. Did you make a copy of the letter that you wrote to the Buffalo Police Department?

p.242

A No, I didn't.

Q Well now, after writing that letter, how soon did Sgt. Gristmacher appear to see you?

A Maybe a week. Maybe a week.

Q So that it was sometime around the, maybe the 27th of June, towards the end of the month?

A Could have been.

Q Did there come a time when he came to see you again?

A Yes.

Q Before July 14th, 1967?

A Yes.

Q Do you recall when that was?

A Around the 12th or 13th of July.

Q And did there come a time when he saw you again, before the 14th of July?

A No.

Q So that he saw you a total of two times prior to July 14th, of 1967, is that correct, while you were in the Erie County Jail?

A That is correct.

Q Had you had occasion to meet with Sgt. Gristmacher before you went to the Erie County Jail?

A I had.

Q On how many occasions?

A I can't recall that.

p.246

Q Well, I realize that it taxes your ability to recall, but would you try, sir?

A I can't.

Q Approximately, approximately how many times?

A I just stated I couldn't.

Q No idea?

A No idea.

Q Was it more than a dozen times?

INTERRUPTION

Q Well, for how long a period of time had you been meeting with Sgt. Gristmacher, prior to June 20th of 1967?

A I don't recall meeting him.

Q Pardon?

A I -- I don't recall meeting him, as you state, meeting him.

Q Well perhaps I should rephrase the question. How many times did you see him, and talk to him, prior to July -- June 20th Of 1967?

A I don't recall.

Q Did you have occasion to see him when you were under
p.247 the influence of narcotics?

DOBOZIN OBJECTS

A I don't recall.

Q Well, on some of the occasions when you would see him, where would you see
him?

DOBOZIN OBJECTS

A William and Michigan, Jefferson and Perry, Woodlawn and Jefferson, Jefferson and Glenwood, a number of places.

Q Now on these numerous occasions that you saw him, now that you recall ---

DOBOZIN OBJECTS

Q On the four occasions that you have just testified to, the four places where you say you saw him, on any of those occasions, were you under the influence of narcotics, if you remember?

A No, I can't recall.

Q On any of these occasions, did he arrest you?

A No.

Q Did you have conversations with him?

A No.

Q You just saw him?

A I just saw him.

INTERRUPTION (DOBOZIN OBJECTS)

Q Well, may I just inquire, sir, as to whether or not the witness recalls
p.251 ever having talked to Sgt. Gristmacher before June 20th of 1967?

THE COURT: He may answer that question.

A On what occasion -- what occasion, I do not recall, but I have.

Q One further question. Do you recall whether or not it was on more than one occasion?

A Could I answer that way I want to answer it?

Q Well, I would like to have you answer it truthfully.

A I am truthful.

INTERRUPTION

A Yes, I recall.

Q Well, was it on more than one occasion?

A Yes.

Q Now, Mr. Williams, after your release on July 14th, p.252 of 1967, when next did you return to the County Court in connection with that case?

A Oh, around September, '67.

Q And when did you finally -- withdraw it. You say that you were convicted of Grand Larceny, were you convicted after trial, or by a plea of guilty?

A By a plea.

Q By a plea of guilty?

A I guess so.

Q Well, do you know, sir?

A I guess so. I guess a plea of guilty.

Q Do you recall, then?

A No, I do not.

Q Did there come a time when you appeared before the Court for sentencing?

A Yes.

Q And what sentence did you receive?

DOBOZIN OBJECTS

Q Mr. Williams, did you have occasion to testify in a p.253 trial in March of 1968?

A I recall testifying but I don't know what month it was.

Q Well, at the time that you testified, where did you live?

DOBOZIN OBJECTS

A At Erie County Jail.

Q And how long prior to the time that you testified in March of 1968 had you been in the Erie County Jail?

DOBOZIN OBJECTS

Q Now, Mr. Williams, do you have any difficulty in recalling the facts surrounding your going to Police Headquarters on July 14th of 1967? p.254

INTERRUPTION

A No, I do not.

Q Your recollection is fairly clear?

A That is correct.

Q What time were you released from Erie County Jail on July 14th?

INTERRUPTION

A Around two or three o'clock.

INTERRUPTION

Q That's what time you say you went to Police Headquarters, is that correct? Did you go directly from the Erie County Jail to Police Headquarters?

A No.

Q Where did you go? What time did you -- were you released from the Erie County Jail?

A I said around two or three o'clock.

P.255
Q All right. Now, what time did you go to Police Headquarters?

A I guess within that hour.

Q Where did you go between the time that you got out of the Erie County Jail and the time you went to Police Headquarters?

A You mean in between?

Q Yes.

A From the jail I went to the Courtroom. From the Courtroom I went over to the Police Department.

Q And for what purpose did you go to the Courtroom that morning?

DOBOZIN OBJECTS

Q Oh, I am sorry, I may have misunderstood it myself. My understanding was you went from the jail to the Courtroom, then you were released in your own custody, then you went from the Courtroom to the Police Department?

A That is correct.

Q I see. Did you go over there alone?

A Yes.

Q Was that by prior arrangement?

P.256
A No.

Q You mean you got to the Court, but you didn't know you were going to the Court?

A That's correct.

Q You were released in your own custody, but you didn't know you were going to be released in your own custody?

A That's correct.

Q And then you went to Police Headquarters without any prior arrangement?

A That's correct.

Q Didn't you and Sgt. Gristmacher discuss this whole thing when he came to see you in the Erie County Jail?

DOBOZIN OBJECTS TO "whole thing"

Q Didn't you and Sgt. Gristmacher discuss your being released from jail, your coming to court, and your going over to Police Headquarters?

A No, he didn't, not the way you put it.

Q Oh, well how should I put it?

p.257 Q What did you discuss with Sgt. Gristmacher?

A About what I wanted to do.

Q And didn't you tell him that in order to do what you wanted to do, you would have to get out of jail?

A I did not tell him that.

Q Well, you couldn't do what you wanted to do in jail?

A I guess maybe it was understood, naturally.

Q You couldn't very well do what you wanted to do if you weren't released from jail, could you?

A No, that's correct.

Q Did you ask him to assist you in being released?

A No, I did not.

Q All right. Now you went over to Police Headquarters at about 3:30?

A Around that time.

Q How long did you remain there at that time?

A Around a half an hour, I guess.

Q Till about four o'clock?

A I guess so.

Q So then where did you go?

A I went to a movie.

Q Do you recall what movie house you went to?

A I do.

Q What movie house was it?

A It was the Century Theatre.

p.258 Q Was anyone with you?

A No.

Q How long did you remain there?

A Oh, I guess about quarter to nine, something around that time.

Q And when you got out of the Century Theatre, where did you go?

A To Winslow and Fillmore.

Q Was that by prior arrangement?

A That was by prior arrangement.

Q With who?

A Alvin Gristmacher.

Q And when you got to that corner, was Sgt. Gristmacher there?

A I don't think he was.

Q Did he arrive shortly after you arrived?

A He arrived shortly after.

Q Was he alone or with others?

A He was alone.

Q Did you get in the car?

A That is correct.

Q And after you got in the car -- withdraw it. About how long did you have to wait before he arrived, if you remember?

A No more than ten minutes, I would say, maybe not even five.

Q I am sorry?

A I say maybe not even five.

Q After you got in the car, where did you go?

A I came down to the Buffalo Police Headquarters.

Q Did you go there directly from the corner at which you met him?

A That is correct.

Q And when you got to the Buffalo Police Headquarters, did you go inside?

A No.

Q Did you go inside at any time?

A Yes.

Q Well, how long after you arrived at Buffalo Police Headquarters, after havin g been picked up by Sgt. Gristmacher, did you go inside?

A Maybe about 11:30.

Q Was that after or before you went, as you say, to 1412 Jefferson Avenue?

A After.

Q So that you did not, at any time, after getting out of the movies and before going to 1412 Jefferson Avenue, go into Police Headquarters, is that correct?

A On that date?

Q Yes, on July 14th, 1967.

p.260
A I told you, when I got out of jail, I went over there.

Q No, I said between the time you got out of the movies at quarter to nine, and the time you went to 1412 Jefferson Avenue, you at no time went into Police Headquarters, is that correct?

A That is true. That is correct.

Q And you say that you were given some money. Where were you given the money?

A In the parking lot behind the Police Station.

Q Not in the Police Station?

A No.

Q And did you recall that very clearly?

A I do.

Q And how much money were you given?

A Fifteen dollars.

Q In what denominations?

A Ten and five singles.

Q Is there any question in your mind as to the amount and the denominations of the money that you were given?

A There could be some.

Q There could be some?

A Yes.

Q Is it possible that you were given more than fifteen dollars?

p.261
A No, no, no, no.

Q Is it possible that you were given less than fifteen dollars?

A No.

Q In other words, you are sure that it was fifteen dollars?

A I am sure.

Q And you are sure it was a ten and five ones?

A To my best recollections, yes.

Q All right. Now do you recall having testified in the trial in reference to this same situation back in March of 1968?

A In reference to it?

Q Yes.

A Yes.

Q Do you remember giving some of this same testimony before, don't you?

A Yes.

Q All right. Now referring to page 35 of the transcript, Mr. Dobozi, and referring more specifically to lines 15 - 25 ---

INTERRUPTION as prior testimony is marked, etc.

p.262
Q All right. Now do you recall having been asked these questions and giving these answers:

p.263

" Q All right. After you were searched by Detective Gristmacher, where, if anyplace did you then proceed to and with whom?"

" A I proceeded to Woodlawn and DuPont with Detective Gristmacher and State Trooper Steverson."

" Q You proceeded to DuPont and Woodlawn?"

" A Yes."

" Q And that is in the City of Buffalo, isn't it?"

" A Yes."

" Q When you arrived at that intersection what if anything transpired?"

" A Well, nothing happened. I had been given fourteen dollars after I had been searched here, and we drove over."

(END OF READING OF PRIOR TESTIMONY)

Q Do you recall having been asked that question and making that response?

A I recall making that mistake, yes.

Q Oh, that was a mistake, sir?

A That is correct.

Q Well, in March of 1968 wasn't your recollection of the facts more vivid than it is now, over a year later? Didn't you remember what had happened in July Of 1967, better, only approximately eight months later, than you do now almost two years later?

A I wouldn't say so, no.

p.264 Q So that when you said you had been given fourteen dollars that was a mistake, is that correct?

A That is correct.

Q But now you are sure that it was fifteen dollars?

A That's correct.

Q When did you recognize that you had made a mistake when you testified the last time, Mr. Williams?

A When I was reading the transcript.

Q And when did you read the transcript?

A Last Monday.

Q So that in preparation for your testimony here today you read the transcript, and then you have changed your testimony, is that correct?

A I didn't say that.

Q Now sir, when you arrived at Police Headquarters after coming from the movies and being picked up by Sgt. Gristmacher, you say that you were searched outside the Police Headquarters, is that correct?

A That's correct.

Q Where, more specifically, were you when you were searched?

p.265 A In the parking lot.

Q And were you in a car or outside of the car?

A Standing outside the car.

Q Weren't you seated in the front seat of the car when you were searched?

A No.

Q You are sure of that?

A Positive.

Q You were standing outside?

A Standing outside.

Q And where were you when you were given the fifteen dollars or fourteen dollars?

A Fifteen dollars.

Q Where were you, specifically, when you were given the fifteen dollars?

A I do not recall.

Q You have no recollection whatever?

A I recall what area I was in, yes.

Q Well, I mean, was it in the Police Headquarters, out side in the car ---

A By the car where I was seated.

Q In the car?

A By the car, after I was searched, that is the best I can recollect.

Q All right. Who gave you the fifteen dollars?

p.266
A Alvin Gristmacher.

Q Now, did you see him do anything to those bills before he gave them to you?

A No, I did not.

Q Did you do anything to those bills after he gave them to you? Did you mark them or anything?

A No, I did not.

Q Did you record the serial numbers of the bills that he gave you?

A No, I did not.

Q Did you look at the serial numbers?

A No.

INTERRUPTION

Q I'm sorry. Now Mr. Williams, after you were given the money, you went to a particular corner, is that correct, with Sgt. Gristmacher and Mr. Stever-son?

A That's correct.

p.267
Q And you got out of the car, and you walked over to 1412 Jefferson Avenue?

A Yes.

Q Now if you recall, what was the condition of the exterior of that address on the evening of July 14th, 1967?

A As I recall, the window was boarded up.

Q There were two big panels of plate glass, isn't that correct, that were completely boarded up with wood?

A Yes.

Q And there was a glass door, the entrance to the address was boarded up?

A I wouldn't know.

Q Pardon?

A I didn't pay any attention to it, it was opened.

Q It was opened, but it was boarded up?

A I didn't pay any attention to it at all.

Q Well you had seen -- withdraw it. Now, when you entered the premises, who walked in first, you or Trooper Steverson?

A Oh, come on, I do not recall.

Q Who was the first person that you saw after you entered the premises?

A I do not recall that either.

Q Did there come a time when you saw Geraldine Robinson?

p.268
A Yes.

Q Where was she standing?

A By Martin Sostre.

Q Where was he standing?

A Behind the counter.

Q Was she --

A Alongside of the counter, something like that.

Q Pardon?

A Behind it or beside it. I do not recall exactly the spot he was standing.

Q Was Mrs. Robinson behind or on the side of the counter?

A I think she was behind the counter.

Q Are you sure?

A I almost would say I am positive.

Q Pardon?

A I would say I am positive.

Q Now when you walked up, you walked up to Martin Sostre, is that correct?

A That is correct.

Q And you said that you spoke to him the same way that you were talking to the jury when you were on Direct Examination, is that correct?

A Yes.

Q Did you have a public address system with you at that time?
p.269

A No.

Q When you said to him -- withdraw it. What precisely did you say to him?

A I walked in the store, and walked up to Martin Sostre, and I asked him, was he doing any business?

Q Are those your precise words, or the best of your recollection?

A That is correct.

Q Did you say, "Are you doing any narcotic business?"

A No.

Q All right. And you say that he replied no, not with a stranger here, is that right?

A I didn't say that.

Q All right. Will you tell us exactly what he said?

A He said "Yes."

Q Go ahead.

A But he didn't want to do any business with a stranger in the store.

Q All right, and then what did you do?

A I told the State Trooper Steverson to come with me. And we walked out the door, and stood in the doorway. And I told him to wait there. I went back in and approached Martin Sostre again.

Q All right. All right. We got that now. When you walked out, did you close the door behind you?
p.270

A I said the door was opened when we went in.

Q You said it was opened when you went in? I am asking you, did you close it behind you when you went out?

A No.

Q So that whoever was looking in could look right out the door, isn't that correct?

A Whoever was looking in?

Q Whoever was inside the store could see outside through the door, isn't that correct?

A That's correct.

Q And could see who was in the doorway?

A That's correct.

Q And you went out into the doorway and you told him, Officer Steverson, to stay in the doorway, is that correct?

A That's correct.

Q And your testimony is that he stayed in the doorway, is that correct?

A That's correct.

Q And you went back inside?

A Yes.

Q And when you went back inside, could you see him standing in the doorway?

A Yes, I could.

p. 271 Q From where you were standing?

A From where I was standing.

Q Where were you standing, near Martin Sostre?

A Yes.

Q Were you standing near Geraldine Robinson?

A Yes.

Q And the door was opened?

A And the door was opened.

Q So they could see him standing in the doorway also, could they not?

A That's correct.

Q Pardon?

A That is correct.

Q And then you say, after you walked back in, with the stranger, that Mr. Sostre didn't want to do business, standing in the doorway, looking into the store, Mr. Sostre could see him, Mr. Sostre said that he would do business with you, is that correct?

DOBOZIN OBJECTS

p. 272 Q Well, was it with the Officer Steverson right in the doorway where you could see him, and where Mrs. Robinson could see him, and where Mr. Sostre could see him, that he said something to you that he would do business?

A That is correct.

Q And what did he say?

A I do not recall right now. I do not recall it all right now.

Q You don't recall at all?

A No.

Q Are you sure that he said anything?

A I don't know. I gave him the money, that's all, you know.

Q You gave him the money. Are you sure that you gave him the money?

A I am positive.

Q And then he gave the money to Mrs. Robinson, is that correct?

A That's right.

Q No question in your mind about that?

A Yes, there is a question in my mind.

Q There is some question in your mind?

A Yes.

Q What is the question in your mind?

A Well, I know she ended up with the money in her hand and she counted it, that's all.

Q Is that a question in your mind?

p. 273
A About that part?

Q You said there is a question in your mind?

A There is a little doubt in my mind about that.

Q I see. Then what happened.

A What do you mean, what part?

Q What happened after you gave Mr. Sostre the money?

A He gave it to Geraldine.

Q Is there any question in your mind about that?

A That's right, that's what I said before.

Q You mean there is some doubt in your mind?

A Yes.

Q You don't know whether he gave the money to Geraldine or not, as you say, is that right?

A No, I did not say that, no.

Q You said there is some doubt in your mind, Mr. Williams, what is the doubt in your mind?

A I don't recall exactly giving it to her.

Q You don't recall giving it to her?

A I didn't say, her, not him.

Q You don't recall giving it to him? Do you recall having the money?

A Well, naturally.

Q Well, didn't you testify on Direct Examination that you gave the money to Martin Sostre?

A It's been two years also, hasn't it?

p.274

Q I am not talking about two years. Didn't you testify under oath on Direct Examination that you gave the money to Martin Sostre, yes or no?

A I repeat, it's been two years. I don't recall.

Q You don't recall what you testified to on Direct Examination?

A Not all of it, no.

Q Mr. Williams, please. I understand that it's difficult for you to answer questions, me to ask them, but this is part of the trial. It's important. It's necessary. Now, do you recall that on Direct Examination, when questioned by Mr. Dobozi, you said under oath that you gave the money to Martin Sostre, do you remember that?

A To the -- my best recollection, I do remember. I do recall giving it to him

Q Oh, so that is your positive testimony, is that correct?

A I wouldn't make it my positive testimony.

Q Now, after you gave the money to Martin Sostre, then what happened?

A He gave it to Geraldine Robinson.

Q Again, I ask you, is there any doubt in your mind about that?

A About Geraldine Robinson having the money?

p.275 Q About his giving the money to Geraldine Robinson?

A No.

Q No doubt. All right. Then after he gave the money to Geraldine Robinson, then what happened?

A She counted the money and told him it was all there.

Q Was there any conversation between you and Geraldine Robinson at any time?

A Never.

Q Did you use the word junk?

A No.

Q Or any of the terms that apply to narcotics?

A No.

Q And then you say she counted the money. Did you see what she did with the money?

A No.

Q After you gave it to her?

A No.

Q Then you say Mr. Sostre went into the back of the store?

A That is correct.

Q And then he came back and handed you something, isn't that correct?

A Yes.

p.276 Q And you say that it was People's Exhibit Number 1 for Identification that he handed you, is that correct?

A That's right.

Q When he handed it to you, it wasn't in this white envelope, was it?

A No, it wasn't.

Q It was like this?

A Yes.

Q And he handed it to you with it between his fingers, like that?

A I do not recall that now.

Q Well, he handed it to you like that, didn't he?

A He handed it to me, I don't know how he had it in his hand.

Q Did he say anything when he handed it to you?

A No.

Q And what did you do with it?

A I took it in my hand.

Q And Geraldine Robinson didn't say anything to you, did she?

A No.

Q And then you walked out?

A I told her "Be cool" and walked out.

Q You said that to Martin Sostre?

A That's correct.

P.277
Q And during the time that the transaction took place, Mrs. Robinson stood right there and never moved, isn't that correct?

A She stood right there.

Q When you turned away from the counter and started to walk out, could you see Trooper Steverson right there in the doorway?

A Yes.

Q And was that in the same line of vision where Martin Sostre was?

A Yes.

Q And where Geraldine Robinson was?

A Yes.

Q And they could see right out that door also, is that correct?

A Yes.

Q Right where Trooper Steverson was?

A That is correct.

Q And this is the man that Martin Sostre had referred to as a stranger, is that correct?

A That's correct.

INTERRUPTION

P.279
Q Now, Mr. Williams, when you left 1412 Jefferson Avenue, you met Trooper Steverson in the doorway. Did you give him the envelope that you claim to have received from Mr. Sostre?

A No, I didn't.

Q Did you show it to him at that time?

A No.

Q What did you do with the envelope from the time you got it from Sostre until

(a) Urban Renewal Handbook, RHA 7207.1, p. 2:

Minority Group Considerations

The selection and planning of an urban renewal project shall be carried out in accordance with the following policies and requirements:

- (1) Discrimination on the basis of race, color, creed ^{1/} or national origin shall not be permitted (a) in connection with any project activity carried out by the LPA, (b) in the sale, lease or rental, or in the use or occupancy of any project land or the improvements erected thereon, or (c) in the operation and use of any public facility, educational institution or hospital generating a noncash grant-in-aid credit (see 7216.1, Local Grants-in-Aid, Chapter 2, Section 4).
- (2) Wherever feasible, the project shall contribute to a reduction in the concentration of minority group families within or outside the project area and to furthering equal opportunity in housing in the community. If there are overriding considerations for undertaking a project which does not reduce such concentration or promote equal opportunity in housing, the locality must have other plans for achieving the same objectives.
- (3) The project shall not result in a reduction in the supply of dwellings in the community available to minority group families. If the project will result in a substantial net reduction in the supply of housing in the project area available to minority group families, the locality must have specific proposals for the provision of standard housing elsewhere in the locality available to minority group families, which housing was not previously available to them, to compensate for the reduction.

1/ Pursuant to President's Executive Order No. 11063, Equal Opportunity in Housing.

EXHIBIT A.

LAW CENTER FOR CONSTITUTIONAL RIGHTS

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Joan Franklin

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8/12/70

By: Ray McClain

282-2831
p.279 FURTHER CROSS-EXAMINATION OF ARTO WILLIAMS BY MR. MCKINNEY 41

Q Now, Mr. Williams, when you left 1412 Jefferson Avenue, you met Trooper Steverson in the doorway. Did you give him the envelope that you claim to have received from Mr. Sostre?

A No, I didn't.

Q Did you show it to him at that time?

A No.

Q What did you do with the envelope from the time you got it from Sostre until the time that you arrived at the automobile where Sgt. Gristmacher was?

A Kept it in my hand.

Q Put it in your pocket at any time?

A No.

Q Did you examine it, look at it carefully?

A No, not after I left the store.

Q Did you do anything to it between the time you left the store and the time you got to the car?

A No, I didn't.

Q When you got to the car, did you get in?

A Yes.

Q Did you get in the front or the back?

A I can't recall that.

Q I see. Do you recall doing something after you got into the car?

A No, I don't.

Q Well, did you give the envelope to someone?

A Yes, Alvin Gristmacher.

Q Alright. Now do you recall definitely having given it to him?

A Yes.

Q Well now, do you recall where you were in the car when you gave it to him?

A I just stated that I don't recall.

Q But you are sure that you gave it to him?

A I am positive.

Q And after you gave it to him, did he open it?

A No, I don't think so.

Q No? Pardon?

A No.

Q Did you say "No, I don't think so?"

A No, I don't think so.

Q You are not sure?

A I am not sure.

p.281

- Q Where did you go from there?
- A To Main and Dodge.
- Q You drove there?
- A Did I drive?
- Q Well, you drove there in the car with Sgt. Gristmacher?
- A Yes.
- Q Do you recall while you were taking the ride, where you were seated in the car?
- A I just stated I don't recall.
- Q Alright. And then you got to Main and Dodge. How far was that from the corner where Sgt. Gristmacher's car was originally parked?
- A Oh, about 3/4 of a mile, I guess you could say.
- Q And when you got there, was there someone there waiting for you? If you remember?
- A Vaguely there was. Not waiting for me, no.
- Q Pardon?
- A Not waiting for me.
- Q Were there some people at that corner?
- A I said vaguely.
- Q Waiting for those of you who were in the car? Was there someone there when you arrived who talked to you?
- p.282
A No one talked to me when I arrived.
- Q Talk to Sgt. Gristmacher or Tpr. Steverson? Was there anyone there?
- A Gristmacher got out of the car and proceeded to another car and got in. And Tpr. Steverson got behind the wheel and I directed him back to the Police Station downtown here.
- Q Alright, you arrived at that corner, you saw another car parked somewhere nearby, is that right?
- A Yes.
- Q Where was this car parked in relation to where Sgt. Gristmacher parked his car?
- A I have no idea.
- Q No recollection at all?
- A No recollection at all.
- Q You do recall, however, that Sgt. Gristmacher got out of the car and walked to the other car?
- A Got into another car, yes.
- Q Did Tpr. Steverson go with him?
- A No.
- Q Did you see Sgt. Gristmacher do anything with that envelope ~~XXXXX~~ before he left the car and went to the other car? Did Tpr. Steverson leave your car, or the car that you were riding in, at any time?
- p.283
A No.
- Q After you arrived at that particular corner?
- A No.

Q And you are sure that Detective -- that Tpr. Steverson did not go over to that other car?

A Not that I recall.

Q Are you sure?

OBJECTION

Q Didn't you just testify that Sgt. Gristmacher got out of the car and Tpr. Steverson went behind the wheel where Sgt. Gristmacher had been?

A Yes.

Q And he did this without getting out of the car, didn't he?

A I don't recall that now.

Q Did you see Tpr. Steverson walk with Gristmacher, with Sgt. Gristmacher, back over to the other car that ...
p.284 Sgt. Gristmacher went to?

A Did I see who?

Q Did you see Tpr. Steverson walk with Sgt. Gristmacher to the other car?

A No, I don't recall him walking anywhere.

Q I see. In other words, you were not left alone in the car, at that time, is that correct?

A To my best recollection, yes.

Q And then Sgt. -- Tpr. Steverson got behind the wheel and drove you some-
place?

A Yes.

Q Just the two of you?

A Just the two of us.

Q Where did you go?

A To Police Headquarters.

Q Was Sgt. Gristmacher there when you got there?

A No.

Q Do you know approximately what time it was when you arrived at Police
Headquarters?

A No.

Q And incidentally, speaking of time, do you recall approximately what time it was that you entered 1412 Jefferson Avenue along with Tpr. Steverson?

A No.

p.285 Have any recollection at all?

A No.

Q Well, how long after you had met with Tpr. Steverson and Sgt. Gristmacher outside of Police Headquarters did you go over there?

A If I could answer that, I could tell you what time.

Q Well, perhaps you could estimate it by ---

A No, I prefer not.

Q You prefer not?

A Because I do not recall.

Q I see. Maybe we can work it out, okay? You say that you got out of the movie at quarter to nine, is that correct?

A Somewhere, yes.

Q Went right over to Police Headquarters, went right over to the corner where you were met by Sgt. Gristmacher?

A Yes.

Q And you went to Police Headquarters?

A Yes.

Q Would you say maybe you got to Police Headquarters between nine and 9:30?

A Yes.

Q And how long did you remain in Police Headquarters?

A You say?

Q How long did you remain outside?

p.286 A No. Now -- now -- wait a minute ---

Q I will wait.

A He picked me up at the corner at 9:30.

Q Okay.

A Go ahead.

Q And then how long after he picked you up at the corner did you get to Police Headquarters?

A I wouldn't have any idea how long it takes, but we came straight down.

Q Well, how far is that from Headquarters?

A I have no idea.

Q Do you have any idea in terms of blocks?

A I wasn't interested in all that -- blocks -- no.

Q Do you know how many miles?

A No.

Q You have no idea how long it took you to get there?

A No.

Q Well, how long did you remain at Police Headquarters after you got the Outside, I mean?

A Maybe a half hour, 45 minutes, maybe.

Q So if you were picked up at 9:30 without even considering what amount time it took you to get to Police Headquarters, and you remained at Police Headquarters half an hour or 45 minutes, that would take you at least till 10:15 or 10:30, is that correct?

p.287 A I guess so.

Q And then you left and you went to the corner of Jefferson or Woodlawn where was it you went with Sgt. Gristmacher?

A Woodlawn and DuPont.

Q Pardon?

A Woodlawn and DuPont.

Q And how long did it take you to get to Woodlawn and DuPont? Do you remember that?

A No, I do not.

Q Well, you said that, in answer to a question on Direct Examination, that you put the date on the glassine envelope, didn't you say that?

A No, I did not say that.

Q Did you say you saw a date on the glassine envelope?

A I didn't say that, either.

Q You didn't say anything about a date on the glassine envelope?

A That is correct.

Q Didn't you, in answer to a question by the District Attorney, the Asst. District Attorney, say that you put a date on -- July 14th or maybe 15th after twelve o'clock ---

O B J E C T I O N

p.288
Q Alright. Do you recall testifying with respect to a date?

A I recall testifying with respect to initials that I put on that envelope

Q Is that what you said you did sometime on July 14th or 15th after twelve o'clock?

A That is correct.

Q You put your initials on the glassine envelope, is that correct?

A Yes.

Q Where were you when you put your initials on that glassine envelope?

A Police Headquarters.

Q That was after you had given it to Sgt. Gristmacher?

A Yes.

Q Now, after you gave it to Sgt. Gristmacher and he took it to Police Headquarters, and then you met him there afterwards, how did you identify the envelope as the envelope that you had given to him?

A I don't know.

Q Did it have any marks on it that you had put there?

A Not that I recall.

p.289
Q So that you merely put your initials there at the request of Sgt. Gristmacher, isn't that correct? Without knowing, as a matter of fact, whether or not that was the envelope that you had received from Martin Sostre, isn't that correct, sir?

A Yes.

Q So that you cannot say at this time that this People's Exhibit #1 marked for identification is in fact the envelope that you claim Martin Sostre gave to you, can you, sir?

A No.

Q No further questions.

RE-DIRECT EXAMINATION BY DOBOZIN

Q Now, by the way, are you a drug addict now, Arto?

A No.

Q And since July 14th, 1967, or actually since June 20th, 1967, have you taken drugs?
A I have.

Q And when did -- from June 20th, 1967, until July 14th, 1967, during the period of time that you were in jail, and after you were in jail, how long after you entered in the jail -- strike that. From June 20th, 1967 to July 14th, 1967, had you taken any drugs?
A No.

P.290
Q And from July 14th, 1967, until what date, had you not been taking drugs?
A To about August.

Q And then after August of 1967, you again started taking drugs?
A Yes.

Q And at this time, how long have you not been taking drugs?
A Almost a year.

Q In the terminology used, what is meant by the term, "Are you doing any business?"
O B J E C T I O N

Q Okay, Your Honor. During the five years that you were a drug addict, you had an opportunity to buy drugs?

P.291
A Yes.

Q And you used drugs, is that correct?
A Yes.

Q And during that time, you became familiar with the verbiage, the vernacular, the words used in transactions and transacting business between drug users and drug sellers?
A Yes.

Q And what is meant by the term, "Are you doing any business?" in the vernacular used, or the words used, by drug users and sellers?
O B J E C T I O N

P.293
Q Yes, Your Honor. Now, is the expression, "Are you doing any business?" a term regularly employed by drug users and sellers?
A I would say it is.

Q And what is meant by the term, "Are you doing any business?"
A Well, it has become an established fact if I approached you, I would know that you was a ---

O B J E C T I O N
Q Arto, try and limit your statement just to what is meant by the term, "Are you doing any business?" between a drug user and buyer and seller.
A Do you have any drugs.

Q Any drugs?
A Specifically, heroin, in my case.

O B J E C T I O N

P.294
Q And what is used -- excuse me, and in the words used by drug users and drug addicts and drug sellers, is there a meaning for the term, "cop"?
A Yes.

Q And what is meant by the word or the term, "Can I cop now?"

O B J E C T I O N

p.295 Q Arto, is there a -- do drug buyers and sellers use the term "cop" or "c
I cop" in the buying and selling of drugs?

A Yes.

Q And what is meant by the term or terms "Can I cop now?" between buyers &
sellers of drugs?

O B J E C T I O N

A It's just like you go to the store and say, "Can I buy a dress?" You us
the word, ~~xxxx~~ "cop" -- slang.

Q And what does that slang word mean between --

A It refers to drugs.

Q What does it mean in reference to drugs, "Can I cop now?"

p.296 A You don't use it, "now", the word "now", you say, "Can I cop?"

Q What does that mean?

A Can I buy some drugs.

Q Now, in reference for People's Exhibit 1 for Identification, on July 14th
1967, did you receive anything similar to this from Mr. Sostre?

A Yes.

Q And to the best of your ability, what does that appear to be?

X BY MR. MCKINNEY: Objection, Your Honor. That is such a broad and general
question, it can be sugar, flour, or anything. I object.

DOBOZIN: I am not asking what the contents are.

MCKINNEY: Your Honor, I am sorry. What are you referring to?

DOBOZIN: What is it?

MCKINNEY: Your Honor, "What does it appear to be?" I believe is an impro-
per question.

THE COURT: I think it's kind of vague and general. That is the envelope
he got from Mr. Sostre. Now you can continue from there.

DOBOZIN: Pardon? I am sorry?

THE COURT: He indicated that is the envelope that he got from Mr. Sostre.
You may ask the --
p.297 questions from there.

MCKINNEY: Excuse me, Your Honor, that is not his last testimony.

DOBOZIN: Well, Your Honor, I submit to the Court ---

THE COURT: Now, just a minute. Let's read the answer he gave to that
question.

WHEREUPON THE ABOVE-REFERRED TO TESTIMONY WAS THEN READ BY THE REPORTER.

THE COURT: Alright, continue, Mr. Dohozin.

Q And, Arto, after receiving this from Mr. Sostre, what did you do with it?

O B J E C T I O N

p.298 Q And did there come a time later that evening, Arto, when, to the best of
your ability, you saw an envelope similar to that given you from Mr.
Gristmacher, Officer Gristmacher, -- strike that. To the best of your
ability, did you again see that envelope back at Police Headquarters, whe
it was given to you by Mr. Gristmacher, Officer Gristmacher?

A To the best of my knowledge, yes.

Q And at that time, did you put your initials on it?

A Yes.

Q No further questions.

RE-CROSS EXAMINATION BY MR. MCKINNEY

Q Just a minute, please, Your Honor. Mr. Williams, in the entire course of your five years of using and experience with drugs, did you ever have occasion to say to Mrs. Robinson: "I want a cop" or "Can I cop?"

A No.

Q Have you ever heard her use that word?

A No.

p. 299
Q Have you ever heard her use, did you hear her say anything that night with respect to narcotics?

A No.

Q Did she respond to you when you said something about: "Can I cop?"

A No.

Q As a matter of fact, when you saw her that night, as you say, that was the first time you had seen her since you had gone to school together many years before, isn't that correct?

A Yes.

Q You had had no dealing with her whatsoever, socially, professionally, otherwise?

A That is correct.

Q No further questions.

RE-DIRECT EXAMINATION BY DOBOZIN

Q You said you didn't hear her say anything at all that night, is that correct?

A Not that I recall her saying anything.

Q And nobody said how much money you were to give?

A Not to give -- no, no.

Q Nobody said anything about an amount of money?

A That's correct. I mean, you approach a person, you know -- after all --

p. 300
Q No further questions.

THE COURT: You are excused, Mr. Williams.

PROCEEDINGS OF MAY 21, 1969, COMMENCING AT 10:10 A.M. AS FOLLOWS:

p. 303 FURTHER CROSS-EXAMINATION OF ARTO WILLIAMS BY MR. MCKINNEY

Q Mr. Williams, yesterday you testified that you had been convicted of the crimes, is that correct?

A To the best I can remember.

THE COURT: Speak up!

A Yes, to the best I can remember.

Q And I believe that you said that you were convicted of Robbery in the First Degree in 1956?

A Yes.

Q And then, as a matter of fact, in 1962, you were convicted of Potty Larceny and committed to 33 days in the Erie County Penitentiary, isn't that correct?

DOBOZIN: Objection, Your Honor.

THE COURT: I will let him ask if he was.

p. 304 OBJECTION CONTINUES

Q Mr. Williams, were you convicted of Petty Larceny after having been arrested in May of 1962, for which conviction you served, you were commuted to 33 days to the Erie County Penitentiary?

DOBOZIN: Objection!

THE COURT: Sustained.

Q Mr. Williams, were you convicted of a crime in 1962, the crime being Petty Larceny?
A I do not recall.

Q Well, did you or did you not, in May of 1962, more specifically May 10th of 1962, steal certain merchandise from the Acme Market at 1457 Fillmore Avenue?
DOBOZIN: Objection, Your Honor!

p. 305

~~XXXXXXXX~~ THE COURT: I will let him answer the question.
A I recall the incident.

Q Pardon?

A I recall the incident.

Q Did you, or did you not?

A Do it?

Q Yes.

A Yes.

Q And after having done this, were you convicted of Petty Larceny?

DOBOZIN: Objection, Your Honor!

p. 306

THE COURT: I will let him answer the question as to whether or not he recalls being convicted of this underlying fact.

A No.

Q You don't recall being convicted of it?

A No, I never did 33 days at Erie County Penitentiary.

Q I didn't ask you that. I asked you if you recall being convicted of Petty Larceny in 1962.

A I recall being convicted.

Q You do recall?

A Yes.

p. 307

~~Q8X~~ Alright. Now do you recall having pleaded guilty, being convicted of the crime of Possession of Narcotics, in violation of #3305 of the Public Health Law, on March 25th, 1965?

DOBOZIN: Objection!

p. 308

Q I have inquired about the Petty Larceny, that was one additional. Now, were you, did you plead guilty, were you convicted by your plea of guilty of Possession of Narcotics, in violation of #3305 of the Public Health Law, on March 25th, 1965?

A Yes.

Q And were you convicted of another violation of #3305 of the Public Health Law, Illegal Possession of Narcotics, in 1965?

A Yes.

Q And were you convicted of Grand Larceny in the Second Degree on July 8th of 1968?

A Yes.

Q So that it was five convictions that you have, is that correct, sir?

A As you put it, yes.

Q And yesterday you testified that you had three convictions, is that correct?

A DOBOZIN: Objection!

p. 309
Q One further question, Mr. Williams. After you returned to Police Headquarters on the morning of July the 15th, there came a time when you left is that correct?

A Yes.

Q What time did you leave the Police Headquarters?

A About ---

Q Approxim ately?

A About four in the morning.

Q And where did you go?

A A hotel.

Q And then in the afternoon, the morning or afternoon of July 15th, where did you go when you left the hotel?

A I don't recall that.

DOBOZIN OBJECTS AGAIN

p. 310
Q Respectfully except. Is it not a fact, Mr. Williams, that within a short time after you appeared at the Police Headquarters on July 15th, you returned to the Erie County Jail?

A No.

Q Mr. Williams, for the period from sometime after, shortly after the 15th of July of 1967, until February of 1968, did you not reside at the Erie County Jail?

A No.

Q Were you in the Erie County Penitentiary?

DOBOZIN-OBJECTSONCE MORE

p. 311
MCKINNEY: I believe it goes to the question of credibility, and it goes to the question of motivation.
THE COURT: Alright, I will let the answer stand as he gave it. He was not confined to the Erie County Jail.
MCKINNEY: I asked the question ---
THE COURT: Or the Erie County Penitentiary.

Q So it is your testimony, Mr. Williams, that you were not in either of these institutions during the period from July 15th, at any time during the period of July 15th, until February 15th, is that correct?

DOBOZIN: Objection!

Q Alright. Did you not, sir, on or about November 24th of 1967, bring a motion, or attempt to bring a motion, seeking a speedy trial and release from the Erie County Jail?

DOBOZIN: Objection! Your Honor!

MCKINNEY: Well, Your Honor, it goes to credibility. He said he was not

-- he was not in the Erie County Jail or the Erie County Penitentiary 51 during that period.

THE COURT: Overruled. Proceed.

Q Did you not, sir --

A Pardon me?

Q Did you not bring a motion?

A I did.

Q Or attempt to bring a motion for release from the Erie County Jail?

p. 313

A I did.

Q In December of 1967?

A I did.

Q So that during the period from July 15th until February 28th, for some period of time, you were in the Erie County Jail, isn't that correct?

A From -- not from July, no.

Q I didn't stipulate during that period. You were in the Erie County Jail, were you not?

A From September.

Q From September until when?

A To about June of '68.

Q No further questions, Your Honor.

FURTHER RE-DIRECT EXAMINATION BY DOBOZIN

Q Why were you in the Erie County Jail, Arto, from September until about June of '68?

A Well, I was told it was for my protection.

Q No further questions.

FURTHER RE-CROSS EXAMINATION BY MR. MCKINNEY

Q Who told you it was for your protection, Mr. Williams?

A Well, I recall -- think it was Alvin Gristmacher for one, my mother for one, and father -- they received threatening calls.

p. 314

Q I didn't ask you what you received. Who told you?

A My mother and father told me.

Q You thought you were in jail for your own protection?

A That's correct.

Q Who put you in jail for your protection?

A Who put?

Q Who put you in jail? Did you just walk in the jail and say, "Please protect me?"

A No, the Police.

Q The Police put you in jail?

A Yes.

Q And what policeman specifically put you back in jail? Was it Sgt. Gristmacher?

A No.

Q Who was it?

A State Police.

Q Pardon?

A State Police.

Q Didn't you just before say Sgt. Gristmacher had something to do with it?

A No.

DOBOZIN: Objection!

p. 315

Q Who put you in Jail?

A State Police.

Q And you remained there for how long?

A From September of '67 until about June of '68.

Q No further questions.

DOBOZIN: That's all, I have no further questions.

THE COURT: You are excused

DIRECT EXAMINATION OF TROOPER LEWIS STEVERSON, 1261 Genesee Park Boulevard
Rochester, N.Y.

p. 315

Q Trooper Steverson, how long have you been with the State Troopers?

A Nine years.

Q And were you so employed on July 14th of 1967?

A Yes, I was.

Q And did there come a time on July 14th, 1967, that you were introduced to
Arto Williams?

A Yes.

Q And at the time that you were introduced to Arto Williams, where were you

p. 316
A At the Buffalo Police Department.

Q And at the time that you were introduced to Arto Williams, were you
dressed as you are now?

A No, I was in plainclothes.

Q And on that occasion when you were introduced to Arto Williams, on July
14th of 1967, after being introduced to him, did there come a time that
you left the premises, left the Buffalo Police Department?

A Yes.

Q And did there come a time that you ultimately arrived at the area of
Woodlawn and Jefferson?

A Yes.

Q And when you arrived in the area of Woodlawn and Jefferson, who was with
you?

A Detective Sgt. Gristmacher.

Q Just one second. Before you arrived at Woodlawn and Jefferson, did there
come a time that -- by the way, who introduced you to Arto Williams?

A Detective Gristmacher.

Q And after introducing you to Arto Williams, did there come a time that
Arto Williams was searched?

A Yes.

MCKINNEY OBJECTS TO THE LEADING

5

p. 317

Q Okay. Did there come a time, after being introduced to Arto Williams, that you saw something happening to the body of Arto Williams?

A

Yes.

MCKINNEY OBJECTS TO LEADING AGAIN

p. 318

Q Well, what if anything happened after you were introduced to Arto Williams?

A

At approximately a quarter to eleven, Det. Gristmacher searched Arto Williams in my presence.

Q

Okay. And did you see him being searched?

A

Yes.

Q

Did you see anything being taken from Arto Williams?

A

I think he had a pocket comb and some change.

Q

And did he keep this -- Arto Williams?

A

I believe he did, yes.

Q

To the best of your recollection?

A

To the best of my recollection, yes.

Q

And after being searched, what happened after that?

A

Det. Gristmacher gave him fifteen dollars.

Q

Was that in your presence?

A

Yes.

Q

And did there come a time -- was it after he received the fifteen dollars and was searched, that you went to Woodlawn and Jefferson?

A

Yes, it was.

Q

And after arriving at Woodlawn and Jefferson, what if anything happened?

A

At the time, we were in the vicinity of Woodlawn and DuPont.

Q

I am sorry?

p. 319

A With Det. Gristmacher, just the three of us. Det. Gristmacher parked the car, and Arto and myself got out of the car and proceeded down Woodlawn to Jefferson, and from there we proceeded across the street to 1412 Jefferson Avenue, THE AFRO-ASIAN BOOKSTORE!! And we went in the store, this was approximately 11:50 that night, and only two people in the store that I could see were Martin Sostre and Geraldine Robinson. At that time, Art asked Martin Sostre if he was doing any business, and Mr. Sostre said "ye, he was -- that he would like to cop a bag. And Mr. Sostre said, "No, not in front of this fellow here, I don't know him, he is a stranger."

Q

That would be in reference to you?

Q

In reference to me, yes. Arto said, "No, he is alright, he is with me." He says, "No." So Arto motioned to me to leave the store, and we proceeded out to the front door, to the front of the store, and Arto said that he will go back in the store.

MCKINNEY OBJECTS

p. 320

Q Without mentioning what Arto said, did there come a time that he went back in the store?

A

Yes. Arto went back in the store, and I stayed in the front of the store,

the door at all times being opened. And at that time, I noticed Arto give Miss Robinson some money, the fifteen dollars. She, in turn, counted it, said something to Martin Sostre. He, in turn, then left, walked to the rear of the store, came back and handed Arto a glassine envelope which he placed in his pocket.

Q Now, from where you were -- well, from where you were you couldn't see how much money was actually given to --

A No.

Q -- Geraldine Robinson?

A No, I couldn't.

Q But you saw some money?

MCKINNEY OBJECTS

Q I am sorry, Your Honor. What if anything did you see being given to Geraldine Robinson?

A Some money.

Q From where you were -- by the way, have you seen glassine envelopes before?

A Yes.

Q On other occasions?

A Yes.

Q About how many other occasions?

A Maybe twenty, twenty-five cases.

Q And from where you were looking into the store, what if anything could you see being passed from Martin Sostre to Arto Williams?

A It was a white glassine envelope.

Q From where you were, could you hear any conversation?

A No, could not, couldn't hear anything.

Q When you walked into the store, when you walked into the store, where Geraldine Robinson and Martin Sostre in relation to each other.

A Best of my recollection, she was in front of the store by a stand or display case-type thing, and Mr. Sostre was near her. I can't exactly remember exactly how close he was, but he was in the vicinity of where she was.

Q In the vicinity?

A Yes.

Q Can you say -- can you show approximately -- could you show approximately where the two of them were in relation to each other, in reference to the courtroom or --

A Well, as we walked into the store, approximately five feet from the entrance of the store.

Q From the entrance of the store?

A Yes.

Q And where was she in reference to Martin Sostre?

A Martin Sostre was more in the middle of the floor space, the store being that large. Maybe it was ten feet away from her, if that was. I don't think approximately ten feet away from her at the time.

Q And during the course of these conversations, between yourself and ²² strike that, between Arto Williams and Martin Sostre, was Geraldine Robinson any closer to Martin Sostre?

A No, she was still in the same vicinity.

Q Well, did Martin Sostre get any closer to Geraldine Robinson?

A We moved back toward the front of the store.

Q Which would be in relation --

A Which would be in relation to where she was. Maybe we moved two or three feet closer?

A Closer to the front of the store.

Q Closer to her?

A Yes.

P. 323
Q And when Arto Williams and Martin Sostre talked, when you were in the store, can you describe the -- well, the volume, the tone in which -- which was used?

A It was not loud, it was conversational, it was a normal conversation tone. There wasn't any whispers or anything.

Q Well, you have normal hearing, do you not, Officer?

A Yes.

Q Was the -- was the voice that was being used by both Martin Sostre and Arto Williams -- was it within hearing range? Was Geraldine Robinson within hearing of those two voices?

MCKINNEY: Objection, Your Honor.

THE COURT: Sustained.

Q Well, you could hear everything clearly, could you not, Officer?

A Yes.

Q And how far away were you from Geraldine Robinson?

A Several feet, maybe.

Q Now, after leaving the Afro-Asian Bookstore where -- strike that. From the time that you met Arto Williams until the time that you went down, you arrived at the Afro-Asian Bookstore. Was Arto Williams ever out of your sight or presence?

p. 324

A No.

Q And from the time that you left the Afro-Asian Bookstore, you said you arrived back at Alvin Gristmacher's car, I believe?

A Yes.

Q From the time you left the Afro-Asian Bookstore until the time you arrived at Alvin Gristmacher's car, did Arto Williams ever leave your presence?

A No, he did not.

Q Did he do anything, or discard anything, or other than walk with you and participate in the transaction you just described?

A No.

Q Well, would you relate what if anything occurred at the time that you arrived back at Alvin Gristmacher's car?

A We left the Afro-Asian Bookstore and we proceeded to go back across Jefferson and down to Woodlawn, and got into Detective Gristmacher's car. At that time Arto was in the front seat and I -- I got in first. I got in the back seat, Arto got in the front seat, and as we were leaving the area, he handed Det. Gristmacher the glassine envelope. From there we proceeded to Main and Dodge and --

Q That's alright, no further questions--
p. 325 at this time.

CROSS-EXAMINATION OF STEVERSON BY MR. MCKINNEY

Q Officer Steverson, on July 14th of 1967, how long had you been a member of the State Troopers?

A Seven years.

Q Had you ever engaged in work involving narcotics before that time?

A Yes.

Q Had you engaged yourself as an undercover agent?

A Yes.

Q And had you so worked on -- at the request of Sgt. Gristmacher?

A No.

Q Now you say there came a time when you met Arto Williams at Police Headquarters, is that correct?

A Yes, that's correct.

Q Do you recall more specifically where at Police Headquarters you met him?

A This was in the parking lot adjoining ~~the~~ Police Headquarters.

Q Is that where you first met him?

A ~~That's correct.~~ Yes, that's correct.

Q At any time before going to 1412 Jefferson Avenue did you go with him into the Police Headquarters?

p. 326
A With Arto?

Q Yes.

A No.

Q At the time, did you see him go into Police Headquarters with Sgt. Gristmacher, or anywhere else?

A No, not to my recollection.

Q So that when you were introduced to him, you were introduced to him in a parking lot outside of Police Headquarters?

A That's correct.

Q Were you there waiting for him when he came, or --

A No.

Q Just what were the circumstances that you met him?

A I was in Police Headquarters .

Q Yes?

A And Alvin Gristmacher came up to me; we went down to the parking lot.

Q Yes? And you met Arto in the parking lot there?

A ~~Yes.~~ Yes.

Q Was that inside of Sgt. Gristmacher's car?

A Yes.

Q And was it shortly -- now, how soon after you first met Arto Williams did this search that you refer to take place?

A Approximately an hour, an hour and a half.

p. 327 Hour and a half later?

A Yes.

Q What did you do immediately after you met Arto Williams and Alvin Gristmacher?

A We talked relative to the case, the investigation, and then we drove, got in the car, and Sgt. Gristmacher drove around the city.

Q And you drove around for about an hour, hour and a half?

A Approximately that, yes.

Q And where were -- withdraw it. You say Sgt. Gristmacher drove?

A Yes.

Q Where was Arto Williams?

A In the front seat.

Q And you were in the back seat?

A That's correct.

Q Did there come a time when you, after driving around, that you returned to Police Headquarters?

A Yes.

Q To the parking lot?

A Yes.

Q Did you go inside?

A I don't know.

Q Did Mr. -- Sgt. Gristmacher go inside?

p. 328 Best of my recollection he -- I believe he did, yes.

Q Did Arto Williams go inside?

A No.

Q He stayed with you?

A Yes.

Q And then there came a time when Sgt. Gristmacher returned to the car?

A That's correct.

Q When he came to the car at that time -- withdraw it. Now approximately what time was this?

A When he came back to the car?

Q After you had returned from your driving around the city and got to the Police Station, he went inside. About what time was it that he came back out to the car?

A Approximately 10:30.

Q Approximately 10:30?

A Yes.

Q And how long -- withdraw it. And then, when he came back down at about 10:30, he came down to the car. What happened then?

A We talked a little bit more about the case and then --

Q In the car?

A In the car. And then Arto got out of the car with Det. Gristmacher and myself and this is when the search took place.

Q Where did the search take place?

A In the parking lot.

Q Outside of the car?

A Yes.

Q Not inside of the car?

A No.

Q You are absolutely certain of that?

A Positive.

Q So if there has been testimony in the case that the search took place inside the car, that is an error, is that correct?

A To the best of my recollection, the search was taking place outside the car.

Q Did you participate in the search of Arto Williams?

A No.

Q In other words, when you say you saw Sgt. Gristmacher search him, you saw him go into his pockets, is that correct?

A He gave him the standard search.

Q He what? Pardon?

A He gave him -- searched him, yes.

Q He went through his pockets and patted him down?

A Took off his shoes, took his coat off.

Q You don't know whether or not Sgt. Gristmacher found anything on his person, do you?

A All I saw him take out the comb and the change, yes.

Q Do you know whether there was anything left in his pockets?

A He turned the pockets out.

Q Well, how about all of his pockets?

A Yes.

Q ~~How~~ How many pockets did you turn out?

A Four in his pants, and he had his jacket with two.

Q Did you search the cuffs of his pants?

A I did not search them, no.

Q Did you search his collar?

A I did not.

Q Did you have him take off his clothes?

A I did not.

Q Did you look inside his belt-band?

A No, sir.

Q So, as a matter of fact, sir, you cannot testify with certainty that there was nothing left upon the person of Alvin Williams after the search, can you?

A No, I can't.

Q After you saw Sgt. Gristmacher conduct this search, what is the next thing you did or you observed?

A Arto put his jacket back on, and put his pockets back in their proper place, and at that time, we got back into the car.

p. 331

Q You say he put his pockets back. What kind of a jacket did he have on? A suit coat jacket, or sport coat?

A No, it was a type of sport coat, maybe wind-breaker type thing.

Q And you say four pockets were turned inside out?

A On his trousers.

Q On his trousers? How about his jacket? Was his jacket pockets turned out?

A Two.

Q That means six pockets turned out?

A Yes.

Q You were in error when you said four?

A I said four in his trousers, and his jacket pockets.

Q How about his shirt-breast pocket?

A No.

Q How about the breast pocket of his jacket? Was that --

A There was none.

Q Was there an inside pocket on his jacket? Do you know?

A No.

Q Did you observe the inside?

A No.

Q You don't know whether there was a pocket inside?

A That is correct.

p. 332
Q If there was a pocket, it wasn't turned out in your presence, is that correct?

A That's correct.

QE Alright. Now after this search that you observed, what was the next thing that you observed after he put on his jacket?

A We both got back in the car.

Q Alright. And then what happens?

A Then Sgt. Gristmacher gave him the fifteen dollars.

Q Where were you seated when you say you saw Sgt. Gristmacher give him fifteen dollars?

A In the back seat.

Q Where Was Sgt. Gristmacher?

A In the front seat.

Q Where was Arto Williams?

A In the front.

Q Were the lights on?

A Yes, the interior lights.

Q What lights were on?

A Interior lights.

Q So if there was testimony in this case that the lights were not on inside the car, that would be in error, is that correct?

DOBOZIN OBJECTS

p.333 Are you confused, Sgt?

A No.

Q Where did Sgt. Gristmacher -- withdraw it. When did you see money for the first time in the hands of Sgt. Gristmacher?

A When we got back in the car after the search.

Q Did you see where he got it from?

A No.

Q Did you at any time have that money in your possession?

A No.

Q Did you at any time examine that money?

A No.

Q Did you at any time count the money?

A No.

Q So when you say that you saw him give Arto Williams fifteen dollars, you mean that you saw him pass a certain number of bills that you believe to be fifteen dollars, isn't that correct, sir?

A That's correct.

Q You cannot say with absolute certainty, based on your own observations, your own recollection, that in fact he handed him precisely fifteen dollars, can you, Sgt?

A No.

Q Alright. Now, after you saw something passed to Arto Williams in the car incidentally, in the parking lot, are there lights overhanging the parking lot?

A I can't recall now.

Q What time of day or night was it?

A This was approximately 10:30, quarter to 11:00.

Q Was it dark outside?

A Yes.

Q Alright. Now you say Sgt. Gristmacher handed what you believe to be money to Arto Williams. What happened next?

DOBOZIN OBJECTS

Q After you saw the Sgt. pass something to Arto Williams, what happened next?
p. 335 Then we left the parking lot.

A
Q Where did you go?

A Drove around the city.

Q Drove around the city?

A Right.

Q How long did you drive around -- withdraw it. About what time was it that you finally left the parking lot?

A Around 11:30.

Q About 11:30?

A Yes.

Q So that you remained in the parking lot for a period of at least 45 minutes after you observed what you refer to as a search, isn't that correct, sir?

DOBOZIN OBJECTS

Q Alright, I will reframe the question. Mr. Steverson, was it not your testimony on Direct Examination that you -- that the search of Arto Williams took place about 10:45?

A Yes.

Q That it was in the parking lot?

A Yes.

Q And it was about 11:30 that you left the parking lot to drive around the city, is that correct?
p. 336

A Yes.

Q So that you remained in the parking lot after Arto Williams allegedly was searched, for a period of about 45 minutes, is that correct?

A Yes.

Q During which time you just sat in the car?

A The search took place approximately 15 minutes, 10 minutes.

Q You mean they started the search at 10:45, is that correct?

A Approximately, yes.

Q It was completed at 11:00?

A Best of my recollection, it was.

Q So you remained in the parking lot, in the car, for about a half an hour before you left, is that correct?

A That's correct.

Q Just seated in the car?

A Yes.

Q Alright. Then you left, and you started driving around the city at 11:00, is that right?

A Yes, that's correct.

- Q How long did you ride around the city?
- A Well, we drove directly.
- Q No, would you please answer my question. How long did you drive around the city?
- p. 337
- A Well, fifteen minutes.
- Q So that takes us to about 11:35, is that correct?
- A That's correct.
- Q And after you finished driving around the city, did you go someplace?
- A Yes.
- Q Where did you go?
- A To Woodlawn and Dupont.
- Q And about what time did you arrive there?
- A Oh, approximately 11:47 - 8.
- Q And then -- it is your testimony that Arto Williams got out of the car and you proceeded to the Afro-Asian Bookstore, is that correct?
- A Yes.
- Q Incidentally, sir, did you observe the exterior of the Afro-Asian Bookstore as you approached it on that night?
- A Yes.
- Q Did you notice anything of the glass front on the entrance door?
- A Yes.
- Q What did you notice about the glass front and the entrance door?
- A It was plywood on it.
- p. 338
- Q When you say there was plywood on it, you mean it was completely covered over, ordinarily where there would be glass?
- A I believe so.
- Q So from the outside you could not see in on the inside of the door until door was open, is that correct, sir?
- A That's correct.
- Q Now, did you also notice, as you approached the Afro-Asian Bookstore, the distance between the building line of the front of the store, and the actual entrance door? Do you understand my question, sir?
- A Would you rephrase it.
- Q Yes. As you observed the premises, did you note the entrance door is recessed in from the building line?
- A Yes.
- Q Do you recall the approximate distance from the building line to the entrance door?
- A Three feet, approximately.
- Q So there was a three-foot sort of a little passageway, would you call it?
- A Yes.
- Q And of course when you approached this door, the door was opened, wasn't it?

p. 339

- A Yes.
- Q And you walked in with Arto Williams?
- A That's correct.
- Q And you walked up to Martin Sostre?
- A That's correct.
- Q Alright. How close did you and Arto Williams get to Martin Sostre when you first walked into the store?
- A How close?
- Q Yes.
- A A foot.
- Q A foot away?
- A Approximately.
- Q And at that time, Geraldine Robinson -- I believe it was your testimony, was approximately ten feet away from Sostre, is that correct?
- A When we first approached them, yes.
- Q So that means that she was approximately ten feet away from you, or eleven feet away from you, or nine feet away from you, is that correct?
- A She was approximately ten feet away from us.
- Q And is it at this point that you say Arto Williams said something to Martin Sostre, is that correct?
- A We moved back toward the front of the store.
- Q I see.
- A Then Arto mentioned -- talked to him.

p. 340

- Q What were Arto's precise words, to the best of your recollection?
- A He asked him if he was doing any business, and Martin Sostre said "yes"; and he said "I want to cop a bag".
- Q You heard him say that at that time?
- A Yes.
- Q The first time he went in there, when he said "Are you doing any business" he also said "I want to cop a bag"?
- A Yes.
- Q You are sure of that?
- A That's my recollection, yes.
- Q That's your recollection. Alright. Then what happened?
- A Then he, Martin Sostre, all the time was looking at me rather hard.
- Q Had he ever seen you before, to your knowledge?
- A Not to my knowledge.
- Q Had you ever seen him before, to your knowledge?
- A No.
- Q You were a total stranger in the premises, is that correct?
- A That's correct.

- p. 341 J And then after Arto said "Can I cop a bag?" what happened?
- A Then Mr. Sostre said "No, not in front of him, he is a stranger to me."
- Q Now when Mr. Sostre made these remarks, that you recall, were you facing him?
- A Yes.
- Q Was Arto Williams facing him?
- A Yes.
- Q And where was Geraldine Robinson, in between you and Martin Sostre?
- A No, she was behind us.
- Q She was behind you?
- A Yes, that's correct.
- Q So that as you were standing talking to Martin Sostre, you and Arto Williams shoulder-to-shoulder, more or less, isn't that correct?
- A That's correct.
- Q So that if, as I stand here, if I were you, Arto Williams was either to my left or to my right, is that correct?
- A That's correct.
- Q And Martin Sostre was standing in front, facing me, is that correct?
- A Yes.
- p. 342 Q And Geraldine Robinson was behind me, and behind Arto Williams, isn't that correct?
- A That's correct.
- Q So that the two of you were directly between Martin Sostre and Geraldine Robinson, isn't that correct, sir?
- A That's correct.
- Q When you heard this conversation?
- A Yes.
- Q And she was approximately nine feet behind you when you heard this conversation, isn't that correct, sir?
- A Seven to nine feet, yes.
- Q So she was approximately ten feet away from Martin Sostre, and the two of you were standing directly in between Martin Sostre and Geraldine Robinson
- A That's correct.
- Q So if there was testimony in this case that Martin Sostre and Geraldine Robinson were standing next to each other, that was in error, is that correct, sir?
- DOBOZIN OBJECTS

- Q Alright now, Tpr. Steverson, you had a conversation, and there was some objection to yourself being a stranger, is that correct?
- A That's correct.
- p. 343 Q In other words, he was concerned about your being a stranger, but he said "Yes, I will cop, but not while you are there?" He said that?
- A No, he was -- said he was doing business there.

Q Alright. You mean he said "yes" in answer to the question, "Are you doing any business?" right? 65

A That's correct.

Q Alright. Now -- and you are sure that Arto Williams said "I want a cop"?

A Yes.

Q Then you and Arto Williams -- withdraw that. What happened then?

A We walked to the front of the store -- out to the store -- to the sidewalk

Q When you say "we" ---

A Arto and myself.

Q --- who are you referring to?

A Arto and myself.

Q Now you talk about going out to the sidewalk. Forgive me for going back. You entered the premises -- you said something before as being rather small. What would you estimate the distance to be from the entrance door of the premises to the rear partition?

A I can't even recall the distance.

Q Have no recollection at all?

A No.

p. 344

Q Could you possibly estimate it based on something in this room?

DOBOZIN OBJECTS

The Court: If he can estimate a distance alright. If he can't he can say

Q What is your best estimation of the distance, officer?

A Approximately thirty feet, maybe thirty - forty feet.

Q And when you entered the premises with Arto Williams, you say Geraldine Robinson was toward the front of the store, meaning closer to the doorway, is that correct?

p. 345

A That's correct.

Q And Martin Sostre was toward the rear of the store, is that correct? Close to the partition?

A No, he was between the partition and the front. He was --

Q Yes, I mean he was closer to the rear partition than Geraldine Robinson?

A Yes, he would be.

Q He was further back toward that thirty-foot line of the partition?

A He was back there, yes.

Q Right when you approached Sostre and you and Williams had a conversation with him, or Williams had a conversation with him, approximately where in relation to the partition and the front door were you standing?

A Maybe twenty feet from the partition.

Q Approximately how many feet from the door, about ten feet?

A Ten -- about ten feet, about.

Q So that if you were approximately twenty feet from the partition and approximately ten feet from the door, and Geraldine Robinson was approximately ten feet behind you, she was right in the doorway, wasn't she?

p. 346

- A She was right in the front of the place, yessir. 66
- Q Alright. Now you went outside and you and Arto Williams went out to the sidewalk. That means you went beyond that three-foot passageway to the door, out to the sidewalk, is that correct?
- A That's correct.
- Q And you had a conversation?
- A That's Correct.
- Q Did you have the conversation standing on the sidewalk ?
- A Yes.
- Q Right in front of the doorway?
- A Yes.
- Q And did the door remain opened?
- A Yes.
- Q And you could see right into the premises from where you were standing, talking to Arto Williams?
- A Yes.
- Q And anyone standing on the inside could see right out to where you were standing, is that correct, sir?
- A That's correct.
- Q You were right in line of vision of where Martin Sostre and Geraldine Robinson had been, inside that door, is that correct, sir?
- P. 347
A That's correct.
- Q And you had a conversation, and after your conversation, based on what you said, Arto Williams went back in to make the cop, is that correct?
- A That's correct.
- Q He is going in to the same man that said he wouldn't do business because you were a stranger when you were standing outside, is that correct?
- A That's correct.
- Q And you went into the doorway, you stood right in the doorway, is that correct?
- A No.
- Q You didn't? I am sorry. You stood in that little passageway?
- A I was in front of the passageway on the sidewalk.
- Q On the sidewalk?
- A Yes.
- Q When Arto Williams went back in, is that where you were?
- A Yes.
- Q So that then you were at least three feet from the doorway, is that correct?
- A That's correct.
- Q Perhaps a little bit more?
- A Possible.

P. 348 Q Now, when you did see Arto Williams walk into the premises --- 67

A Yes?

Q did you see him walk back up to Martin Sostre?

A Yes.

Q Where was Martin Sostre standing at that time?

A He was standing next to Geraldine Robinson.

Q Where were the two of them standing?

A In the front of the store.

Q How far from the doorway of the store?

A Two feet.

Q Two feet from the door?

A Approximately.

Q They were standing right near the doorway with the door open? You were standing about three feet out on the sidewalk, is that right?

A No.

Q Will you please tell us more precisely, then, where were you? And where were they?

A I was in the front of the store on the sidewalk, approximately three feet away from the open door.

Q Three feet away? In other words, you were right at the edge of that three-foot alley-way?

A Approximately three feet.

P. 349 Q And they were about two feet away from the door on the inside?

A On the inside, yes.

Q You were about five feet away from them?

A Approximately.

Q In the front?

A In the front, yes.

Q Were they over by the counter?

A Yes, they were in front of the counter.

Q Well, is the counter right in front of the doorway?

A No.

Q The counter is over to the left, or to the right, is it not?

A That's correct.

Q And back a little ways, is it not?

A That's correct.

Q So they were not by the counter, were they?

A They were in front of the counter.

Q When you say in front of the counter, how far in front of the counter?

Maybe a foot. I don't know, I can't remember exactly. A foot. 68

Q About a foot from the counter. Now, when Arto Williams approached, and you were looking from outside right where you could be seen?

A Yes.

P. 350 He walked with his back to you, isn't that correct?

A Yes.

Q And he walked up to Sostre, who was in front of him, right?

A That's correct.

Q And then you saw Arto Williams do what?

A Hand Geraldine Robinson the money.

Q There is no question in your mind that he handed Geraldine Robinson some money, is there?

A No.

Q Could you see how much money he gave her?

A No.

Q Could you see whether or not it was the same money that you say you saw S^t Gristmacher give to her?

A No.

Q Give to him?

A No.

Q And you don't know whether it was five dollars, ten dollars, or fifteen dollars, do you officer?

A No.

Q And, as a matter of fact, his back was to you when he handed the money to Geraldine Robinson, wasn't it?

A He was sideways.

Q Sideways. Didn't you just testify that he walked in, his back was to you he approached Sostre, and Sostre was over here?

P. 351

A When he walked in, he walked with his back to me. When he got inside the store, he naturally turned to them.

Q He turned so you could see what he was doing, right?

A Yes.

Q So Sostre could see you were standing out there watching, right? Alright

DOBOZIN OBJECTS

Dobozin: I am going to object, Your Honor, and ask it be stricken, Counsel's antics.

The Court: That may be, whether Sostre could see or not see is stricken.

Q Now, after you saw -- incidentally, sir, when you saw him hand something Geraldine Robinson, you can't even be sure it was money, can you, sir?

A Yes.

Q How can you be sure it was money?

A It looked like money.

Q It looked like money. A lot of things look like money, don't they? 69

DOBOZIN OBJECTS

Q Well, Officer, as a matter of fact, based on your
p. 352 observations, can you say with absolute certainty that what you saw
handed to Geraldine Robinson was money?

DOBOZIN OBJECTS

The Court: I will let him answer that.

A It looked like money to me, yes.

Q Can you say with absolute certainty that it was money?

DOBOZIN OBJECTS

The Court: I think I will let the answer that he gave stand. It looked
like money to him.

Q Was that because it was green?

A Yes.

Q And because it looked like the shape of money?

A That's correct.

Q Now after Arto Williams gave the money, as you say, or what looked like
money, to Geraldine Robinson, then what happened next?

A She counted it.

Q Yes? And then what happened?

A Then she says something to Mr. Sostre.

p. 353 Q Did you hear what she said to Mr. Sostre?

A No.

Q Did you hear what Arto Williams said to Mr. Sostre?

A No.

Q Did you hear what Mr. Sostre said to Arto Williams?

A No.

Q Did you hear any of the conversations that you allege took place at that
time?

A No.

Q And the only way that you recall that conversations took place was because
you saw moving lips, isn't that right?

A That's correct.

INTERRUPTION

Q Now, Officer, you say that after that happened, of course Martin Sostre
went into the back, right?

A Yes.

Q And did Geraldine Robinson and Arto Williams just stand there?

A Yes.

p. 354 Q Where they were originally?

70

A Yes.

Q And Arto Williams had his side to you, or his back to you?

A He was still standing sideways. He was moving around a little bit.

Q And then Martin Sostre came from the rear of the store, right?

A Yes.

Q And you saw -- withdraw it. Now when he returned from the rear of the store did he face Arto Williams before he did anything?

A He walked toward him.

Q He walked toward Arto Williams. And was he facing Arto Williams when you observed what you say you observed?

OBJECTION

Q When he finally got to where Arto Williams was, were they standing face-to-face?

A More or less, yes.

p. 355 Q And was Martin Sostre's front, the front of his face, in full view of you?

A Yes,

Q He was more or less facing your direction, isn't that correct?

A That's correct.

Q And he was face-to-face ^{to} with Arto Williams, so that Arto Williams' head was sort of in the back of you -- in front of you, right?

A Arto Williams was at an angle.

Q Slightly at an angle?

A Slightly at an angle to me.

Q By and large, it was his side and back that was to you, isn't that correct sir?

A That's correct, Arto Williams.

Q And it was while they were in this position that Martin Sostre handed some thing to Arto Williams, is that correct?

A That's correct, yes.

Q And did he hand it to him up over his head, down below, or at waist-level?

A He handed it hand-to-hand.

Q Hand-to-hand?

A Yes.

Q So it would be about at waist-level, is that correct?

p. 356 A Approximately, yes.

Q And with what hand did Martin Sostre hand something to Arto Williams?

A I believe it was his right hand.

Q And with what hand did Arto Williams receive what he handed him?

A I can't recall if it was left or right hand now.

Q You don't recall?

A No.

Q And I believe it was your testimony that what you saw passed was a glassine envelope, is that correct?

A Yes.

Q Now, so there can be no mistake, officer, how far away from them were you standing at that time?

A Approximately five to six feet.

Q You mean no greater distance than between you and me now?

A Approximately, yes.

Q So there is no question but that you were in full view of both Geraldine Robinson and Martin Sostre, correct?

A Yes.

Q The same Martin Sostre who had said "I won't do business with a stranger present"?

A That's correct.

P. 357
Q And then with Mr. Williams' ^{shoulders,} side and back to you, with a slightly -- at a slight angle, you saw Martin Sostre hand a glassine envelope, is that correct?

A That's correct.

Q A glassine envelope like this?

A Similar to this.

Q Similar to this?

A Yes.

Q And you could tell from where you were standing that it was a glassine envelope?

A That's correct.

Q And you could tell that it was a -- it had a white powder in it?

DOBOZIN OBJECTS

Q Well, did you testify, sir, that you could see it was a white powder?

A Not today, no.

Q Not today. On a prior occasion did you?

A Yes.

Q Well, were you mistaken on the prior occasion when you said you could see the white powder?

p. 358
A I didn't testify that I could see the white powder when it was passed.

Q Oh, when did you see the white powder?

A Later.

Q Then what did Arto Williams do with this that you could see passed hand-to-hand at a distance of five or six feet?

A He placed it in his jacket pocket.

Q Are you sure he placed it in his ~~jacket~~ pocket?

A Yes.

Q You saw him place it in his pocket?

A Yes I did.

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Q When he came up and met you, he did not have it in either one of his hands, is that your testimony?

A Yes.

Q So ~~that~~ if he testified that he had it in his hand when he was walking with you to Gristmacher's car, he was in error, is that correct?

DOBOZIN OBJECTS

p. 359

Q I will re-frame the question. Alright. So after Arturo Williams, or Arto Williams, put this in his pocket, his jacket pocket, the two of you walked to Sgt. Gristmacher's car, is that correct?

A That's correct.

Q Did Arto Williams ever hand this glassine envelope that you claim he got from Martin Sostre to you?

A No.

Q Did you ever have it in your hand?

A Not at that time.

Q Before it was given to Sgt. Gristmacher?

A No.

Q Did you see Arto Williams give it to Sgt. Gristmacher?

A Yes.

Q Where were you when you made this observation?

A In the back seat, leaning over the front.

Q In the back seat?

A Yes.

Q Did you see Arto Williams take it out of his pocket and give it to Sgt. Gristmacher?

A No.

p. 380

Q Now, sir, there appear on here some initials, an ink print. When this envelope, or a glassine envelope, as you say, was handed to Arto Williams, could you see anything on the envelope?

A No.

Q And is there anything about this envelope that existed prior to Arto Williams' taking it to Sgt. Gristmacher's car that you can use to identify it as the glassine envelope that you claim Martin Sostre gave to Arto Williams?

A No.

Q Is there anything on this envelope, sir, that was on there when you made the observation that helps you to identify it as the envelope that Arto Williams gave to Sgt. Gristmacher?

A No.

Q So, officer, basically, your testimony is then that you saw something that looked like this passed from Martin Sostre to Arto Williams?

DOBOZIN OBJECTS

p. 361 Q Is it your testimony, sir, that what you observed passed from the hand of Martin Sostre to one of the hands of Arto Williams was a glassine envelope that looked something like this?

A Similar.

Q Similar. You cannot say, can you, sir, with absolute certainty, that this is the envelope that you allegedly saw passed from Sostre to Arto Williams?

A No.

Q Now sir, at any time, at any time did you see Geraldine Robinson pass or touch the envelope that you say was passed from Sostre?

A No.

Q At any time did she say anything that you could hear from your particular vantage point?

A I didn't hear anything.

Q And as a matter of fact, sir, you cannot tell us with absolute certainty whether or not Geraldine Robinson even saw what was passed, can you, sir?

DOBOZIN OBJECTS

p. 362 Q Alright. Now, officer Steverson, after you saw Arto Williams passing a glassine envelope that is similar to People's Exhibit #1 for Identification to Sgt. Gristmacher, what is the next thing that happened?

A We left the area, drove to Main and Dodge Street.

Q Now, when you got to Main and Dodge Streets, was there another car there with officers waiting for you?

A Yes.

Q Do you recall who those officers were?

A Chief Amico of the Narcotics Unit; other members of the Narcotics Unit, names I don't know; and State Police.

Q Now do you recall where their car was parked in relation to where Sgt. Gristmacher parked the car in which you were riding?

A Their cars were down Dodge Street.

Q Down the block?

A From Main Street, yes.

Q Approximately how far down, how many car-lengths?

A Maybe ten car lengths.

Q Was it dark in the street.

A Lighted street, yes.

Q A lighted street. Was there a light right near where your car was parked or the car you were riding in? was parked, if you recall?

p. 363 A I can't recall.

Q After Sgt. Gristmacher brought the car to a halt at that corner, he got out of the car, did he not?

A That's correct.

Q That's the first thing he did was get out of the car, isn't that correct?

A That's correct.

Q And he got out of the car, and he started walking toward another car, isn't that correct? 74

A That's correct.

Q Did you go with him?

A No.

Q Did Arto Williams go with him?

A No.

Q And then you got behind the wheel, isn't that right?

A That's correct.

Q And having been instructed by him to take his car to Police Headquarters, you went to Police Headquarters, is that correct?

A Correct.

Q And at no time did you leave your car to go to that front car where those officers were, isn't that correct?

A That's correct.

p. 364 Q Now, incidentally, officer, after Arto Williams gave this envelope that you referred to, to Sgt. Gristmacher, did he put it in his pocket?

A I believe he did, yes.

Q Did you see it again before you got to the Police Headquarters?

A No.

Q At no time?

A No time.

Q You never saw it in his hand again until you got to Police Headquarters, isn't that correct, sir?

A That's correct.

Q So that you never saw SSt. Gristmacher open up that envelope, did you?

A No.

Q And you never saw him do anything with that envelope until you got back to Police Headquarters, isn't that correct, sir?

A That's correct.

Q So sir, do you recall having executed an affidavit in the City Court in connection with this case?

A Yes.

Q And I show ~~you~~ what I must admit is a rather poor copy; I ask you if that represents a fair and accurate copy of an affidavit that you signed?

p. 365 INTERRUPTION while the Exhibit is marked

Q I show you Defendant's Exhibit #4 for Identification, and I ask you if that is a fair although poor copy of an affidavit that you executed on or about July 14th or 15th of 1967?

DOBOZIN: I think you mean Defendant's Exhibit A.

McKINNEY: I am sorry, does it say A?

DOBOZIN: It looks like a 4. It should be A.

McKINNEY: Defendant's Exhibit A for Identification.

DOBOZIN: What is the question now?

75

Q Is that -- is that a fair although poor copy of an affidavit that you executed on that day?

A Poor copy.

Q A poor copy. Is there any question but that ~~that~~ is a copy -- an actual copy of your signature at the bottom of that affidavit?

P. 366 That's correct.

Q You read this affidavit, didn't you, sir?

A Yes.

Q Alright. May I have it, please? So that when in this affidavit you said in the last paragraph thereof: "We walked together to where Detective Sgt. Gristmacher was parked and got into his car. The informant then handed Sgt. Gristmacher a small glassine envelope which we examined and found to contain a white powder. We then drove to Main and Dodge Street in Buffalo, where I observed Sgt. Gristmacher test the above-mentioned powder with a small vial of acid known as the Marquis Re-agent Test." you were in error, were you not, officer?

DOBOZIN OBJECTS

Q You were in error, were you not, officer?

THE COURT: Alright, he can answer the question.

A To the best of my recollection.

Q Pardon?

P. 367 A My prior testimony was to the best of my recollection, yes.

Q Well, I am talking about an affidavit that you executed on the 17th day of July, three days after this alleged seizure. Do you recall that?

A Yes.

Q And the facts were fresh in your mind at that time, were they not, sir?

A That's correct.

Q Now sir, were you lying under oath when you executed this affidavit, or are you lying under oath today when you say that you did not observe anything happen to that glassine envelope after it was given to Sgt. Gristmacher?

DOBOZIN OBJECTS

Q Mr. Steverson, are you -- is that the truth that is contained in that affidavit, or was that the truth that you told on the stand a short while ago?

A This is the truth here in the affidavit. What I said on the stand prior was to the best of my recollection. I don't recall seeing the test.

P. 368 Well, now that you have been confronted with the affidavit, is there any question in your mind as to which is the true version of the facts?

OBJECTION BY DOBOZIN

THE COURT: He may answer.

A No.

Q Alright. Where, now, do you claim that you saw the Sgt. conduct this test?

A To the best of my recollection now, he did it by the car, because 76
I never left the area of his car.

Q I see. So that if Alvin -- Arto Williams says that he didn't make any
observation of anything being done near that car before he walked to the
officer's other car, he was in error, is that correct?

A Arto Williams was sitting in the front seat of the car; we were outside
the car.

Q Well, you said that you got out of the car only to get in front of the
wheel, isn't that correct?

A That's what I said prior, yes.

p. 369 Were you in error?

A Yes.

Q And when you said before that you hadn't seen anything done to that
glassine envelope, and the first time you saw it after it was passed to
Gristmacher was at Police Headquarters, you were in error, is that correct?

A That's correct.

Q Sir, would you like to reflect back upon any of your testimony, and recall
if perhaps there are any other errors?

A No other errors, no.

Q No other errors. Now, Tpr. Steverson, have you had occasion to testify
in court before?

A Yes.

Q On how many occasions have you come to court and testified in various
cases in which you have been involved?

A In nine years?

Q Approximately.

A Approximately a hundred and fifty, two hundred times.

Q You are an experienced Police Officer, aren't you, sir?

A That is correct.

p. 370 Q And ~~xxxxx~~ on the night in question, you knew the serious-
ness of the investigation that you were embarking on, did you not, sir?

A That's correct, yes.

Q And you knew that it might very well come to pass that you were going to
testify in a court of law in reference to the facts of that case, did you
not, sir?

A Yes.

Q Now, sir, at the time you made the observations with respect to the search
of Arto Williams, did you record what you saw Sgt. Gristmacher remove from
his person?

A I did not record it, no.

Q And you observed certain monies, as you say, passed from Sgt. Gristmacher
to Arto Williams, in or outside of the car in the parking lot; did you
record what you observed in a notebook or piece of paper of any kind?

A No, I did not.

Q Did you examine the money and record the serial numbers?

A No.

Q Did you examine the money to see if there were any initials or any marks of any kind on them? 77

A No.

Q p. 371 When you went to Woodlawn and DuPont, and you got out of the car and you started walking to the Bookshop, did you carry with you a notebook in your pocket, and a pen or a pencil?

A No.

Q When you observed -- when you heard Martin Sostre say: "Yes, I am doing business, but not with a stranger present", did you record those remarks?

A No.

Q Did you record the observations that you allegedly made with respect to money being -- what looked like money -- being passed to Geraldine Robinson?

A No.

Q Did you record the relative positions of any of the people in the store at the time that you made these observations?

A No.

Q Did you record what Arto Williams did with the glassine envelope which you believe you saw passed after he came out of the store?

A No.

Q Did you make any notes whatsoever with respect to the activities on your part during the course of the night of July 14th and the morning of July 15th?

A No notes were taken.

Q p. 372 You didn't make notations and then destroy them like Sgt. Gristmacher, did you?

DOBOZIN OBJECTS

Q Now Officer, I am sorry, I use the term interchanging, Officer and Trooper. Trooper, when you returned to the Police Headquarters, you returned with Arto Williams, right?

A Yes.

Q Having driven him in Sgt. Gristmacher's car?

A Right.

Q What is the next thing that happened in the Police Headquarters after you got there in connection with this case?

A Arto and myself went up to the Narcotics Unit, and went into the Vice Squad Office, and sat and waited.

Q You sat and waited?

A Yes.

Q You waited for Sgt. Gristmacher, did you?

A Yes.

Q p. 373 And ~~XXXXXX~~ did there come a time when Sgt. Gristmacher arrived?

A Eventually.

Q How much -- how soon after you arrived did Sgt. Gristmacher return?

A Maybe an hour, hour-and-a-half.

Q When he returned, did he give you the glassine envelope?

- A When who returned?
- Q Sgt. Gristmacher; when he returned to Police Headquarters, did he give you the glassine envelope?
- A No, he didn't.
- Q When next did you see that glassine envelope?
- A I believe it was on the table in the Narcotics Unit.
- Q Did it have any identifying marks on it at that time?
- A To the best of my recollection, I believe there were somebody's initials on it
- Q Did you affix your initials on the glassine envelope?
- A No, I did not.
- Q Did anybody ask you to?
- A No.
- Q Did there come a time when you saw some money up there?
- A No, I don't remember seeing any money.
- Q When was the first time after -- when was the first time after you say you saw Arto Williams hand something that looked like money to Geraldine Robinson, did you see any money that was ostensibly connected with the case?

p.374

DOBOZIN OBJECTS

THE COURT: I will allow it; answer the question.

- A The next time I saw the money after it was allegedly passed, is that correct?
- Q Yes, yes.
- A I believe it was at the Grand Jury a few months later.
- Q Incidentally, Officer Steverson, did you testify before the Grand Jury in this case?
- A Yes, I did.
- INTERRUPTION while Mr. McKinney has Transcript of Trooper Steverson before the Grand Jury submitted into evidence, marked PEOPLE'S EXHIBIT #6 for IDENTIFICATION.

p.376 (Resuming after Recess)

- Q Trooper Steverson, there appears on People's Exhibit #1 for Identification a glassine envelope with some initials. Did you observe any of these initials being affixed to this envelope?
- A No.
- Q Now sir, you had occasion, did you not, to testify relative to some of the facts in this case on a prior occasion?
- A Yes.
- Q More specifically, in March of 1968, is that correct?
- A I believe that was the date.
- Q That was approximately eight or nine months after the events that you testified to, isn't this correct?
- A That's correct.
- Q And at that time just as now, you testified under oath, isn't that correct?

p.377

A Yes.

Q Now today you testified initially, Sgt. Gristmacher, and you and Mr. Williams went to this particular corner where you met this other car, and that he got out and walked to the other car, and you got behind the wheel, and you didn't see anything happen, and then after ---

DOBOZIN OBJECTS

p. 378 Q Do you recall having testified relative to these facts in March of 1968?

A Yes.

DOBOZIN OBJECTS AGAIN

Q Do you recall, sir, having been asked this question and having given this answer:

Q "After you returned ---"

I am sorry, referring to line #2 on page 449.

Q "Okay."

This is by Mr. Notaro.

"After you returned to the car with Williams and the bag was handed to Gristmacher as you have testified to, what if anything did you do?"

A "I was in the back seat ~~of the car~~ at that time, and then when Detective Sgt. Gristmacher drove from that vicinity to the area of Main Street and Dodge, he got out of the car. Then I drove the car back to the Police Headquarters."

Do you recall having been asked that question and giving that answer?

A Yes.

p. 381 Q You didn't say anything about Sgt. Gristmacher having done anything with that bag or taken a test of any kind, did you?

DOBOZIN OBJECTS

Q Officer Steverson, you testified earlier to making certain observations from the doorway of the premises 1412 Jefferson Avenue, is that correct?

A That's correct.

Q How long -- withdraw it. How long were you in the premises the first time that you entered?

A Less than -- than a minute.

Q Pardon?

A Less than a minute.

p. 382 Q Less than a minute. And how long did you watch what you claim took place inside from your vantage point outside of the door?

A Maybe another minute.

Q Prior to July 14th, 1967, had you ever seen Geraldine Robinson before?

A No.

Q And your testimony, sir, saying that you -- that you saw Geraldine Robinson is based on having observed her briefly during your first appearance, and again from the vantage point of the doorway, while you were making these observations, is that correct?

DOBOZIN OBJECTS

Q Officer, had you ever seen Geraldine Robinson before ?

p.383 No.

80

A
Q In your life?

A No.

Q And the first time that you saw her was while you were standing with Arto Williams, Martin Sostre, and a lady, the first time that you entered the building, is that correct?

A Yes.

Q For less than a minute?

A Approximately three minutes all tolled.

Q Didn't you say you were there less than a minute?

A I was walking toward the store, inside the store, left the store, and stood in front of the store.

Q Oh. How long were you in the store the first time? Didn't you say less than a minute?

A Less than a minute when I was in the store.

Q And how long did you make observations from outside of the store after you went out?

A Approximately a minute.

Q Approximately. So that your observations of approximately three people and the premises, with everything that took place, was all within the span of at most a minute and a half, isn't that correct?

A Four minutes.

Q Well, you said less than a minute you were in the first time?
p.384

A That's correct.

Q And your observations from outside, the transactions that you described, were about a minute, isn't that what you said?

A Yes.

Q So that therefore your observations total approximately two minutes?

DOBOZIN OBJECTS

THE COURT: I will let him answer the question.

A No, it was more than that.

Q Alright. Sir, how long were you in the premises the first time that you entered?

A Less than a minute, approximately a minute at the most.

Q And when you say less than a minute, you mean from the time you entered until the time that you left, isn't that correct?
p.385

A That's correct.

Q Including the time that it took you to walk from the doorway to where Sostre was, correct?

A Yes.

Q And back out?

A Yes.

Q Right. And while you were in there, during that minute, most of that time you were standing with Arto Williams, facing Martin Sostre, with Geraldine Robinson in the back, as you say, isn't that correct?

A Yes.

Q So that most of that minute you were observing Martin Sostre, isn't that correct?

A That's correct.

Q And you left?

A Yes.

Q Less than a minute the entire time in the premises at that point?

A Yes.

Q Then you went out on the sidewalk, and you talked with Arto Williams?

A Yes.

P. 386 Q And after that conversation you posted yourself at the building line, or at the doorway, near the doorway, three feet from the doorway, and made observations on the inside as Arto Williams entered, isn't that correct?

A That's correct.

Q And you watched him as he entered the building; did you not?

A That's correct.

Q And you kept your eyes fixed on him, did you not, so that you knew exactly what he did?

A That's correct, yess.

Q And the observations that you made from that vantage point after he went in, or as he went in, and until he came out, took about another minute, isn't that correct?

A That's correct.

Q So that the total observations that you made in there, both when you were there at first and from the outside, was two minutes, isn't that correct, sir?

A That's correct.

Q And most of the first minute that you were in there you were observing Martin Sostre, isn't that correct? Because you say Geraldine Robinson was nine feet behind you, isn't that correct?

A Yes.

P. 387 Q And while you were making the observations from the outside for just about a minute, you had your eyes fixed on Arto Williams, because he was the one that was going to engage in this transaction, isn't that correct, sir?

A Yes.

Q No further questions.

RE-DIRECT EXAMINATION BY DOBOZIN

Q Did you see Geraldine Robinson on July 14th, 1967, in the Afro-Asian Bookstore, when Arto Williams walked in?

A Yes, I did.

Q Does she appear here in the courtroom today?

A Yes.

Q Would you point her out, please?

415 TESTIMONY OF BRUCE JENSEN, 77 French Lea Road, West Seneca, New York

being duly called and sworn, as a witness for the People, testified as follows:

DIRECT EXAMINATION BY MR. DOBOZIN:

Q Where are you employed?

A I am with the United States Bureau of Narcotics and Dangerous Drugs.

Q And how long have you been with the United States Bureau of Narcotics and Dangerous Drugs?

A Well, I have been technically -- it's only a fairly new organization. Prior to that I was with the U.S. Bureau of Narcotics, which was merged into the agency, over six years, sir.

p.416

Q And prior to that, did you also work with the Federal Government as an agent?

A Oh, yes.

Q And how long were you with them, and in what capacity?

A I was an agent with the Alcoholic and Firearms Unit of the Treasury.

Q For how long?

A Three and a half years.

Q And your work primarily deals with what?

A Conducting investigations pertaining to narcotics and dangerous drugs.

Q8 Did there come a time on July 14th, 1967, when you were so employed?

A Yes.

Q And on July 14th, 1967, did there come a time that you went to the premises of 1412 Jefferson Avenue?

A That I entered the premises, sir?

Q Yes.

A On July 15th.

Q Oh, on July 15th, 1967?

A Yes.

Q And were you alone, or in the company of others?

A In the company of other officers.

p.417

Q Approximately how many other officers?

A I would have to guess, sir, several officers from both the Buffalo Police Department and the New York State Police.

Q Okay. And who if anybody did you see at 1412 Jefferson Avenue as you entered?

MR. MCKINNEY: Your Honor, may we respectfully request the time be fixed?

THE COURT: Yes, what time was it?

Q Approximately what time did you enter the premises of 1412 Jefferson Avenue?

A Approximately twelve-o-five A.M.

Q And when you entered the premises of 1412 Jefferson Avenue, who if anybody did you see?

A Well, in addition to the other officers, there was two young males, I don't know their names, and Martin Sostre, and Geraldine Robinson.

J Did you know Geraldine Robinson before July 15th, 1967?

A No, sir.

Q And does Geraldine Robinson appear here in the courtroom today?

A Yes, she is sitting at the table here with a pink coat on.

Q.418 MCKINNEY: We'll concede that she is sitting here today.

Q Thank you. Now, at the time that you entered the premises at 1412 Jefferson Avenue, were you amongst the officers you went in with?

A I don't -- I don't recall whether I was first, second, last, I don't recall as I entered.

Q Did you or any of the other officers have any document with you in reference to those premises?

A Yes sir, a Search Warrant.

Q And did you hear any conversation or statements being made as entrance to 1412 Jefferson Avenue was made?

MCKINNEY: Your Honor, at this time I object, and I ask the District Attorney to be directed not to lead the witness.

THE COURT: Let him state what happened.

Q What happened as you entered the premises at 1412 Jefferson Avenue?

A Allright. As I entered the premises with the other officers, several of the officers in addition to myself shouted. I said, "We're Federal Agents and Police Officers, we have a Search Warrant." And looking at Sostre, I said, "You are under arrest."

Q.419 And at least two of the other officers said the same. As we got inside the premises, Sostre ran toward the back room. When he entered the back room, a struggle ensued between he and a couple of the officers.

Q Do you know which officers?

A Investigator Rock from the State Police, Detective Sgt. Smith from the Buffalo Police, Detective Hassett from the Buffalo, Police, and I believe Investigator Constantine from the State Police.

Q Would you relate what happened, what that struggle was, what ensued after

A Well, as the struggle broke out, I went to their assistance, and as that I reached the scene of the struggle, Miss Robinson came to me and the other officers and started to shout and scream, and started to pull at me and some of the other officers.

Q Well now, did you see -- you say the struggle, would you -- could you relate what that struggle was, what was involved in that struggle, what happened during the course of that struggle, to the best of your recollection?

A Well, to the best of my recollection, I observed Sostre take a swing at one of the ~~other~~ officers

Q.420 MCKINNEY: Your Honor, at this time I object to any reference to what Sostre did, unless there was some definite connection with what Mrs. Robinson is alleged to have done. Otherwise, it can show no purpose other than to prejudice the mind of the jury with respect to this particular defendant.

DOBOZIN: Your Honor --

THE COURT: I will let this testimony in subject to its being connected up to whatever the defendant had to do with this particular struggle.

DOBOZIN: Thank you, Your Honor. Now, would you read back that part of the answer before it was interrupted?

MCKINNEY: Your Honor, I except to the Court's ruling on that Objection.

THE COURT: Your exception may be noted.

MCKINNEY: Respectfully.

(Whereupon the last answer by the witness was then read by the reporter.)

Q Do you know which officer Sostre swung at?

A Well, he swung at Investigator Rock, then I saw another punch thrown at -- not a punch, but the arm go at Sgt. Smith, and then at that point Investigator Rock went down on the floor, and the other officers were fighting with Sostre, trying to subdue him.

Q.421 Now what happened after that?

A Well at that point is when I went back to assist the other officers.

Q And what did you do, what were you doing?

A I started to assist the other officers in subduing Sostre, and at that point Miss Robinson came to what I guess you could call the pile, and started to shout and scream and pull at me and other officers.

Q Could you hear what she was shouting and screaming?

A I don't recall specific words, no sir.

Q And do you recall what if anything she did specifically to you?

A Well, as she pulled at me, I grabbed ahold of her with both hands. I told her to sit down. I took her to a chair which was along the wall, sat her down; I told her she was also under arrest. I went back to where the fight was, and again she reappeared at what I called the pile or at the fight, pulling at the officers and pulling at me. At which time I had to reseat her in the chair and stay with her until Sostre has been subdued.

Q In other words, after the second time you sat her down, you could not go back to aid the other officers, is that correct?
p.422

McKINNEY: Objection, Your Honor. Mr. Dobozi, I am sure unintentionally, is leading the witness.

THE COURT: Well, it's a clarification of testimony, I would like to have it clarified. After you sat her down the first time, take your testimony from there, officer -- what happened after you sat her down the first time and said she was under arrest?

A Well, I went back to where the fight was to assist the other officers, and as I started to assist them, again, again Miss Robinson came back there and started to pull at me and other officers, still hollering, and I had to reseat her in the chair.

Q And after you reseeded her in the chair, where did you go?

A I had to stay there until Sostre was subdued.

Q So you could not return to where Sostre was with the other officers?

A Yes, I did not, that's right.

Q Now, was there any other female in the premises at the time you entered, or during the time that you were there, or when you left?
p.423

A No sir, I don't recall any.

Q Now when you say on the two occasions that she was pulling at you, could you more specifically describe just what that amounted to?

McKINNEY: Your Honor, I respectfully submit that the officer has fully testified with respect to the allegations, and that further clarification can only serve as a leading effort by Mr. Dobozi. I believe he has twice indicated what happened with respect to the defendant Geraldine Robinson.

THE COURT: I will let him describe what he means by pulling.

Q To the best of your ability, what type of pulling or what type of -- what do you mean by pulling?

A Well, grabbing ahold of me, and trying to pull me away from the rest, from the scene of the struggle.

Q And do you recall what one or two hands were used?

A I don't recall, sir.

Q All right. Was she successful in pulling you from the struggle?

Well, successfully in that I had --
p.424

McKINNEY: Your Honor, I object, ---

THE COURT: Sustained.

McKINNEY: On the grounds that it's vague.

Q What happened when she had you, when she was pulling you?

A Well, I had to direct my attention to her.

Q Did her pulling -- did you experience anything because of the pulling?

McKINNEY: Oh, Your Honor, I object. This is leading, question after question. It's most improper.

THE COURT: Sustained.

Q There came a time, did there not, officer, when her hand or hands were upon you?

A Yes.

Q And after her hand or hands were upon you, what if anything did you experience?

McKINNEY: Oh, Your Honor, I object.

THE COURT: I think he testified that she grabbed ahold of him and attempted to pull him away from the struggle, that he had directed his attention to her, that he previously testified is what he did. I don't know if you want to elicit something more. I think I have it down here. Is there anything more?

p.425

Q Well, can you state anything more that happened in reference to the pulling, Officer Jensen?

A Only that I had to direct my attention to her, I could not assist the other officers at that point.

DOBOZIN: I have no further questions at this time.

CROSS-EXAMINATION BY MR. McKINNEY:

Q Agent Jensen, when you went to the premises at 1412 Jefferson Avenue, do you recall who entered immediately before you?

A No, I don't recall the order in which the officers entered, no sir.

Q Do you recall whether or not any officers entered before you did?

A I believe at least one or two had, but I don't recall who they were.

Q So that some entered before you, but you don't recall how many, is that correct?

A That's my recollection.

Q And therefore you don't recall specifically who?

A That's correct.

p.426

Q How many officers were in the premises before you first noticed Mrs. Geraldine Robinson?

A I would have no way of knowing that.

Q Well, when did you first notice Mrs. Geraldine Robinson?

A Almost immediately upon entering the premises.

Q Where was she?

A She would be -- she was -- I am sorry, along the south wall, where there was a counter.

Q What was she doing?

A Standing there.

Q Was anyone with her at that spot, yes or no?

A I am not sure I know what you mean by with her.

Q Was anyone standing right next to her, in her immediate vicinity?

A I don't recall, sir.

Q Where was she in relation to the entrance door of the premises?

- A Well, as you enter the premises, she would have to be to the left, along the south wall.
- Q And approximately how far from the doorway?
- A Approximately halfway inside the room.
- Q Alright. So that we can better estimate that, could you tell us to your best ability to estimate, the depth of that room from the doorway to the rear partition?
- P.427
- A I would rather not estimate.
- Q That doesn't mean that you cannot, sir?
- A No, I would just prefer not to just guess. If I am going to guess I would like it clear that I am guessing.
- Q I am sorry. I am not asking you to guess. I am asking you, based on your experience, observing distances and space, to the best of your recollection, granting that to error is human, the distance from the doorway to the rear partition of the room?
- A Maybe thirty feet.
- Q So that when you estimate the position of Mrs. Robinson, it would be fair to say that she was approximately fifteen feet from the doorway to the premises, is that correct?
- A Yes sir, if my original estimate is correct, yes.
- Q And the first time that you saw her at that particular location was as you entered the door, is that correct?
- A As I entered the premises, yes.
- Q Now to the extent that you recall, where in the room had the other one or two or three officers who proceeded to -- gotten to when you entered?
- A Probably about the same distance in.
- P.428
- Q Were they near Mrs. Robinson? When I say "near" I mean her immediate vicinity in that room?
- A I don't recall, sir.
- Q Before you went to 1412, did you have an opportunity to observe all of the officers who went in around the same time? Did you observe them before they went, Officer Rock, Officer Smith?
- A I was periodically with many of the officers prior to entering the premises,
- Q Did you see Officer Smith just before he entered the premises? yes,
- A I believe I did, yes.
- Q Was he in uniform?
- A No, he was not.
- Q Did he have a badge affixed to the front of his lapel or his suit?
- A No, sir, he did not.
- Q Were there any outward signs that he was an officer of the law, yes or no?
- A On his clothing, sir?
- Q Any outward visible signs of his being an officer, yes or no?
- A He had his badge in his hand, yes.
- Q Outward signs, sir.

p.429

DOBOZIN: Well, I am going to object, Your Honor. I think he has answered the question.

THE WITNESS: To me, an outward sign --

THE COURT: I will let the answer stand.

Q Where did he have his badge?

A In his hand.

Q When did you see it in his hand?

A As he entered the premises with me; I had mine in my hand, too.

Q Which hand did you have it in?

A My badge?

Q Yes.

A I would only guess my left hand because that's the hand I use when I display it.

Q And when you walked in, what is the first thing that you said --- withdrawn. What is the first thing that you did after you went beyond the threshold of that door?

A First thing I did?

Q Yes, did you go someplace in the room?

A Well, almost immediately after entering is when the fight broke out, and I proceeded toward the back room to assist the other officers.

Q Did you go over to Geraldine Robinson?

A No, I did not.

p.430

Q Did you see anyone go over to Geraldine Robinson before you arrived at this ruckus that you referred to?

A No sir, I did not.

Q Did you hesitate as you passed her, or did you head directly to where you saw the trouble brewing?

A I don't recall whether -- if you could call it a hesitation. I entered the premises, as I got halfway it -- this is quite a fast thing happening here, sir.

Q How long did it take you to go from the door of the premises to where this fight was going on, as you say, a matter of seconds?

A Yes sir.

Q A matter of very few seconds?

A That is correct.

Q Two or three seconds?

A I think it would be a little more than two or three, but not too many.

Q And when you entered, did you call out to the officers who were involved in the scuffle, and tell them you were coming to assist them?

A No.

Q Did you say anything to them?

A No sir.

Q Did you say anything?

p.431

Q Did I say anything?

Q As you were running toward the group of people who were scuffling in the back?

A Not at that point, no sir.

- Q You were just running to help your fellow officers, right?
- A That's correct.
- Q And you went right by Geraldine Robinson, isn't that correct, sir?
- A That's correct.
- Q And before you, at least two other officers had gone in and gone right by Geraldine Robinson, isn't that correct, sir?
- A Yes.
- Q Did any of the officers who came in before you -- withdrawn. I believe I asked that question. Now, did there come a time when you saw other officers enter after you?
- A Several came in after me, but I was not paying any real attention to the order they were coming in, or who was coming in.
- Q You were involved in subduing Martin Sostre up to a particular point, isn't that correct?
- A That's correct, yes.
- Q p.432 How long were you involved in this struggle with two or three or four other officers, to subdue Martin Sostre?
- A A minute or two.
- Q And when you say a minute or two, you mean that's how long you were engaged in the struggle before Geraldine Robinson came and pulled on you?
- A No, sir, that was the -- it only took a minute or two for the entire thing to happen. It happened quite quickly or rapidly.
- Q When you say for the entire thing to happen, do you mean that you had completely subdued Martin Sostre, or he had been completely subdued?
- A Within a couple minutes, yes.
- Q And Mrs. Robinson had been placed under arrest within a couple of minutes?
- A That's correct.
- Q Alright. Now you say that you -- there came a time that Mrs. Robinson came and pulled you from the pile, as you say, is that correct?
- A I said she pulled on me.
- Q She pulled at you?
- A Yes sir.
- Q When she pulled at you, what did you do?
- A I turned around, grabbed her by the arms, and sat her down in a chair.
- Q p.433 Just took her and pushed her over and sat her down in a chair, is that correct?
- A That's correct. I told her she was also under arrest, and not to interfere, and I went back to the pile.
- Q And that's the first time you told her she was under arrest, isn't that correct, sir?
- A Yes, that's the first time I told her, yes.
- Q And you were placing her under arrest, sir?
- A I was telling her she was under arrest, yes.
- Q When you did that, were you placing her under arrest?
- A Yes.
- Q What were you placing her under *placing her under arrest for?*

- A Sale of narcotics.
- Q Alright. Did you observe any sale of narcotics in those premises, yes or no?
- A No, sir.
- Q Had you ever seen Geraldine Robinson before in your life?
- A No, sir.
- Q Did you tell her that she was under arrest for the sale of narcotics?
- A I did n't have time, there was a fight going on.
- Q Sir, just answer my question, please.
- A No, sir.
- Q p.434 Did you tell her that she was under arrest for the sale of narcotics?
- A No, I told her she was under arrest.
- Q So, at the time that she pulled at you, as you say, the first time, you had not said anything to her, had you?
- A That's correct.
- Q And not a single one of the other officers who was in the premises at the time had on a uniform, did they? Isn't that correct, sir?
- A I don't believe they did, no, sir.
- Q They were dressed more or less the way you are dressed right there now, or the way I addressed here now, isn't that correct, sir?
- A Yes.
- Q And now you say after you told Geraldine Robinson that she was under arrest, sit in the chair, you left her, is that correct?
- A That's correct.
- Q Did you put hand-cuffs on her?
- A No, sir.
- Q Did you ask someone else to stand over her and keep her under -- in custody?
- A No sir, no sir.
- Q Did you have her physically restrained in any way?
- A No, sir.
- Q p.435 Now, when you grabbed her after being involved in this pile, how did you grab her?
- A With my two hands on her two arms and sat her down.
- Q And when you went from the doorway directly over to the pile, what did you do when you got to the pile?
- A I was trying to assist the officers in subduing Sostre.
- Q And how did you attempt to assist them?
- A I was trying to get ahold of his hands, which he was swinging.
- Q Which hand did you use when you tried to get ahold of his hand?
- A I don't recall.
- Q Did you use both hands in trying to get ahold of him?
- A I could have, I don't know.

Q You have no recollection?

A No, sir.

Q Well, when you ran to the end of the -- to the back of the store, did you have your gun out?

A No, sir.

Q Did anyone have a gun out?

A I saw no guns drawn.

Q Did you have any weapon in any one of your hands?

A No, sir.

p.436
Q Were both of your hands free to grab at Sostre or at the men who were around him?

A At that point, yes, sir.

Q And your hands were free to grab him until such time as Geraldine Robinson grabbed you, is that correct?

A That's correct.

Q Do you remember whether or not you got ~~hold of~~ your hands on Martin Sostre?

A I have no recollection at this point.

Q Did you have both of your hands in contact with anybody whatsoever?

A I don't recall.

Q Did you touch anybody with either hand?

A Well, you are asking me -- I could have, I don't know, sir.

Q Well, if you don't know, sir, just answer you don't know.

A I don't know.

Q I am going to stand here a long time, okay? From the time you went to the door until the time you got to the back where the pile was, after passing right by Geraldine Robinson, did you put either one of your hands in your pocket?

A Yes, I did.

Q Which hand did you put in your pocket?

p.437
A The one I had my badge in.

Q And where were you when you put it in your pocket?

A I was probably halfway in the room, and when I saw the trouble, I put my badge back in my pocket and went to assist the officers.

Q You ran in, you had the badge, and put your badge in your pocket, and ran right back in a split second?

A That's correct.

Q As a matter of fact, sir, it happened so fast that you can't even remember when you put it in your pocket, isn't that true?

A No, I remember putting it in my pocket as I started back to assist the officers.

Q That was right after you entered the door, right?

A Within a few seconds, yes.

Q Now, the officers who were already involved in the struggle -- they had entered the premises before you, had they now?

A Yes.

Q And did you see them immediately go after Martin Sostre?
P.438 A Yes, when I started for the back of the room, yes.

Q And that was just before you entered the door, right?

A Yes.

Q Did they grab hold of him?

A Yes, they swung at him.

Q Did both of the officers grab hold of him?

A As a matter of fact, there were four officers struggling with him.

Q Four officers went in before you?

A No, I said four officers struggling with him.

Q No, I am talking about just the officers who had gone in before you, and had gone directly after Martin Sostre.

A Yes, both grabbed him.

Q Two? Did they grab him with both hands?

A I don't recall which hand, or both hands, or one hand.

Q How long did it take those officers to go from the door, back to where Sostre was running, just before you entered, a split second?

DOBOZIN: I am going to object, Your Honor. First of all, there has been no testimony of Sostre running, and this question involves about three or four parts.

McKINNEY: I will rephrase it.

THE COURT: Take them one at a time, and take them slowly.
P.439

Q Just before you entered, sir, you have testified that at least two other officers entered before you, is that correct?

A Yes, sir.

Q And they went immediately toward the back, toward Martin Sostre, is that correct?

A Yes.

Q My question to you is, how long did it take them to go from the doorway when they entered before you, to the back after Martin Sostre?

A Oh, it was only a couple of seconds.

Q And did they, just like you did after them, go right by Geraldine Robinson?

A Yes, they did.

Q And when they got back to Martin Sostre, were both of them able to grab him with their hands?

A They were trying to, yes.

Q With both hands?

A I don't recall whether it was one hand, two hands -- there was fighting, swinging, it's difficult to throw a punch and grab with two hands. You only have two hands.

Q Yes, I am aware of that.

P.440 A Alright, sir. Now, was Detective Smith one of the two men who had gone in before you after Martin Sostre?

A Yes, I believe he was.

Q And he is the one you said you had seen before you went in, is that correct?

- A Yes, I had been with Smith periodically that evening.
- Q And you say before he went in you saw a badge in his hand, is that correct?
- A That's correct.
- Q And so if we assume, sir, that he walked in with the badge in his hand, the fact is that it took just a few split seconds for him to go directly to where Martin Sostre was, isn't that correct?
- DOBOZIN: Objection, Your Honor, this witness ---
- THE COURT: Sustained.
- Q Did you see a badge in the hand of Ronald Smith when he entered the premises ?
- A Yes, I did.
- Q In which hand did he have it?
- A I don't recall which hand, sir.
- Q And when he entered with that badge, did he run right to the back, toward Martin Sostre?
- A Well, I don't believe he ran all the way in, when Sostre started to run, then he started to run.
- p.441
- Q How long did it take him to get back to where Sostre was, and past Geraldine Robinson?
- A Only a couple of seconds, as I said before.
- Q Did he say anything to Geraldine Robinson when he went back past her?
- A I don't recall if he did or not.
- Q And then who else went to the back along with Ronald Smith?
- A I did, Investigator Rock was one of the first persons back there.
- Q Had you seen Investigator Rock before he went into the premises?
- A Yes.
- Q And of course he had a badge in his hand, too, right?
- A I didn't say that, sir.
- Q I am asking you.
- A I don't recall if he did or not.
- Q I see. Now you didn't see the officers as they came in after you, did you?
- A No, sir.
- Q Now, Agent Jensen, were you the arresting officer of Geraldine Robinson, yes or no?
- A I would say yes.
- p.442
- Q When you say you would say yes, what do mean you would say yes -- were you or weren't you?
- A Because I told her she was under arrest.
- Q And did you take her and have her booked and charged with a crime?
- A She was later booked at Police Headquarters.
- Q Did you take her to be booked and charged with a crime, sir, yes or no?
- A I made an affidavit.
- Q Sir ---

- A I don't know what you mean.
- Q Did you or did you not have her booked and charged with a crime? Yes or no?
- A I don't know what you mean by booked.
- Q Did you personally, formally charge Geraldine Robinson with the commission of a crime?
- A Yes, I did.
- Q And where did you so formally charge her?
- A I laid a complaint against her in City Court for interferring.
- Q For what?
- A Interferring.
- Q Did you charge her with any other crime?
- A Did I lay any charge?
- Q Did you?
- P. 443
A No.
- Q Did you personally, formally charge her with any other crime?
- A I laid no information against her, no, sir, formally.
- Q But you say when you went up to her and told her she was under arrest, you were arresting her for sale of narcotics, isn't that correct, sir?
- A That's correct.
- Q But you did not formally charge her with sale of narcotics, did you, sir?
- A No, sir, I did not.
- DOBOZIN: Objection, it's totally irrelevant.
- THE COURT: No, the answer has already been testified to.
- Q Now, Agent Jensen, you say that something was said about a search warrant, is that correct?
- A That's correct.
- Q Had you seen that search warrant before you entered the premises?
- A Yes, I had.
- Q Was that search warrant issued to you?
- A No, sir.
- Q Did that search warrant contain the name of Geraldine Robinson in it, yes or no?
- P. 444
A No, sir, I don't believe it did.
- Q Now Agent Jensen, there came a time when you had Geraldine Robinson seated, right?
- A Yes.
- Q You finally subdued her, did you?
- A I don't like to use the term subdued.
- Q She finally stayed in the chair? Is that right?
- A That's correct, yes.
- Q Did you do anything with respect to her purse?
- A Eventually, yes.
- Q What did you do?

A Her purse was examined at Police Headquarters by myself.

Q No, wait, please sir. While she was seated in the chair, did you do anything with her purse?

A Oh. No, sir.

Q Did you take her purse?

A No, sir.

Q While she was in the premises 1412 Jefferson Avenue?

A No, sir.

Q Are you sure?

A Yes sir.

Q Did you examine the contents of her purse while you were in the premises 1412 Jefferson Avenue? Yes or no?

A No.

p.445
Q Did you see anyone take her purse while you were in 1412 Jefferson Avenue?

A No, sir. Excuse me. The purse was eventually taken out of there, if that's what you mean.

Q No, I asked you very specifically, a very specific question, sir: did you observe anyone take the purse of Mrs. Robinson from her person in 1412 Jefferson Avenue?

A No, sir.

Q Are you sure of that?

A Yes sir.

Q Now where were you, sir, when you placed the defendant Geraldine Robinson under arrest?

A At a chair located along the south wall not too far from the partition which leads to the back room.

Q I am going to skip for a moment, sir. You say that there came a time when you got to Police Headquarters, when you did something with respect to her purse, is that correct?

A That's correct.

Q What did you do? Did you take it from her? I am sorry, one question at a time. Did you take it from her?

A No, sir.

Q Did you see someone else take it from her?

p.446
A It was now in the possession of Detective Sergeant Gristmacher.

Q Alright. And did you see him do something with that pocketbook?

A Yes, he and I searched that pocketbook or purse.

Q He and you?

A That's correct.

Q So that if Detective Gristmacher previously testified that he alone took the purse and examined its contents, he was in error, is that correct?

DOBOZIN: Objection, Your Honor!

THE COURT: Sustained.

p.446 Q After you placed Geraldine Robinson in custody at 1412 Jefferson Avenue, did she remain in your custody until you got -- until you got to Police Headquarters?

A No sir, she did not.

Q In whose custody did she go to Police Headquarters?

A Well I believe two Policewomen.

Q Policewomen?

A Yes.

Q Do you know who had the purse at that time?

A I do not.

Q Sir, when you went to Geraldine Robinson, seated her in a chair, and told her that she was under arrest, had you the first time, had you witnessed her commit any crime, yes or no?

p.447

A No.

Q Now Officer Jensen, did you take any notes simultaneously or immediately after the events of the early morning of July 15th, 1967?

A Yes, I did.

Q Were those notes taken in your own handwriting?

A Yes, they were.

Q When did you make those notes?

A Both at the scene and at Police Headquarters, et cetera, afterward.

Q I am sorry?

A After the arrest.

Q When you say at the scene, do you mean ---

A And I made -- excuse me -- I made some notes prior to that, too.

Q Prior to going to the scene?

A That's correct.

Q What kind of notes did you take?

A Routine notes that would enable me to eventually furnish a report of the incident to my bureau.

Q And from those notes, did you make a report to your girl?

A To the bureau.

p.448 Q I thought you said to your girl.

A No.

Q I am sorry, to the bureau. Did you do that?

A Yes, I did, sir.

Q And after you gave this report to the bureau, what did you do with the notes?

A They were destroyed after they were compared against the report, found that the report was accurate, they were destroyed.

Q Therefore, the notes that you took in your own handwriting, contemporaneously with the events that took place, and that you are testifying to, and immediately thereafter, have been destroyed, is that correct?

A That's correct.

Q And you have no way of recovering those notes?

A The original notes?

Q Yes sir.

A No, sir, no.

Q Well, those are the notes that you made as soon after the event occurred as it was humanly possible to do, isn't that correct, sir?

A Before and after.

Q Before and after?

A Yes sir, that's correct.

p.449
Q And you destroyed them?

A That's correct, I did.

Q Did you know that you might have to testify in a case involving the defendant, Geraldine Robinson?

A Yes, I did.

Q And did you know that handwritten notes taken simultaneously with the recording of an event, or shortly thereafter, is important evidence?

DOBOZIN: I am going to object, Your Honor. Those notes aren't evidence.

MCKINNEY: They should have been evidence.

THE COURT: Well, I will sustain that objection.

DOBOZIN: Your Honor, as I understand the meaning of the term evidence, is that which comes from the witness, and as I understand, those notes are not admissible into evidence.

MCKINNEY: Your Honor, I would respectfully ask that the Court direct the Jury that that is not an accurate reflection of the law of this case, that notes are not admissible in evidence.

p.450
THE COURT: Well, the Court is not going to pass upon whether these notes would be admissible, or not admissible, if they were produced here. This witness testified they are destroyed, they are not any longer in his possession, that they, the notes, were destroyed after they were compared with the report made to the bureau, is that right?

THE WITNESS: That's correct and found to be accurate.

Q MCKINNEY: Just a moment, sir.

A That's what I testified to, sir.

Q You compared the notes, right?

A That's correct.

Q You compared your notes?

A That's correct.

Q Did anyone else compare your notes with the report that you gave, yes or no?

A My notes?

Q Yes.

A No, sir.

Q Now, when did you record these notes from your original notes?

A Do you mean ---

Q The date?

- A When were they transcribed, sir?
- Q The date?
- p.451
A It would have been within two or three days, I believe, as soon as I was able to send a report.
- Q And, of course, immediately after you transcribed them as such, you destroyed them?
- A No, they were transcribed ---
- Q Yes?
- A And this report was compared against the notes. When it was determined by me that they were both the same, and accurate, the notes were destroyed.
- Q Do you remember when you destroyed the notes?
- A After I compared them against the report.
- Q When was that?
- A I have no idea.
- Q You have no recollection?
- A I don't keep records of that.
- Q Now, sir, you say there came a time when you searched the purse of Geraldine Robinson, is that correct?
- A That's correct.
- Q How did you conduct the search? Can you be more specific please?
- A Well, we took all the articles that were contained out.
- Q What did you do?
- A I took some of the articles out, and I compared some of the bills inside there, specifically with the serial numbers of the bills that had been recorded as being given to Arto Williams.
- p.452
Q What articles did you personally take from her purse?
- A Several of the bills -- the bills -- there was actually a joint search, sir, it's hard for me to say which bill I took, which bill was taken. I would say we both took the articles out of the thing.
- Q Who is we both?
- A Sgt. Gristmacher and I.
- Q Have you discussed this case with Sgt. Gristmacher?
- A Since when sir?
- Q Well ---
- A Certainly.
- Q Have you discussed it with him since a week ago Monday?
- A Yes, briefly.
- Q Have you discussed it with him today?
- A No.
- Q Yesterday?
- A No.
- Q Day before, the last week?

- A Yes, during the conversation I had with Mr. Doboizin, when we were told it was going to trial.
- Q p.453 As a matter of fact, sir, you were in the courtroom for a short while on Monday afternoon -- withdrawn. You were in the courtroom for a short while last Wednesday.
- A I was in the courtroom, sir, I just don't recall the day.
- Q You were in the courtroom for awhile when Sgt. Gristmacher was testifying, were you not?
- A Very short time.
- Q You heard some of his testimony?
- A Very short portion of it.
- Q Have you talked with him since that time that he testified?
- A Have I talked with Sgt. Gristmacher?
- Q Yes.
- A Yes, I have talked with him several times.
- Q Agent Jensen, you are a federal agent, are you not?
- A That's correct.
- Q Was the Search Warrant that was in someone else's possession when you entered the premises, a federal Search Warrant?
- A No sir, it was a warrant issued out of Buffalo City Court.
- Q Was it issued at your request, based on your affidavit?
- A No, it was not.
- Q p.454 Now sir, at the time that you and Sgt. Gristmacher conducted the search of the purse of Mrs. Robinson at Police Headquarters, did Sgt. Gristmacher tell you that he had searched the pocketbook already on a prior occasion?
- DOBOZIN: Objection, Your Honor! Hearsay!
- THE COURT: I will sustain that.
- MCKINNEY: Your Honor ---
- THE COURT: I sustained that.
- MCKINNEY: Respectfully except.
- Q When you conducted a search with Sgt. Gristmacher of the purse of the Defendant, did you take it from her, had you taken it from her?
- A No, sir.
- Q And you don't know -- you did not see it taken from her, did you?
- A That's correct.
- Q And you don't know, as a matter of fact, in whose possession that pocketbook was at the time that you conducted the search with Sgt. Gristmacher, do you, sir?
- A Only that it was in the possession of Sgt. Gristmacher.
- Q At that time?
- A That's correct sir.
- Q p.455 You had no knowledge as to whose possession it was in from the time you entered the premises at 1412 Jefferson Avenue, until the time that you and Gristmacher searched the purse at Police Headquarters, do you, sir?
- A That's correct.

Q And you don't know who had been inside that purse during that time, do you, sir?

A That's correct, assuming that someone had been.

Q You don't know whether anyone had, and you don't know who, is someone had?

A That's correct, sir.

Q No further questions, Your Honor.

DOBOZIN: Your Honor, may I get the ultra-violet lamp? Maybe we could take a break for five minutes.

THE COURT: Do you have some further questions of this witness?

DOBOZIN: I want to get the ultra-violet lamp. I have a few further questions.

THE COURT: Take a recess, then. Ladies and gentlemen of the Jury, the Court admonishes you once again not to discuss this case etc.

(PROCEEDINGS PURSUANT TO RECESS COMMENCING AT 3:40 P.M. AS FOLLOWS:

Appearances as before noted.

Defendant and Counsel present.

Jury polled and present. Alternate jurors present.)

THE CRIER: Mr. Jensen, you are still under oath...

THE COURT: Let me at this point say I have reviewed this Defendant's Exhibit A. I will delete the first two paragraphs and admit the last four, so you may take that.

(Whereupon Defendant's Exhibit A for Identification was then received and marked into Evidence.)

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REDIRECT EXAMINATION BY MR. DOBOZIN

Q If it please, the Court, now, Agent Jensen prior -- strike that. On July 14th, 1967, did you have an opportunity to be in the presence of Officer Gristmacher?

A Yes, I did.

Q And about what time was it that you were in his presence on July 14th?

A Well, some portion of the evening hours, and some of it I was not with him.

Q In the evening hours? Can you state when it was that you first saw Officer Gristmacher, approximately?

A Probably early, seven, six-thirty, seven o'clock in the evening, I am not sure, sir.

MCKINNEY: Your Honor, at this time I want to object to any testimony by this officer with respect to anything that took place before twelve or twelve o' five. This is improper re-direct. It was not covered on Direct, it was not covered on Cross-Examination. Therefore it's Improper Re-Direct, anything prior to the time that he entered or just before he entered the premises.

p.458

THE COURT: Mr. Dobozi, what do you have to say?

DOBOZIN: Well Your Honor, I am putting some further proof -- I think I can do that at any time. I mean, I can take off the witness and put him on, as long as I haven't closed my case. I don't see ---

THE COURT: I know it's not part of the proper Re-Direct Examination, Mr. McKinney, but certainly he should not be precluded from entering into evidence anything that is necessary to his case.

MCKINNEY: Well I don't want to be technical, Your Honor, therefore I will withdraw my objection, but I would remind the Court that Mr. Dobozi --- technicalities were raised on the right of the Defense to re-Cross witnesses earlier in the trial. I will withdraw my objection at this time because we would like to get all the facts in.

DOBOZIN: Your Honor, that was an altogether different situation.

THE COURT: Alright, let's proceed.

p.459

Q Now, Officer, did there come a time that you were in the presence of Officer Gristmacher at Buffalo Police Department?

A Yes.

Q And do you recall the approximate time that was?

A Well I met him early in the evening -- six, seven o'clock or shortly thereafter. I was with him for awhile, I then left his presence and I again saw him for another short while maybe prior to eleven o'clock. I then saw him again around midnight, or shortly before that, sir.

Q Okay. I show you People's Exhibit #3 Marked for Identification, and I ask you if you can recognize the contents therein?

AZ Well, there are five one-dollar federal reserve notes.

Q Did you see five one dollar federal reserve notes on July 14th, 1967?

A Yes, I did.

Q And at the time you saw those, were you also in the presence of Officer Gristmacher?

A Yes, I was.

Q Will you relate where you saw them, and what if anything was done to them?

A Yes, it was at Buffalo Police Headquarters, with Sgt. Gristmacher, Both he and I together

p.460 recorded the serial numbers of the bills, and placed --

THE COURT: I didn't hear that last part.

THE WITNESS: I am sorry.

THE COURT: He and I what?

THE WITNESS: Recorded the serial numbers of the bills and placed our initials on them with an ultra-violet pencil.

Q And was that just in respect to the five singles?

A No, sir.

Q What else was it in respect to?

A There was another ten dollar ---

MCKINNEY: Your Honor, I would respectfully request in putting in the additional evidence, that Mr. Doboizin would be directed not to lead the witness.

Q What if anything else was it in respect to?

A There was a ten-dollar bill, too.

Q Now, would you know the serial numbers off-hand?

A Not off-hand, sir.

Q Did you record those serial numbers?

A Yes, I did.

Q And do you have something to which you can compare to determine whether or not they are the same NUMBERS?

p.461

MCKINNEY: Respectfully request a voir-dire, Your Honor.

DOBOZIN: Well, if I may be heard, Your Honor, As I understand, I am not making any offer, so I don't see where Counsel is entitled to any preliminary examination in reference to a voir dire, if he is talking about that. Once I make an offer, or once I am through examining, I understand he is entitled to Cross-Examine in reference to that particular point.

THE COURT: Nothing has been offered up to now, is that correct?

DOBOZIN: No, I haven't made an offer yet..

THE COURT: I will allow this to be renewed later on, Counselor. Alright, proceed.

MCKINNEY: Thank you.

WITNESS: I am sorry, can you --

Q DOBOZIN: Do you have with you something to which you can compare serial numbers to determine whether or not the same serial numbers are here today?

A On the five one-dollar bills, yes.

Q What about the ten-dollar?

p.462
A Not with me, no, sir.

Q You don't have it with you? Okay. First of all, what do you have with you, Officer?

A Well, I have five one-dollar federal reserve notes, serial number B-50894932-C.

MCKINNEY: Your Honor, we'll concede that he will give the serial numbers, the same serial numbers that Sgt. Gristmacher gave when he testified. I have noted them down, it's not necessary to take up the time.

DOBOZIN: Well, Your Honor, it's not a matter of concession, it's a matter of proof, I believe.

Q Do you have something with you with which you can compare these serial numbers of these particular bills which are part of People's Exhibit #3 for Identification?

A Yes, this small slip of paper which bears those serial numbers.

Q And did -- where did you get these serial numbers?

A Earlier today from my testimony of the other trial.

Q And where did you get that information from?

A Well, prior -- on the other trial, I compared ---

p.463
MCKINNEY: Your Honor, I object. This is absolutely improper.

THE COURT: Sustained.

Q Did there come a time when you prepared a report in reference to these serial numbers?

A Yes.

Q And did the report bear those serial numbers?

A Yes.

Q Have you compared these serial numbers with that report?

A Not that I know of, sir. Not since then, no.

Q Well, when you say since then, you mean since when?

A Since the trial.

Q And on the occasion you are talking about, the trial, would that be of March '68?

A Whenever it was, yes, sir.

Q Prior trial?

A Yes.

Q And did you at that time compare the serial numbers on this paper with the serial numbers in your report?

A Yes.

Q And were they the same?

MCKINNEY: Objection, Your Honor.

THE COURT: I am going to sustain that objection.

p.464

DOBOZIN: Well, Your Honor, then we'll have to have a break and bring in the report and have to have a comparison.

THE COURT: Alright, that will have to be.

Q DOBOZIN: Do you have the report with you?

A No, sir, I do not.

Q May I request a short recess, Your Honor, so that the report can be obtained.

THE COURT: Is there any other examination you wish to make of this witness?

DOBOZIN: Yes, I can make some further examination at this time.

Q Now, Agent Jensen, you say you used a pencil, a particular type of pencil, to mark bills?

A Yes.

Q And what type of pencil was that?

A An ultra-violet pencil.

Q Have you used that on other occasions?

A Yes.

Q Approximately how many other occasions.

A Fifteen or twenty times.

Q And what is the purpose of this?

A Oh, the purpose of it to mark -- well, money or other objects with a means that cannot be seen normally

p.465

but with a means that can be seen under an ultra-violet light.

Q How did you mark the bills?

A With my initials, B.J.

Q And what is manner in which you can see these initials when it's marked with an ultra-violet pencil?

MCKINNEY: Your Honor, I would object in view of the fact Mr. Doboizin has a machine there --- the bills will speak for themselves.

DOBOZIN: Well, Your Honor, I don't think --

THE COURT: I think he can answer the question. What is the manner in which it can be seen?

A THE WITNESS: Well, very basically, you plug in the machine, turn on the light, and hold the bill underneath the light.

Q DOBOZIN: With an ultra-violet source?

A Yes.

Q Have you ever used an ultra-violet source before?

A Yes, -- oh, say, fifteen or twenty other occasions, apparently the light is not --- oh, there it is. My initials, B.J., appear on this bill, also on the second bill, on the third bill, and on the other two bills.

Q Now, do you recognize these bills, officer?

A Yes, they bear my initials.

p.466

Q And did you see these bills on July 14th, 1967?

A Yes.

Q And where, and when?

A In the possession of Det. Sgt. Gristmacher.

Q And when did you first see them?

A In his possession.

Q Well, approximately what time?

A I don't recall the exact time, sir.

Q Well, was it before or after you went into 1412 Jefferson Avenue?

A Oh, before.

Q Did you see these bills again after you went into 1412 Jefferson Avenue?

A Back at Police Headquarters ^{again} that evening, which would be actually early morning of ---

Q Of July 15th?

A On the 15th, yes, sir.

Q Where did you see them, then?

A They had come out of Miss Robinson's purse.

MCKINNEY: Objection, did he see them come out?

THE WITNESS: Yes, I did, sir.

THE COURT: If he saw them come out, he may testify to it.

THE WITNESS: Yes, I did, they were taken out of her purse by Sgt. Gristmacher and I.

p.467 DOBOZIN: I have no further questions at this time, Your Honor.

THE COURT: The only other question you have is the establishment of the numbers on the bills, is that right? From the record of this witness?

DOBOZIN: That's right.

THE COURT: And that is something Mr. McKinney was willing to concede was the same testimony as Officer Gristmacher's?

MCKINNEY: Oh, no, no, Your Honor, I am willing to concede, rather than just go and read them, that he will say --- he will say the same serial numbers on those bills as I have recorded them -- I am not going to concede that!

THE COURT: I misunderstood you. Do you want to make any cross-examination at this time?

MCKINNEY: No, I prefer to reserve my cross-examination until all the direct testimony is in. I thought it was in before.

THE COURT: Very well, Do you have anything further?

DOBOZIN: No, that's all I have at this time, Your Honor.

THE COURT: Alright, you are excused.

p.468 DOBOZIN: Your Honor, I may be able to get that in about three or four minutes.

THE COURT: If you can get it in three or four minutes, we'll wait.

DOBOZIN: Just one second. Your Honor, I thought I had a copy of the record, but I don't. I will, instead of holding it up, I will step my direct examination at this point.

THE COURT: Very well.

MCKINNEY: Do I understand from that, Your Honor, that Mr. Doboizin will not offer any further testimony or evidence?

DOBOZIN: No, you don't!

MCKINNEY: Well, Your Honor, I would just as soon recess, then.

DOBOZIN: I have no further testimony or evidence. I am not asking this witness any further questions at this point, but you are not going to limit my ability to ask further questions.

THE COURT: You wish to re-call this witness for the establishment of further proof, is that correct?

DOBOZIN: Pardon?

p.469

THE COURT: You wish to re-call this witness in the production of any further proof that you wish to offer?

DOBOZIN: Well, I don't know at this point, Your Honor.

THE COURT: At this point you are through with this witness?

DOBOZIN: That's correct, Your Honor.

MCKINNEY: Well, Your Honor, may I inquire as to what are the bounds and the limitations that the last examination was considered not re-direct, but additional proof, because it would not have been proper re-direct. Now, do I understand that Mr. Dobozi is to be permitted to have further re-direct, further additional proof, or just what?

THE COURT: I don't know until it's offered.

MCKINNEY: Well, Your Honor, may I then respectfully request a recess until tomorrow morning?

THE COURT: Do you have any objection, Mr. Dobozi?

DOBOZIN: Well, Your Honor, we have a whole hour in which we can pursue cross-examination. I have witnesses coming in tomorrow.

THE COURT: I am ready.

MCKINNEY: I have no further questions of this witness at this time.

p.470

THE COURT: Alright, then proceed with your case. You don't want to cross-examine at this time. I will give you the right to cross-examine after he is through with his proof of this witness. Alright, Mr. Dobozi, let's go ahead.

DOBOZIN: Well I am, as I understand now, Your Honor, he can further cross-examine this witness at the end of my case?

THE COURT: No, if you are going to furnish this witness with additional proof, I would give Mr. McKinney the right to cross-examine after that is completed. And we aren't going to do it piece-meal, we're going to do it at one time if we can possibly do it.

DOBOZIN: Your Honor, I am not trying to be difficult, I have no further questions of this witness at this time of this witness. Now during the course of the trial I don't know if this witness will go back on the stand, I can't tell what the future may hold. Now if you want me to, I am through with this witness ---

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THE COURT: I will permit Mr. McKinney to conduct whatever examination, cross-examination, he wants of this witness at this time. And if he feels the necessity of further cross-examination at another time because he might take the stand again, I will allow that.

DOBOZIN: Well, certainly.

THE COURT: You can take it from there, Mr. McKinney.

MCKINNEY: Thank you, Your Honor.

RE-CROSS EXAMINATION BY MR. MCKINNEY

Q Now, Agent Jensen, you say that you can see your initials on those bills, is that correct?

A Yes sir.

Q Now you say that you have been -- you have used the infra-red, ultra-violet machine, and the magic pencil, on at least fifteen or twenty occasions before?

DOBOZIN: Your Honor, I have not heard any mention of a magic pencil, it's an ultra-violet pencil, something that writes.

Q MCKINNEY: Ultra-violet machine, and ultra-violet pencil, on numerous occasions before, is that correct?

A Yes sir, that's correct.

Q Have you ever used that for purposes of marking bills?

p.470
A Yes.

Q Have you ever used it for the purpose of marking one-dollar bills?

A Yes.

Q Yes, sir?

A Yes sir.

On how many occasions have you used the pencil to mark one-dollar bills?

I have no idea, sir.

On numerous occasions, or just one. other occasion?

I don't know, sir, I have no record or recollection of how many occasions.

Well you say that you can identify these bills because your initials are on them, right?

That's correct.

Well you can't say, as a matter of fact, based on what you have before you now, that those are the same one-dollar bills that you placed your initials on on the night of July 14th, can you?

Yes I can.

How else can you identify those bills?

These one-dollar bills --- let me put it this way, the use of the ultra-violet pencil, since I have been assigned to this area, I can only recall this particular investigation --- otherwise, my other uses had been in areas outside of Buffalo.

It matters not, sir. You have put your initials on one-dollar bills in the past, haven't you?

That's correct.

So that there is nothing with these bills that can positively -- that you can positively identify them as the dollar bills that you put your initials on on the night of July 14th, is there, sir? Yes or no?

Yes there is. I am certain they are the bills.

Sir, that is not the answer to my question. Will you please ---

DOBOZIN: Objection, Your Honor!

MCKINNEY: Will you please respond to my question.

DOBOZIN: The answer has been given.

THE COURT: One at a time. What is your objection, Mr. Dobozi?

DOBOZIN: Your Honor, the question was yes or no. Officer Jensen said yes.

MCKINNEY: No, he did not.

DOBOZIN: Counsel is not satisfied with that answer. Let's get on with further cross-examination.

THE COURT: The question was whether he can identify these bills as those that he marked on July the 14th, and his answer was, yes he can.

Now, I am inquiring, how can you identify those bills other than by your initials?

Through serial numbers, but ---

But what?

But I haven't seen the report. As far as I am concerned, they are the bills I took the list of bills off my prior trial testimony. I have looked; they are the bills.

That's your statement? That is the conclusion, sir?

No, that's what you are asking me for, sir.

I asked you how you can identify them other than by your initials?

Through serial numbers.

And where are the serial numbers that you recorded at the time that you put your initials on those bills?

Where are the serial numbers?

Yes, the ones that you recorded at the time that you put your initials on those bills? They were transcribed into a report.

Q Sir, where are those numbers ---

DOBOZIN: Objection, Your Honor!

MCKINNEY: --- that you write down?

DOBOZIN: He has answered the question.

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THE COURT: Just a moment! That has already been testified to, those numbers that he put down on the piece of paper were

MCKINNEY: Alright, they were destroyed

THE COURT: I can tell you that,

MCKINNEY: Thank you.

473

THE COURT: They were transcribed onto another piece of paper.

Q So, if absent that piece of paper, you cannot tell us right now, as a matter of fact, other than your initials appear on them, that those are the bills that you put your initials on, on July 14th, can you sir, as a matter of absolute certainty?

A Certainly I can, I am doing it.

Q Well, that ---

A I don't understand, Counsel, what you are ---

Q I see that you don't.

DOBOZIN: Your Honor, Counsel's comments I think are not proper.

THE COURT: They may be stricken.

DOBOZIN: Thank you.

Q Sir ---

A Yes, sir?

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Q Do you remember independently the serial numbers that appear on the bills that you placed your initials on, yes or no?

A No sir.

Q At the time that you placed your initials on there, did you record them on a piece of paper?

A Yes sir.

DOBOZIN: Objection, Your Honor! All redundant, Your Honor. We have been over this three or four times.

MCKINNEY: I am trying to clarify the question.

THE COURT: If you are going to ask him if he has the piece of paper, I am going to sustain the objection. He has already testified he doesn't have that piece of paper.

Q Do you have anything, sir, any recording of any kind, that was made simultaneously with the placing of the initials on those bills, which will reflect the serial numbers that appear on those bills, yes or no?

DOBOZIN: Objection, Your Honor! Again it's the same question that we have been asking now.

THE COURT: I will sustain the objection.

MCKINNEY: Alright. Respectfully except.

477

Q Now, Agent Jensen, did you ever see those bills, or any five one-dollar bills with your own eyes, in the hands or possession of the defendant, Geraldine Robinson, yes or no?

A It would depend on what you construe as possession, sir.

Q Did you ever see them in her hands?

A No, sir.

Did you ever see them in her pocketbook when she had her pocketbook in her hand?

No, sir.

So you never saw them in her possession, did you, sir? Yes or no?

DOBOZIN: Objectinn, Your Honor!

THE COURT: I think he has answered that, I think he has answered.

MCKINNEY: He said depending upon what you call possession.

THE COURT: Then he answered he didn't see it. Alright, I will let you answer. Go ahead.

Again, I have to say, it depends on what is construed as possession.

COURT: You saw them in her purse, after her purse was taken and searched by you and Officer Gristmacher?

78 That's correct, Your Honor.

THE COURT: Alright. Now the question was, did you see them in her possession, did you see them in her hands, that was the question?

No, sir, I did not.

THE COURT: Alright.

(McKinney resumes) And when was the first time after pocketbook was allegedly taken from her at 1412 Jefferson Avenue, that you saw these bills?

Back at Police Headquarters.

How many hours later was this?

I don't think it was hours.

How long after was that?

An hour or so.

And do you know as a matter of fact, based on your own observation, in whose possession that pocketbook was, from the time you entered 1412 Jefferson Avenue, and the time that you went through the proceeds, or the contents of that purse?

I have already said I did not.

So, sir, you do not know, do you, as a matter of fact, that those five bills, based on your own personal observation and knowledge, were in the possession of this defendant, do you sir?

479 Possession -- if you are talking about --- Your Honor, I still would like a definition of possession. I understand under the laws there is a constructive possession, there is this possession, ---

MCKINNEY: I object to a dissertation by an unqualified witness on the state of the law!

THE COURT: No, just a minute, now. He is called upon to answer a question. I think he is entitled to answer the question to the best he knows how with his knowledge. Now you asked him for his definition of possession.

MCKINNEY: I will rephrase the question so there is no question.

THE COURT: Re-frame the question.

Now you don't know, sir, based on your own observations and your own independent knowledge, that those five bills were in the actual possession of the defendant, Geraldine Robinson, do you?

No, sir.

MCKINNEY: No further questions.

DOBOZIN: No questions.

THE COURT: You may step down.

DOBOZIN: Your Honor, the next witness may be rather lengthy. We can start if you wish.

THE COURT: Well we might start for a short time at least, because we would like to have this matter disposed of as quickly as possible. Every minute we can use we will use. If you are ready with the witness we'll proceed for a short time.

DOBOZIN: He is in my office.

THE COURT: Alright, get the witness.

TESTIMONY OF RONALD G. SMITH, 75 Arlington, Depew, New York, being duly sworn as a witness on behalf of the People, testified as follows:

DIRECT EXAMINATION BY MR. DOBOZIN

Q Where do you work?

A I work for the Buffalo Police Department.

Q And in what capacity?

A I have been employed by them for the past twelve years. I am presently assigned as a detective sergeant and have been for the last eight years with the narcotics squad.

Q And as a detective with the narcotics squad, were you so employed on July 14th and 15th of 1967?

A Yes sir.

Q In July of -- 15th of 1967, did you have an opportunity to go to the premises of 1412 Jefferson Avenue?

A Yes sir.

Q And were you alone or in the company of other people?

A I was in the company of other Police officers.

Q Do you recall the approximate time that you arrived at the premises?

A Approximately twelve-o-five a.m.

Q And do you recall the other Police officers who were with you?

A Yes, I recall some of them.

Q And did you enter the premises at 1412 Jefferson Avenue?

A Yes, sir I did.

Q Would you describe the manner in which you entered the premises?

A I was the first officer to enter the premises. Upon entering the premises, I saw Mrs. -- Miss, excuse me, Robinson, she was standing behind the counter.

MCKINNEY: You were correct the first time, it's Mrs. Robinson.

DOBOZIN: Oh, is that a question, Mr. McKinney?

MCKINNEY: That's a gratuitous bit of information for the witness.

THE WITNESS: I saw the defendant.

DOBOZIN: Well I would appreciate if no gratuitous information was to come forth from Counsel. I don't think it's proper.

MCKINNEY: Your Honor, the defendant ---

THE COURT: Just a moment.

MCKINNEY: The defendant is entitled to be named with respect. Her name is Mrs. Robinson. I was merely ---

THE COURT: Do you know her to be Mrs. Robinson?

THE WITNESS: I didn't know it was Mrs. I am sorry if I made a mistake.

THE COURT: Alright. You saw the defendant Mrs. Robinson. Alright, go ahead proceed from there.

A She was standing which would be to my left, behind the counter, further in the store itself. I saw a gentleman by the name of Martin Sostre. I went immediately toward Mr. Sostre. I had my identification, my badge, in my

left hand, and I announced in a loud voice that I was a Police Officer, that I had a Search Warrant for the premises, and that Mr. Sostre was under arrest.

What happened after that if anything?

A
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After I made this announcement, Mr. Sostre began going toward the rear of the premises, the store, in a running-type fashion, very fast. I again hollered, "I am a Police Officer, we have a Search Warrant, stay where you are, you are under arrest." Mr. Sostre continued into the rear portion of the store.

MCKINNEY: Your Honor, at this time I am going to object to any testimony as to what Mr. Sostre did, except as it is absolutely necessary and relevant to the charge against the defendant Geraldine Robinson. Mr. Sostre is not on trial here.

DOBOZIN: Your Honor, if I may submit law on this, I believe there are a number of cases which relate to the overall fact situation which occurs an alleged crime. We can't break it up into parts, the fact situation.

THE COURT: I will permit the testimony insofar as it connects the defendant in any manner or degree with this testimony, and if it does not, it may be stricken at a later time, and I will permit it at this time.

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MCKINNEY: Your Honor, I respectfully except to the Court's ruling on the grounds that to strike it later it becomes academic, and the prejudice done will already have been done. I therefore must take exception to the Court's ruling.

THE COURT: Very well, your exception is noted.

Q

Now, Mr. Sostre, you said, went to the back room, is that correct?

A

Yes sir.

Q

And where did you go?

A

I went directly after him.

Q

And what if anything occurred there?

A

Upon entering the portion of the rear part of the premises, a doorway-type entrance, I went after Mr. Sostre.

MCKINNEY: Your Honor, I register my objection again. What took place in that back room can have no relevance to the charge against Geraldine Robinson. There is no allegation that she was even in that back room. I respectfully object.

THE COURT: I will sustain that objection until such time as at least there is some testimony that the defendant appeared in that back room.

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DOBOZIN: Your Honor, we just had Officer Jensen on the stand, and he testified that Miss Robinson, as I recall his testimony, went to the back room when the ruckus or the fight occurred between Officer Smith and Sostre, and the other police officers, and was pulling Officer Jensen off.

THE COURT: That was Officer Jensen's testimony. Now, Officer Smith has no got that defendant in that back room, and until that time I sustain Mr. McKinney's objection to anything that occurred with Mr. Sostre in the back room, if it did, in Mrs. Robinson's presence. I will ---

DOBOZIN: Your Honor, may I make an offer of proof and submit law?

THE COURT: You may.

DOBOZIN: Fine. May I have until tomorrow morning to do so?

THE COURT: You may.

DOBOZIN: Thank you. I will have to wait, then, until tomorrow morning to submit the law, Your Honor.

THE COURT: Very well. Ladies and gentlemen of the jury, I admonish you not to discuss this case ----- etc.

7 PROCEEDINGS OF MAY 22nd, 1969, commencing at 11:37 AM as follows:

Appearances same as before noted.

Defendant and Counsel present.

Jury polled and all present. Alternate jurors present.

THE COURT: Yes, Mr. Dobozi?

p.488 DOBOZIN: Well, Your Honor, I have the list of cases the Court wishes, and I have submitted them.

THE COURT: Yes?

DOBOZIN: --- to Mr. McKinney.

THE COURT: Yes, do you care to submit them to me?

DOBOZIN: I have them here in writing. Do you want them? I hope you can read my writing.

THE COURT: Do you want to make a further application at this time?

DOBOZIN: Well, Your Honor, this will give Your Honor a chance, and Mr. McKinney a chance, to review those cases, and in addition, one other matter has come to my attention: Officer Constantine of the State Troopers is sick. He has an infection and he is being treated and won't be available until Monday, and Mr. -- Officer Constantine's testimony will be taken in line of Officer Smith's testimony, so it might give us an opportunity to adjourn.

THE COURT: You would like to hold this whole matter, even if the Court made its determination in connection with these cases you have submitted? You would like to have the matter

p.489 held in view of Officer Constantine's illness, until Monday?

DOBOZIN: Yes, I think that would be best.

THE COURT: Yes; his testimony is going to be read in conjunction with Ofcr. Smith's?

DOBOZIN: Correct.

THE COURT: You have no objection to this?

MCKINNEY: Your Honor, I would like the record to be very clear. I have no objection, but Counsel for the defense requests more time for reviewing the citations that have been submitted. However, if there is a witness that is ill, and Mr. Dobozi is unable to produce him, defense has no objection to adjourning until such time as Mr. Constantine can appear, provided it's a reasonable time. I want the record to be clear: the defense does not request any time for submitting or opposing citations.

THE COURT: There is no question about that, nor is the Court going to take any time on its own to make a determination into some of these matters here. Some of these matters the Court has already reviewed. However, in view of this Officer's illness, which

p.490 I understand is something that requires medication, and his treatment, we will recess until Monday and continue at that time. Now, once we continue Monday, what is the anticipation of how long we will go from that point on? Can we give the Jury an idea?

DOBOZIN: Well Your Honor, I would assume that I should be able to finish my proof Monday.

THE COURT: I see. And Mr. McKinney, not that you are obliged, but how long do you anticipate?

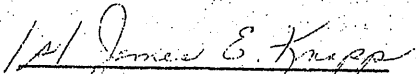
MCKINNEY: Well Your Honor, it's difficult for me to estimate. I can merely say it will not take us as long as the Prosecution to put in its case.

THE COURT: I assumed that. Alright. Ladies and gentlemen of the Jury, this is some matter, of course, when a case starts, we have no control over it now, the matter of sickness. We'll adjourn until Monday morning at 10:00, and we sincerely hope we will be able to bring the case to some determination the early part of next week. I must admonish you from hereon in, before the case is finally submitted to you, not to

p.491 discuss this case among yourselves or with anyone or form any opinion in connection with the case, until it's finally submitted to you. If anyone should attempt to talk to you about it or discuss it in your hearing, please report it to the Court. This Court stands in recess until tomorrow morning at ten o'clock. The jury is asked to return Monday morning at ten o'clock. If any members of the jury need a certificate for their place of employment the clerk of the court will afford it to you. Jury may leave, jury is excused until Monday morning at ten o'clock.

WHEREUPON A RECESS WAS TAKEN

I HEREBY CERTIFY that the foregoing is a transcript of the
Official Stenographer's Minutes of the Testimony and Proceedings of
the Trial of the Case of the People of the State of New York vs.
Geraldine Robinson.


JAMES E. KNAPP
Offician Erie County Court Reporter

(END OF THE FIRST VOLUME!)

NAACP

ER

LEGAL
DEPARTMENT

CASE FILES

NEW YORK

People v. Robinson

Trial Transcript

PP. 1-118

May 14, 1969-

STATE OF NEW YORK

COUNTY COURT : COUNTY OF ERIE

THE PEOPLE OF THE STATE OF NEW YORK

-vs-

Indictment

GERALDINE ROBINSON,

No. 33,508-A

Defendant

TRIAL MINUTES

PROCEEDINGS held before the HON. ERNEST L. COLUCCI, and a Jury of twelve and two alternate jurors, Part II, Erie County Hall, Buffalo, New York, commencing on May 14, 1969.

APPEARANCES: MICHAEL F. DILLION, ESQ.,
District Attorney of Erie County,
By CAROL DOBOZIN, ESQ.,
Assistant District Attorney,
Erie County Hall
Buffalo, New York
Appearing for the People

CHARLES J. MCKINNEY, ESQ.,
401 Broadway
New York, New York
Appearing for the Defendant

INDEX TO WITNESSES:

People's Witnesses

ALVIN R. GRISTMACHER
ARTO WILLIAMS
LOUIS STEVERSON
JOHN L. WILCOX
BRUCE JENSEN
RONALD G. SMITH

INDEX TO EXHIBITS

People's Exhibits For Identification

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| 1. White Envelope | #60 |
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| 3. Envelope | #79 |
| 4. Grand Jury Testimony | #104 |
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| 6. Grand Jury Testimony | #375 |

Defendant's Exhibits For Identification In Evidence

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PROCEEDINGS commencing at 10:35 A.M.

appearances as noted before, defendant present.

MR. DEBOZIN: Your, Honor, the People of the State
of New York against Geraldine Robinson
Indictment No. 33,508-A. The people
are ready.

MR. MCKINNEY: If it pleases the Court, the
defendant, Geraldine Robinson, is
prepared and ready to proceed.

THE COURT: Very well. Read Section 369.

THE CLERK: Will the defendant please rise.

G E R A L D I N E R O B I N S O N, pursuant to the
Section 369, Code of Criminal Procedure, you
are advised that if you intend to challenge an
individual juror, you must do so you must do
so when the juror appears and before he is sworn.
You may be seated.

THE COURT: Draw jury. Whereupon the selection
of the jury was commenced.

PROCEEDINGS OF 11:35 A.M.

appearances as before noted, defendant present.

THE COURT: Let me make this note from the beginning, Mr. DeCastro, the Court will now ask are there any challenges for cause.

MR. DEBOZIN: The people have no challenges for cause.

THE COURT: The people have no challenges for cause.

MR. McKINNEY: The defendant wishes to challenge for cause the following jurors. Juror #3, Mr. Jed; Juror #6, Mr. Lubecki; Juror #7, Mr. Lewandowski; Juror #8, Mr. Dunlavey; Juror #11, Mr. Ranstatler and Juror #12, Mr. Pachulski, and I should let you know for the record that the challenge to Mr. Dunlavey is based not only for cause but by reason of the fact that he himself indicated to the Court that he thought it might be best, under the circumstances, to be excused.

THE COURT: Do you want to be heard?

MR. DEBOZIN: Yes, Your Honor. First of all, in reference, page 4, to cause, Council is supposed to, under Section 379, Section 380, of the Code of Criminal Procedure, to state the basis of the cause in which which he is stating a challenge for cause, and I submit to the Court that under Section 380 and 376 and Section 377 none have.

He, first of all, has not submitted what the cause is.

THE COURT: I think he submitted one of the reasons while the Court Reporter was out so perhaps he might review that reason and I assume that he intended that to apply to the other challenges that he made to the other jurors. Unfortunately, the Court Reporter was not here. I'll give him that opportunity.

MR. DEBOZIN: Yes, Your Honor. And the other point being that, although he has no challenge for cause, I submit to the Court under both Sections of the Code which I had recited as far as Mr. Dunlavey is concerned, to Juror #8, based upon what Mr. Dunlavey has said, I will consent to Mr. Dunlavey being excused. In reference to the other four jurors I submit to the Court unless there is a cause shown under the Code, there isn't cause and he will have to use his peremptory challenges.

THE COURT: Do you want to state your grounds now?

MR. McKINNEY: Yes. As I indicated previously, Your Honor, I believe that the answer to certain questions by each of the jurors challenged for cause, except Mr. Dunlavey, indicated proper grounds for challenge under the appropriate Sections under either

or actual or implied bias in that they indicated that they presumed the defendant to be guilty until proven innocent and indicated further in response to questions from Counsel that they would expect the defendant would present evidence to prove her innocence. They also indicated that in each of the cases, I believe, that possibly that concern for the problem of narcotics might interfere in the passing of judgment upon someone charged with involvement in a narcotics sale. I believe these facts are sufficient to warrant the challenging and excusable for cause under the appropriate Sections and I would like Page six to say that I don't wish for any challenge which must be made on the records in open Court to indicate anything other than a request for and excusing of those jurors and it represents no particular hostility or objection to them other than as a matter of law.

MR. DEBOZIN: I submit to the Court again, Your Honor, that under Section 376, the Code of Criminal Procedure, which outlines the particular cause of challenges, it states, and I assume this is what Counsel is referring to, "That the existence of a state

of mind on the part of the juror in reference to the Court in the exercise of a sound discretion that such juror cannot try the issue impartially and without prejudice to the substantial rights of the party challenging and which is known in this Code as actual bias but the previous expression or formation of an opinion or impression in reference to the guilt or innocence of the defendant" which I think is what Counsel was referring to "or a present opinion or impression in reference thereto is not a sufficient ground for actual bias to any person otherwise legally qualified if he declare an oath that he believes that such opinion or impression will not influence his verdict and that he can render an impartial verdict according to the evidence and the Court is satisfied that he does not entertain such a present opinion or impression that would influence his verdict." If I may submit to the Court as I understand the questions which were directed to the four jurors which Counsel is asking a challenge because he was referring to the fact to the question "How do you presume this defendant as she sits

now not relating a full expression of what the law is and then asking his opinion of it but as how does he presume this defendant to be." Now I submit to the Court that there wasn't a proper foundation laid for challenge of cause as provided by the Code of Criminal Procedure and the challenge shouldn't be allowed.

MR. MCKINNEY: I wonder, Your Honor, if this argument on the question ought not to be in the absence of the jury so as not to in any way prejudice or affect the jurors already seated and those prospective jurors who are yet to take their seats if such be the case. I would merely like the opportunity to respond to the District Attorney on his last argument. I hadn't intended to make an argument of the situation.

THE COURT: Alright, just a moment. Juror #8, Mr. Dunlavey, is excused by consent of both parties. I understand that to be true.

MR. DEBOZIN: Yes, Your Honor.

THE COURT: And that challenge is allowed with respect to Juror #3, 6, 7 11 and 12. The answers of these jurors to Mr. Debozin's question in the first instance as to whether or not they would be guided by the instruction of the Court, and they indicated that they would be, in answer to Mr. McKinney's questions as to how they presumed the defendant to be at this stage, almost invariably each respective juror indicated guilty, and indicated some necess-

ity of the defendant proving innocence. In view of the answers I do say this. Perhaps if a little more enlightenment to these jurors might dictate a different answer but it indicates, at least to the Court, some feeling on their part. In the discretion of the Court the challenges of #3, 6, 7, 11 and 12 are allowed. Mr. Dunlavey is excused by consent. Mr. Jed, Mr. Lewandowski, Mr. Pachulski, Mr. Ranstatler and Mr. Colloluci are excused for challenge for cause allowed. Are there any peremptory challenges?

MR. DEBOZIN: Your Honor, the people excused Juror #2.

THE COURT: Juror #2?

MR. DEBOZIN: Yes, Your Honor.

THE COURT: Mr. Lubecki, you are excused. Do you have any peremptory challenges?

MR. McKINNEY: Your Honor, the defendant challenges Jurors #4 and 5.

THE COURT: Jurors #4 and 5, Mr. Craben and Mr. Gohlike are excused. Swear the three Jurors in the box. Whereupon the three Jurors were sworn.

THE COURT: I suggest that we complete the filling of the box after recess to the three members in the jury box who have been sworn and to the prospective jurors back of the rail who have heard part of the preliminary questions and the voir dire of the jury the Court must admonish you not to discuss the case among yourselves or with anyone or form any opinion in connection with this case until it is finally submitted to you if you and the prospective jury panel are finally selected. If anyone should try to talk to you about this case or discuss it in your hearing it is your duty to report it to this Court. The Court stands in recess until 2 o'clock. The Jurors in the box and the prospective Jurors return to this part at 2 o'clock.

(Whereupon, a luncheon recess was taken at approximately 12:37 p.m.)

(Proceedings of May 15, 1969 commencing at approximately 3:58 p.m.)

Appearances as before noted. Sworn Jurors present. Defendant present.

THE COURT: The District Attorney has indicated he has no challenges for cause. Mr. McKinney?

MR. MCKINNEY: Yes. May it please the Court. At this time I should like to offer a challenge of cause against the prospective Juror #10, Mr. Coy, on the grounds of his answer to the last questions posed to him with respect to whether or not the possible fact the defendant was the mother of a child or children born out of wedlock would affect his passing judgment on this case. Answered, "No comment." Then, when I asked, "May I imply from your answer "No comment," you find it difficult to answer the question, find it difficult to so pass judgment," I believe he indicated this. I believe, sir, that satisfies the statute and that the challenge ought to be granted for cause either implied or actual.

MR. DEBOZIN: May I be heard? Section 376 of the Code of Criminal Procedure, Page 12, is extremely clear as to what is actual bias and it does not relate to anything which Mr. McKinney has thus far stated on the record

and has not made any reference to answer which Mr. Coy has given. I submit to the Court, based on the ruling which Your Honor made, Mr. Coy was not only right in answering in the manner that he did but that was the only proper answer to give.

MR. MCKINNEY: If I may, Your Honor, just one word in rebuttal. I'm sure that the Legislature never intended or never expected compliance with these particular rules that prospective Jurors would come out and say, yes, I'm prejudiced or I'm biased because of such and such. I don't think that the Legislature ever indicated that Counsel for persons exercising such a challenge ought to have presented this as a basis of the challenge. The very fact that we have what is called implied bias, something that a reasonable person infers from the statement made by the persons challenged, and I think that it is reasonable to assume without any

intention to be so that Mr. Coy may and probably has an applied bias with respect to a person who may have children born out of wedlock.

MR. DEBOZIN: Your Honor, the law is very clear in reference to People vs. Sorgi that the immoral, criminal act of an individual can be taken into consideration by a Juror in determining the credibility of that particular Juror. So now, Mr. McKinney, in a very nice fashion, attempted to get by and around this rule and asked the question which was rather open-handed and consequently got, I think, not only a satisfactory but, again, the only answer which a Juror should give. Now, as I understand it, and Mr. McKinney still has not stated what part of Section 376 he is referring to, I can only assume from his comments that he is talking about paragraph 2 involving implied bias which deals with a state of mind of a Juror which he has laid no foundation for in reference to Juror #10. I submit to the Court that if Mr. McKinney cannot lay a proper foundation that the challenge, Page 14, should be denied and Mr. McKinney has other alternatives.

THE COURT: Mr. Coy, let me ask you sir. Do you have any opinion or impression which would influence your verdict in this case? Based upon the question put to you by Mr. McKinney?

MR. COY: No.

THE COURT: Do you feel that you could render an impartial and fair verdict based upon the evidence submitted?

MR. COY: I believe so.

THE COURT: The fact that there may be some of it that's alluding to some illegitimate child or children of the defendant, would this influence your judgment?

MR. COY: No.

THE COURT: Against her?

MR. COY: No.

THE COURT: Do you have any further questions of this witness of this prospective Juror, Mr. McKinney?

MR. MCKINNEY: Your Honor, I'll rest on the basis of my objection on the grounds of my objection upon the answers that were originally given to my questions.

THE COURT: I'll deny your challenge and give you an exception.

MR. McKINNEY: Respectfully accept.

THE COURT: Do you have any peremptory challenges, Mr. Debozin?

MR. DEBOZIN: Your Honor, the People excused Juror #12.

THE COURT: I didn't hear you.

MR. DEBOZIN: I'm sorry. Juror #12.

THE COURT: Juror #12 excused by the People. Mrs. Meyer you can report to the jury room

MR. McKINNEY: If it may please the Court, the defendant exercises the following peremptory challenges and asks that the following Jurors be excused. Juror #8, Mr. Ayers; Juror #11, Mr. Nowak; Juror #10, Mr. Coy. The defendant asks that they be excused with thanks.

THE COURT: Mr. Ayers, Mr. Coy, Mr. Nowak excused by the defendant. Swear the one remaining Juror.

(Whereupon, the one Juror was sworn.)

THE COURT: Fill the Box.

Whereupon, the Juror selection continued. Proceedings at approximately 4:00 p.m. Appearances as before noted. Sworn Jurors present. Defendant present.

MR. McKINNEY: Your Honor, may Mr. Debozin and I approach the bench?

THE COURT: Yes.

(Whereupon, the Court and Counsel had a conference in Chambers. The defendant was not present.)

MR. McKINNEY: Your Honor, at this time I should like to respectfully request that you request additional Jurors be brought from the Jury assembly room from which to choose the additional Jurors that may be chosen. I don't know which ones are prospective Jurors and which ones are not. There appears to be approximately 10 or 11 prospective jurors out there from which to choose from.

THE COURT: I don't know just how many challenges you had. Now I have got the record out on the bench.

MR. McKINNEY: I believe officially I have five challenges remaining.

MR. DEBOZIN: I think it's six.

MR. McKINNEY: Five or six. Oh yes, Mr. Debozin challenged one of them as Jurors so that I have six challenges remaining.

THE COURT: And you have about thirteen?

MR. DEBOZIN: Thirteen.

THE COURT: Alright. Do you have a record of how many we have after this four is taken off there?

THE COURT: I have to check my other sheet. However, the thing is the Jurors have been excused for the day.

THE COURT: I can't get them, Mr. McKinney, until tomorrow morning.

MR. McKINNEY: Are you sure, because I heard the Clerk, the deputy from the jury selection room, was just down.

THE COURT: I intend to, like I did this morning, have additional Jurors here in the morning so that we won't run into any problems of not

having prospective Jurors not listening to part of the questioning of the prospective Jurors in the box.

MR. McKINNEY: Are we going to continue to select Jurors today?

THE COURT: We are going to go for another half hour.

MR. McKINNEY: If that be the case, my request is that we have additional Jurors immediately before we proceed.

THE COURT: Before you proceed?

MR. McKINNEY: I didn't know that.

THE COURT: Certainly we ought to have enough to listen in for today. On the question of another four, with this four, is going to be pulled from here and they are going to be questioned and now you want the benefit of other prospective Jurors listening, is that it?

MR. McKINNEY: That's not the entire purpose of my request. I would like additional Jurors from which the next four seats can be filled for the voir dire.

THE COURT: You mean even before these four are taken?

MR. McKINNEY: Yes.

THE COURT: And in effect, you are asking, then, that this be adjourned until additional Jur-

ors.

MR. McKINNEY: I didn't know the effect of my request.

THE COURT: Of course, then we would have to hold it until tomorrow morning.

MR. DEBOZIN:: I would like to go forward, Your Honor. I would like to fill the box and then proceed. We have got another hour. I'm willing to go. I have got witnesses here, Your Honor, from various parts of this State and outside of the State but they have been here now since May 5th and the longer we put it off the more expensive it's getting for the County, the more irritated and difficult my witnesses become. Now, they have waited now a goodly time and I don't like putting it off another day when we can get started and have eleven Jurors. Mr. McKinney has got only six challenges anyways.

MR. McKINNEY: It's precisely because of that reason that I make the request. I believe that it would be in the interest of the defendant, the protection of her rights, that there be a larger panel from which to choose the remaining four Jurors. We have had assigned fifty Jurors, prospective Jurors. Of

those fifty, apparently only about eleven were, or fewer, are left.

THE CLERK: Wait until I get my sheet.

MR. McKINNEY: It seems to be overlapping, spectators, prospective Jurors, and I believe to fill the last four spots in the jury. The defendant ought to be able to choose, the chance ought to be made, for just more than eleven. It may turn out we get the same people. Of course, I am concerned about the representation of the jury.

MR. DEBOZIN: Since these people are selected on a large drum-upstairs the chance of selection is up there where there is a panel of five hundred.

MR. McKINNEY: Off the record.

(Whereupon, an off-the-record ensued.)

(Proceedings in open Court at 4:05 P.M.

Appearances asking for noted. Sworn Jury present. Defendant present.)

THE COURT: Ladies and gentlemen in the jury box, for certain reasons the Court is going to recess until tomorrow morning before calling an additional four Jurors. I'm sorry for the delay. Sometimes it becomes necessary, so, with that in mind, I would ask you members of the jury who have been sworn and the eleven prospective Jurors who sit back of the rail, not to discuss the case among yourselves or with anyone, or form any opinion in connection with this case until it is finally submitted to you either as sworn Jurors or those prospective Jurors yet to be sworn. If anyone should attempt to talk to you about the case or to discuss it in your hearing, it is your duty to report it to the Court. Now, I say this now, and I will tell you later on, that this admonition is going to be given to you each time you leave. It doesn't mean it becomes any less important each time it's read, it's meant, and you have to abide by it. With that, the Court stands in recess until tomorrow morning at 10 o'clock.

(Whereupon, Court was recessed for the day at approximately 4:06 P.M.)
(Proceedings of May 16, 1969, commencing at approximately 10:20 A.M. Appearances as before noted. Sworn Jurors present. Defendant present.)

THE COURT: I would like to have Counsel approach the bench, please.

(Whereupon, both counsel approached the bench and a conference was had. Proceedings of the bench, out of the hearing of the jury and the prospective Jurors.)

MR. McKINNEY: On behalf of the defendant, Geraldine Robinson, I hereby state for the record, that neither I, as her Counsel for Mrs. Robinson, nor does the defendant in person, have any objection to the assembly of new Jurors from the jury assembly room. The who al-

ready have been assembled here in the panel.

Is that correct, Mrs. Robinson?

THE DEFENDANT: Yes

THE COURT: You agree to this, Mrs. Robinson? You understand?

THE DEFENDANT: Yes.

THE COURT: Alright. Your motion that previously was made, Mr. McKinney, is granted.

MR. DEBOZIN: Note my exception.

THE COURT: Note Mr. Debozin's objection.

(Whereupon, the selection of the jury was continued.)

(Proceedings at 2:07 P.M. in Chambers.

Defendant not present.)

MR. MCKINNEY: Your Honor, at this time, before the swearing in of the entire jury, I'd like to exercise a challenge against the entire Jury and panel on the grounds that to the extent that I am able to determine, based on the person who have appeared for the purpose of being examined on the voir dire, out of 65 prospective Jurors, if I

understand correctly, 65 from which this jury was drawn, there did not appear a single Negro person and, of the 65, to the extent that I have been able to determine, the majority were residents of the suburban or rural areas as opposed to metropolitan Buffalo. By reason of said facts, if I have examined the panel correctly, the defendant, Geraldine Robinson, a black woman, resident of the metropolitan area, Buffalo, cannot possibly consider to be receiving a trial before a jury of her peers. For that reason, sir, I exercise the challenge on the grounds of the lack of due process that must necessarily or that may very well follow and move forward to dismissal of the jury and for an entire new panel from which to select the jury.

THE COURT: I'll deny your motion and to give you an exception.

MR. McKINNEY: Thank you very much.

(Proceedings in open Court. Appearances as before noted.)

Sworn jury present. Defendant present.

(Whereupon, the entire jury panel was sworn.)

(Whereupon, two alternate Jurors were selected.)

THE COURT:

Ladies and gentlemen of the jury, Mr. Banks, Mr. Sheehan, alternate members of the jury, you have now been selected as Jurors and as alternates in the case of the People of the State of New York against Geraldine Robinson. You have heard the indicated accusations against her returned by an indictment of the Grand Jury of Erie County. It's the Courts intention at this time to ask both Counsel to make their opening remarks Monday morning. The Defense Counsel is not required to do so. The People, represented by the District Attorney, is required to do so, but I ask you as members of the jury at this time to keep an open mind in this case. This defendant is entitled to a fair trial. To keep an open mind and not

to form any opinion until all the evidence is submitted to you and until the judge charges you as to what the law is to apply to the facts you have to determine. Now there's, from time to time, you will be leaving the courtroom either for the recess or an adjournment and the Court is also constrained to read a certain section of the Code of Criminal Procedure that goes as follows: "I must admonish you not to discuss this case among yourselves or with anyone or form any opinion until the matter is finally submitted to you. If anyone should attempt to talk to you about this case or to discuss it in your hearing, it's your duty to report it to the Court." Now I have to give you this each time you leave and I said to you, to some of you at least, before, it does not become less significant because it is repeated. It is as important the first time or the last time. And the reason behind this is, behind this very admonition, is because of the fact that you are to make a determination and you alone are to make the determination predicated

upon the facts and the evidence submitted to you from the mouths of witnesses who appear in this Court. Some people are influenced by criminal cases and people at home who might be very close to you who might be influenced by the fact that you are sitting on a criminal case and may make inquiries to what type of case it is, might express an opinion to you of what they might do if they sat on a jury that involved a certain type of crime and it is for this very reason that we ask you not to discuss this case among yourselves or with anyone because when you finally go into the deliberating room your deliberation, your thoughts, considerations must be predicated solely upon the evidence or lack of evidence deduced from the mouths of witnesses that have been produced in this courtroom and, if, in the recesses of your mind comes a thought that "Well, I went home one night and I told my daughter or my son or my husband that I was sitting on a certain type of case and here's what he said and what he thought about it" that

expression of your husband or daughter or son shouldn't enter into your deliberations. It is solely what you think and not what anybody else thinks or any extraneous matter that should be brought into the picture to influence your mind. So that is the reason this is given to you, this admonition not to discuss this case among yourselves or with anyone or form any opinion thereof because it has been indicated sometimes people are a little bit prone to listen to one or two witnesses and have their minds made up and all the tea in China isn't going to break this opinion of mind. But that's not fair. The idea is to keep an open mind until you hear all of the evidence, until you are charged with the law by the Court when the case is finally submitted to you. The Court will properly charge you at the close of the case as to what law applies on this case and it will properly instruct you as to your role as Jurors. We'll adjourn from time to time, not adjourn but recess, and adjourn for lunch. We'll recess each day at approximate-

ly 11:30 and 3:30 in the afternoon. I do not know how long this case will take. Both Counsel seem to indicate it might last 'til next Friday sometime. We never know at the outset, however, I want the jury to be comfortable. We are going to take these short breaks at 11:30 and 3:30 each day. If, for some reason, you would like to have a recess for five minutes or so you can bring it to the attention of the Court and by one of the attendants and the Court will in all likelihood grant your request. With this admonition that I have just given you I wish you a pleasant weekend. This Court stands in recess until Monday morning at 10:00 o'clock. The jury may be excused. All the prospective Jurors who have not been called report to the jury room at 10:00 o'clock Monday. If you have anything, Mr. McKinney, after the jury leaves you may. The jury is now excused.
(Whereupon, the jury left the courtroom at approximately 4:30 P.M.)

THE COURT: Alright, Mr. McKinney.

MR. MCKINNEY: May I approach the bench?

THE COURT: Well, I would like to have you come up
 to the bench.

 (Whereupon, both Counsel approached the
 bench and a conference was had.)

 (Whereupon, Court was recessed for the
 weekend at approximately 3:37 P.M.)

Proceedings of May 19, 1969 commencing at approximately
2:00 p.m. Appearances as before noted. Jury polled,
all Jurors present. Two alternate Jurors present.
Defendant present.

THE COURT: Alright, Mr. Debozin.

MR. DEBOZIN OPENED AS FOLLOWS:

MR. DEBOZIN: If it please the Court, Mr. McKinney,
 ladies

and gentlemen. This is the part of the trial which is called the opening and it deals with that part. The opening of the case is that which you intend to prove and that's what it is designed for and that's what we are supposed to be doing is opening and telling you what we are supposed to prove. Now we are representing the People of the State of New York. I have to give an opening because I must prove something. The defendant, of course, does not have to give an opening. They don't have to prove anything. Now the opening proper. I will start with the reading of the indictment. "The People of the State of New York against Geraldine Robinson, Indictment #33508-A, the Grand Jury of the County of Erie by this indictment accuse Martin Sostre and Geraldine Robinson, and each of them, of the following crime. First Count: Violation of Sections 2, 1751-1, of the penal law in that they, the said Martin Sostre and Geraldine Robinson, and each of them, aiding and abetting one another on or about the 14th day of July, 1967 at the City of Buffalo in Page 32, this County, did feloniously barter and exchange with and sell, give and offer to

give and sell to a person over the age of 21 years, a certain preparation compounded mixture containing a narcotic drug called heroin. The derivative of opium as defined in Section 3301 of the Public Health Law in violation of Article 33 of such law. Fourth Count: and the Grand Jury, County of Erie, aforesaid by this indictment to further accuse the said Geraldine Robinson of the following crime. Violation of Section 1825 of the Penal Law and that she, the said Geraldine Robinson, on or about the 15th day of July 1967 at the City of Buffalo, this County, knowingly resisted, by the use of force and violence, Bruce Jensen, a duly authorized and acting agent of the Federal Bureau of Narcotics, in the performance of his duty, the acts alleged in the aforementioned counts of this indictment are connected together with and derives out of the same circumstances."

Signed: Michael F. Dillon, District Attorney
Page 33 of the County of Erie. So, as you see, there are two counts which are charged the defendant, Geraldine Robinson, and how do we intend to prove this? Well, of course, we are going to have to put witnesses on and we are going to put on, first

of all, a police officer by the name of Albert Gristmacher. Now, Officer Gristmacher is a Detective Sargeant with the Buffalo Narcotics Squad and he is going to testify, generally speaking, in the following manner. He is going to relate that on July 14, 1967 he met with an individual by the name of Arnold Williams and you are also going to hear from Mr. Williams, and when he met with Mr. Williams, Mr. Williams was ultimately searched. His complete body was searched until Mr. Gristmacher was satisfied that there was no narcotics or nothing of any nature on his person or in his pockets or under his clothing. After being satisfied of this, he gave to Mr. Williams \$15.00. Now, the \$15.00 was one \$10.00 bill and one \$5.00

bills. From the bills he took the serial numbers of the five singles and \$10.00 bill. In addition, on the bills, were placed his initials and, I believe, the date. And, also, one Bruce Jensen who will testify here, who is a federal agent with the Federal Bureau of Narcotics, also placed his initials on the bills. Now, this is on all the bills. Of course, they didn't place the initials on the bills in pencil or pen. They placed the initials on the bills with a special liquid which can only be seen through an ultra violet light. And, then they gave them to Arnold Williams and, sometime during this transaction, I should say, shortly after this transaction, Mr. Williams, Arnold Williams, was introduced to a State Trooper, and the State Trooper's name is Louis Steverson, who will also be here to testify. And, Mr. Steverson, of course, being a State Trooper, was working this night and undercover, in an undercover capacity, and, consequently, was not dressed as a trooper. He was dressed in plain clothes and Mr.

Gristmacher, Mr. Williams and Trooper Steverson proceeded to get into an automobile. They drove for some short period of time and then they drove into the area of 1412 Jefferson Avenue. Now, the testimony will show that at 1412 Jefferson Avenue was operated a bookstore. This bookstore was known and called the Afro-Asian Bookstore and it was owned and operated by an individual known as Martin Sostre. Now, there came a time when the automobile stopped, the Trooper Steverson and Arnold Williams got out of the car, they proceeded to walk to 1412 Jefferson Avenue. The two of the, together, they walked into 1412 Jefferson Avenue. The two of them they walked up to the counter. At the counter there was a conversation with, first of all, Martin Sostre. In fact, the only one there with any conversation with was with Martin Sostre. At the time they entered the premises and were having this conversation, it went, I am not exactly sure the way it is. I believe that the testimony will reveal that Arnold Williams and the Trooper were standing in front of Martin Sostre and close to, in that very vicinity, was

Geraldine Robinson. And, during the entire course of this transaction, Geraldine Robinson remained in the position she was when they first walked in. It was quite a small place. She was always in the immediate area and close to the entire transaction. The conversation was something like, "Are you doing any business now", and I believe the testimony will reveal that the answer from Sostre was "Yes, but I am not doing any business in front of a stranger." And, then Arto Williams said, "Well, he is alright." And, Mr. Sostre insisted that he would not conduct or do any business in front of a stranger so then Arto Williams and the Trooper proceeded to walk toward the front door. The Trooper then stood in the doorway of the front door which is, again, a very short distance from where this transaction was taking place, and Arto Williams walked back to where Martin Sostre was. Geraldine Robinson was in the immediate vicinity. Now, at this point,

Arto Williams said, "Can I COP from you." And the testimony will show that the meaning of the word "COP" is, buy heroin or drugs. And so Sostre said, "Yes." And Arto gave \$15.00 at the direction of Martin Sostre to Miss Robinson, Geraldine Robinson. Now, there was no testimony, no statement, as to how much should be given. There was just \$15.00. This was the \$15.00 which she received from Alvin Gristmacher and the testimony will show that on his person he had nothing else, no personal property of any nature except the \$15.00. He gave the \$15.00 to Geraldine Robinson. Geraldine Robinson proceeded to count the \$15.00. Again, there is no statement as to how much there should be or what it is for or anything of that nature. And Geraldine Robinson then says, "It's all here." And at that point, Sostre proceeded to walk into the back room and comes out of the back room and glives a small glassine envelope with white powder to Arto Williams and still we have the

Trooper standing there watching the entire transaction take place. Arnold Williams and the Trooper proceed to walk out. There was some short conversation at that point between Martin Sostre and Arto Williams. He proceeds to walk out, they proceed to walk to the automobile which was being driven by Alvin Gristmacher, and they got into the automobile and, then, and ultimately, the bag which was purchased by Arto Williams is checked out and tested and it is determined that it does contain Heroin. Then, after this occurs, Alvin Gristmacher and a number of other Troopers and federal agent Jensen proceed to go back to 1412 Jefferson Avenue. And Mrs. Robinson and Mr. Sostre are still in the premises and they have a search warrant and at this point they are informed by both Detective Sargeant Ronald Smith and by Bruce Jensen Federal Agent Jensen that they have a search warrant, that this is the police and that they are under arrest. After this is related, Martin Sostre starts to go to the back room from which he had previously come and is

followed there by Officer Smith and
Officer Rock and Officer Constantine.
And, at this point, Mr. Sostre obtains

MR. MCKINNEY: Objection, Your Honor. I prefer not to
rise in the midst of Mr. Debozin's open-
ing but I feel that he is about to, if
I anticipate what he is about to say, is
about to make an objectionable statement.
I would like to register an objection be-
fore he has an opportunity to prejudice
the jury. May I approach the bench with
Mr. Debozin?

THE COURT: Yes.

(Whereupon, there was a discussion at the
bench between the Court and the Counsel
out of the hearing of the jury as follows.)

MR. MCKINNEY: I must, of course, anticipate what Mr.
Debozin is going to say. I believe he
was about to make mention of an allega-
tion that Sostre went someplace and is
going to refer to some additional narcotics.

MR. DEBOZIN: I am going to do that. I'm also going to
refer to striking of the policeofficer.

THE COURT: Well, I don't think now, just a minute. We have to limit ourselves here. The jury is going to have to limit their determination of facts in connection with Mrs. Robinson.

MR. DEBOZIN: I agree, Your Honor.

THE COURT: Now when your allusion to Sostre to what Sostre did and didn't do and so forth, why make some general reference. Get into specifics. I think I ought to let the evidence control.

DEBOZIN: I have to make an opening, Your Honor.

COURT: I am going to let you make your opening.

DEBOZIN: I have got to make my opening.

COURT: Insofar as what he, Sostre, did, I think you would be going over in as general a term as possible. I don't want it to be prejudicial to the defendant.

DEBOZIN: I intend, if I may be heard, first of all, the charge here against Mrs. Robinson is violation of Section 1825 of the Penal Law which is resisting arrest or, yes resisting arrest or interfering with an arrest. Now, the charge of resisting or interfering here and what she did while the officers

were busy working with and on Mr. Sostre. Now, in order to get that, in order to have it in a logical proper fashion, I had to mention the striking and the fact that the officers were attempting to arrest Mr. Sostre and, at that point, during the time they were attempting to arrest Mr. Sostre, there is a general melee in reference to Mr. Sostre and Mrs. Robinson and this is the resisting. I don't know how I can possibly relate those things in reference to a proper opening without mentioning Mr. Sostre and what transpired.

THE COURT: Mr. Sostre, when they were attempting to arrest him, if you want to bring him in that Mrs. Robinson came in then without going into a lot of specifics, they were attempting to arrest Mrs. Robinson and Mr. Sostre and you bring in what Mrs. Robinson did.

DEBOZIN: This evidence would have to come out.

COURT: Yes.

DEBOZIN: And as far as my using that type of general verbiage, I will use that type of verbiage if required to. I want it understood, if required to, that it is my opinion and reference.

to an opening.

THE COURT: I don't want this jury to be trying Sostre.

MR. McKINNEY: See, Your Honor, we have to keep it that there is an account of the indictment which does not relate to Mrs. Robinson in which it is alleged it is a separate count of possession. Now it is true this separate count of possession constitutes the alleged result of this search pursuant to a certain warrant that there should be no reference to that whatsoever with respect to Mrs. Robinson.

DEBOZIN: I don't agree with that at all because the testimony will relate that he goes into the back room, he comes out with it and I think it relates knowledge on the part of Mrs. Robinson.

McKINNEY: No!

DEBOZIN: Oh, I think it does, definitely. The stuff was in the back room.

McKINNEY: She's not even charged with possession.

DEBOZIN: That is beside the point.

THE COURT: This is under the first count?

McKINNEY: With respect to a sale.

DEBOZIN: I can prove that that was in the back room

that Sostre went into the back.

THE COURT: There is an alleged aiding and abetting one another. This is under the first count. Now if you are aiding and abetting one another that is under the first count, sure it's a separate count.

McKINNEY: The alleged sale, Your Honor, the one package that he claims was given to Mr. Williams has nothing to do with the result of the search of the premises.

DEBOZIN: Oh it certainly does, certainly it does.

COURT: Well, anyway, we'll let the evidence prevail on this thing here. You limit it to as general as possible with relation to Sostre.

DEBOZIN: Just so we don't have any problem, when I continue on, when you say as general as possible, I think I have reached the point where Mr. Sostre went into the back room, now I am going to relate to the fact that Mr. Smith, I think I said Mr. Smith, followed him in the back room and several officers and I think I was stopped at the point where Mr. Sostre reached for a cardboard, I said reached for and I was going to refer to the fact that he reached

for a cardboard container cutter, is the word, then I am going on to the fact that with the cardboard container cutter he struck Ronald Smith.

COURT: No, I don't think that this ought to be.

DEBOZIN: Well, this is to be resisting part of the indictment. This is his resisting.

McKINNEY: His!

DEBOZIN: Her resisting. She goes to his aid.

THE COURT: Then why don't you do that. In attempting to arrest Martin Sostre he rebelled, apparently, and then you bring in what she did without going into detail what he did. He is not on trial.

DEBOZIN: I know that, Your Honor, but I do think it is part of the overall fact situation.

COURT: I think, in this connection, we ought to limit the detail on what action he took except that he was apparently resisting arrest. You bring in the defendant in this case and what she did. That is the important thing.

DEBOZIN: Then you don't want me to mention it?

You don't want me to mention the fact?

COURT: No.

DEBOZIN: Had he struck?

COURT: I don't think so.

DEBOZIN: At Ronald Smith with the weapon?

COURT: No, no.

DEBOZIN: I don't agree but I want it noted.

COURT: The exception is noted.

DEBOZIN: Just so I know it's perfectly clear on the record.

COURT: Alright, fine.

McKINNEY: Your Honor, se we can be clear my objection was also to any mention of any results of the search pertaining to narcotics on the premises there is no charge here, there is no allegation here, of possession upon Geraldine Robinson.

DEBOZIN: I don't have to, it doesn't have to be charged. I think under the first count of the indictment there is sufficient language in there to embrace both parties on the barter and exchange and sale with respect to the one package.

McKINNEY: I am referring to any other narcotics Mr. Debozin plans to refer to as a result of a subsequent search.

DEBOZIN: I think what Mr. McKinney is referring to

there is another count of indictment which amounts to another ten bags of heroin which were found in a filing cabinet in the room in which Sostre was in.

COURT: Yes.

DEBOZIN: I will not mention that in my opening and we didn't charge her with that. I am submitting the proof will be entitled to be shown that there was that in there from the point of view she worked there and it shows knowledge on her part.

McKINNEY: That doesn't

DEBOZIN: You can't divide up the fact situation.

McKINNEY: You can you severed the case.

THE COURT: Let's go we'll take care of them as they come.

(Whereupon, Mr. Debozin continued on with his opening.)

DEBOZIN: Now Mr. Sostre proceeded to go to the back of 1412 Jefferson Avenue and he entered into the small back room from which he had originally exited with the glassine envelope or, I should say, prior exit from the back room with the glassine envelope and at this point there was an attempt to arrest Mr.

Sostre by Ronald Smith and other officers and in which Mr. Sostre resisted arrest and during the time that he was being arrested and during the time of this resistance of arrest Mrs. Robinson proceeded to go to where Sostre was and attempted to pull off police officers who were attempting to arrest Mr. Sostre. One of officers which she attempted to get away from Mr. Sostre to aid Mr. Sostre was Officer Bruce Johnson that she did use force, she did scream and holler and used physical force to direct Mr. Johnson or plead with Mr. Johnson from aiding and arresting Mr. Sostre and Mr. Johnson, Officer Johnson, took Mrs. Johnson and took her away from where this fighting was going on sat her down and said that she is under arrest that he is a federal agent, she should stay here. He proceeded to go back to attempt to aid the officers in arresting Mr. Sostre and when he came back to aid the officers Mrs. Robinson came back to aid Mr. Sostre again attempting to pull the officers away from Mr. Sostre again. Mr. Johnson took Mrs.

Robinson away from the fighting and stayed with her for some period of time in order to be sure that she didn't aid Mr. Sostre. Now sometime after this the premises were searched, and after the premises were searched, Mr. Sostre and Mrs. Robinson were searched and it was obtained from Mr. Sostre's wallet a \$10 bill which will be produced in this courtroom and shown to you and upon it we find that it matches the serial numbers of the \$10 bill which was given to Mr. Williams and it also contains upon it, I hope it contains upon it still at this point, the phosphorescent or the ultra violet writing or the writing which shows up under ultra violet light. In addition, the five one dollar bills which were given to Mr. Williams were found in the purse and amongst the money of Mrs. Geraldine Robinson. And those also will have those five singles contain the same serial numbers as the bills which were given to Arto Williams subsequently given to Mrs. Robinson by Arto Williams in the store at 1412 Jeffer-

son Avenue and they also contain the writing which shows up under the ultra violet light which is the means of identification of, the two means of identification of, those bills. And by this means we submit, will be submitted to you, that Mrs. Robinson participated in, and aided in the sale to Arto Williams of heroin on July 14, 1967 and that on about 12:05 or five minutes after midnight by the testimony which I have just alluded to just prior to this which I am talking about now resisted Officer Bruce Johnson from arresting Martin Sostre and arresting her all this being in violation of Section 1715-1 of the Penal Law of the State of New York Section 1825 of the Penal Law of the State of New York. Thank you.

THE COURT:

DEBOZIN:

Alright. Mr. McKinney if you care to Oh, just one second Your Honor, there will also be a chemist, a police chemist by the name of Joseph Vaughan who will come into this courtroom and testify that heroin, that that heroin which was sold to Arto Williams

on July 15, 1967 is heroin which is an opiate and is contraband or illegal under the penal law and public health law of the State of New York.

McKINNEY: Your Honor, I wish to make one objection to the remarks made by Mr. Debozin in his opening. Shall I approach the bench or shall I make the objection in the presence of the jury?

THE COURT: I don't know the nature of it. I think it's better, you better approach the bench.

(Whereupon a conference was had between the Court and Counsel out of the presence of the jury as follows.)

MR. McKINNEY: Your Honor, I wish to object to the reference to a \$10 bill that was seized from the possession of Sostre in this case on the grounds that it is irrelevant and immaterial to the crime alleged against Mrs. Robinson and that reference to it can only serve to prejudice, further prejudice, the minds of the jury with respect to Mrs. Robinson.

COURT: Well, I will deny that, I will deny your motion if it is all part of one

McKINNEY: Yes.

THE COURT: one bit of proof it will wait until, at lease until the proof comes in and see how it is then.

(Whereupon, Counsel returned to open court.)

McKINNEY: The defendant waives through opening, Your Honor.

THE COURT: The defendant waives opening.

MR. DEBOZIN: Your Honor, may I just run over in my office and get the witnesses?

THE COURT: Alright.

DEBOZIN: I didn't expect it be quite this fast.

A L V I N R. G R I S T M A C H E R, Buffalo Police Headquarters, Buffalo, New York, being duly sworn as a witness on behalf of the People, testified as follows:

DIRECT EXAMINATION BY MR. DEBOZIN:

Q. Now, Officer, you are assigned to what Police department?

- A. Buffalo Police Department.
- Q. And are you assigned to any Special squad?
- A. Narcotics Squad.
- Q. And what is your rank in the Narcotics Squad?
- A. Detective Sargeant.
- Q. And how long have you been with the Buffalo Police Department?
- A. 16 years.
- Q. And how long have you been with the Narcotics Squad?
- A. Six years.
- Q. And have you had any specialized training other than with the Police Department?
- A. Yes I have.
- Q. And where would that be and with whom?
- A. Three Federal Bureau of Narcotics schools.
- Q. And were you employed as a Federal Bureau of Narcotics agent, oh, excuse me, a Buffalo Police Department Narcotics Officer on July 14th of 1967?
- A. Yes, I was.
- Q. And did there come a time on July 14th of 1967 that you saw one Arto Williams?
- A. Yes, I did.
- Q. Did you know Arto Williams prior to, before July 14th, 1967?
- A. Yes, I did.

- Q. How long did you know him approximately?
- A. Approximately a year.
- Q. And where did you first see Arto Williams on July 14th, 1967?
- A. At the corner of Winslow and Fillmore Avenues.
- Q. Were you alone or in the company of someone when you first saw him?
- A. I was alone.
- Q. And what happened at that time if anything?
- A. I picked up Arto Williams and drove him to Police Headquarters.
- Q. And when you arrived at Police Headquarters, what, if anything, did you do there?
- A. I introduced Arto Williams to Trooper Steverson.
- Q. Is that Trooper Louis Steverson?
- A. Yes, sir.
- Q. When you say Trooper, where does he work?
- A. He is an employee of the New York State Police.
- Q. And, oh, was he in uniform on July 14th, 1967 when you saw him?
- A. No, he was not.
- Q. And did there come a time - strike that -- after introducing Arto Williams to Trooper Steverson, what, if anything, did you do?
- A. We left Police Headquarters or Trooper Steverson

Trooper Steverson and Arto Williams and myself, we rode around for awhile and eventually we returned to Police Headquarters at approximately 11:15 P.M.

- Q. And at time that you returned to Police Headquarters, by the way, did you go to any particular place between the time that you left and the time that you returned to Police Headquarters?
- A. Yes, we did.
- Q. Where did you go, do you recall?
- A. First place we went to was the corner of Woodlawn and Jefferson Avenue.
- Q. And then you went someplace after that?
- A. Yes, we did.
- Q. Where was that?
- A. We went to ^{Judal} George Sedita's home.
- Q. And did you see ^{Judal} George Sedita?
- A. Yes, I did.
- Q. And after that you returned to Buffalo Police Headquarters?
- A. Yes, sir.
- Q. And after you returned to Buffalo Police Headquarters what, if anything, did you do at that time?
- A. I searched Arto Williams, then I removed all of his personal property which was forty cents in change and a comb and a handkerchief, I think, and then I

gave him \$50.00 or \$15.00.

- Q. Now when you say you searched Arto Williams could you relate as briefly as possible the type of search you conducted?
- A. I had Arto remove his shoes, I went through his shoes, I felt in his stockings, I went through all of the pockets, around the collar in his shirt, the cuff of his pants, until I was sure that he had no contraband on his person.
- Q. How many times have you conducted this type of search in the past?
- A. Several hundred times.
- Q. Now you say that you gave \$15.00 to ^{Arto} Arto Williams.
- A. That is correct.
- Q. From where did you receive the \$15.00?
- A. From Chief Amigo.
- Q. And prior to giving it to Arto Williams did you do anything in reference to that money?
- A. Yes, I made a notation of the serial numbers and I also marked it with fluorescent powder.
- Q. Did you, yourself, mark it?
- A. Yes, I did.
- Q. Do you recall what those serial numbers are offhand?
- A. Not offhand, I don't know, sir.
- Q. What were the bills that you gave to Arto Williams that you can recall?
- A. A \$10.00 bill and five \$1.00 bills.
- Q. Alright. Would it refresh your recollection if you look at the notations or if the copies of those no-

tations as to what the serial numbers were? 50

A. Yes, it would.

Q. Do you want to look at the notations or the copies of notations what the serial numbers were?

A. The \$10.00 bill was Federal Reserve Note C42192952C. One of the one dollar bills were Federal Reserve Note, first one was A18779123B, G81733667B, B29919558C, F23138162C, B50894932C.

Q. Now Officer can you recall what notations you made with this powder on the bills?

A. Best of my recollection it was A. G.

Q. AG?

A. Yes.

Q. Did you put any date on them?

A. I do not recall.

Q. What does AG stand for?

A. Alvin Gristmacher.

Q. After making these notations and taking the serial numbers that's when you gave the bills to Mr. Williams?

A. I had did this before handing them to Mr. Williams.

Q. Okay, and then you gave the bills to Mr. Williams, is that correct?

A. That's correct.

Q. What happened after that if anything?

A. After Mr. Williams had the money we then all got into my car and we drove to the corner of Woodlawn and Dupont Streets.

Q. By the way, when you say your car what type of automobile is this?

A. It was a '65 Chevy.

Q. What color?

A. Yellow bottom, black vinyl top.

Q. It's not a regular police car?

A. No sir, it's not.

Q. And what happened at Woodlawn and what was that?

McKINNEY: Excuse me, Your Honor. May I respectfully request that Mr. Debozin be directed to elicit the time, specific time?

THE COURT: Yes.

McKINNEY: That the parties left and the names of the parties that accompanied Mr. Gristmacher?

BY MR. DEBOZIN:

Q. Do you recall the approximate time that you left Police Headquarters?

A. At precisely 11:30 P.M., July 14th, 1967.

Q. And at that time you left were you alone or in the company of others?

A. I was accompanied by Trooper Steverson and Arto Williams.

Q. And then you went to, you say, Woodlawn and Dupont Streets. What happened at Woodlawn and Dupont Streets, if anything?

A. Trooper Steverson and Arto Williams left my automobile.

Q. Do you know the approximate time that they left?

A. At approximately 11:45 P.M.

Q. And did you see where they went?

A. Yes. They walked west on Woodlawn Avenue toward Jefferson.

Q. And did you see where they went?

A. They walked to the corner of Woodlawn and Jefferson and made a lefthand turn on the far side of Jefferson Avenue and headed south and out of my view.

Q. Did there come a time when you again saw Arto Williams?

A. Yes.

Q. Arto Williams and Trooper Steverson?

A. Yes.

- Q. Approximately how long elapsed from the time that they left your automobile to the time that you again saw them or until the time they entered the automobile?
- A. Approximately ten minutes.
- Q. And what, if anything, occurred when you first saw them coming? Were they coming back towards your automobile?
- A. Yes, they came. They were walking east on Woodlawn Avenue toward Dupont Street.
- Q. What did they do, if anything?
- A. When they got back to my car Trooper Steverson got in the back seat and Arto Williams got in the front seat.
- Q. Did anything occur when Arto Williams and Trooper Steverson got into the car?
- A. As soon as Arto Williams was seated he handed me a glassine envelope which contained a white powder.
- MR. DEBOZIN: Excuse me, Your Honor.
- THE COURT: Would you wait just a minute, Mr. Debozin? Excuse me just for a moment, I will be right back.
(Whereupon, Judge Colucci then left the courtroom.)

(Whereupon, Judge Colucci then returned to the courtroom.)

DEBOZIN: If it please the Court, Your Honor, this has been marked several times. I don't know, I can't recall, how we should mark it again because it's an outside envelope.

THE COURT: The only suggestion I can make is to have it marked as an exhibit for identification here and, of course, put a circle around it to distinguish it from some other markings that it might have.

MR. DEBOZIN: Alright with you?

MR. MCKINNEY: Whatever the judge says.

THE COURT: Yes.

MR. DEBOZIN: Just so there is less confusion.

(Whereupon, a white envelope was marked People's Exhibit #1 for identification.)

BY MR. DEBOZIN:

Q. Now, Officer, I show you People's Exhibit 1 marked for identification and ask if you can recognize the contents therein?

A. Yes, I do.

- Q. And what is that Officer?
- A. It is a glassine bag that contains my initials,
A. R. G. 7-15-67.
- Q. And are there any other initials on that bag?
- A. Yes, there are.
- Q. What other initials are on that bag?
- A. A. W.
- Q. And have you ever seen that glassine envelope
before?
- A. Yes, I did.
- Q. When did you see it, if you did? On July 15th, 1967?
- A. Oh, at approximately 11:50 P.M., July 14th, 1967.
- Q. And where did you see it?
- A. I was handed this glassine envelope by Arto
Williams.
- Q. Now after Arto Williams and Trooper Steverson got
into the car what, if anything, did you, and you
received the glassine envelope what, if anything
did you do?
- A. We drove to the corner of Dodge and Main Street.
- Q. What did you do there?
- A. I parked my car and got out. I conducted a Marquis
reagent test on the contents of the glassine envel-
ope and it had a positive reaction and I then talk-
ed to Chief Amico and Captain Williams of the New
York State police.
- Q. What is the Marquis reagent test?

McKINNEY: Your Honor, I would object to this testimony on the grounds that Sargeant Gristmacher has not been qualified as an expert on this phase of narcotics. He is being asked to testify as to certain scientific matters which it has not been established he is qualified to testify to.

DEBOZIN: Your Honor, I will lay a foundation.

THE COURT: Very well.

DEBOZIN:

Q. Officer, in the six years you have been on the narcotics squad how many arrests have you made for narcotics?

A. Several hundred.

Q. And how many of those arrests or, excuse me, were some of those arrests were they -- strike that -- how many of those arrests were for heroin?

A. Several hundred.

Q. Okay. And on the heroin arrests on some of them, did you conduct a Marquis reagent test?

A. Yes, I did.

Q. Did you go to school or participate in conducting of other Marguis reagent tests?

A. Yes, I did.

- Q. And first of all did you go to school to learn how to conduct Marquis reagent tests?
- A. Yes, I did.
- Q. What school was that?
- A. The Federal Bureau of Narcotics Training School.
- Q. And they spent some time showing you how to conduct these tests?
- A. Yes, they did.
- Q. And on how many occasions did you, or were you present when the test has been conducted in the past?
- A. Several hundred times.
- Q. And on some of those occasions did you, yourself, participate in the conducting of the tests?
- A. Yes, I did.
- Q. And about how many occasions did you, yourself conduct the tests?
- A. Three or four hundred times possibly.
- Q. And on those occasions did, sometimes, you get positive, sometimes you get negative tests?
- A. Yes, sir.
- Q. And what happens in a positive test?
- A. The contents in the glassine or in the glass vial turn purple.
- Q. And this indicates what, if anything, - are you objecting at this time

MR. McKINNEY: No.

MR. DEBOZIN:

Q. This indicates, what, if anything?

A. That there is an alkaloid present.

Q. By the way, did you receive a certificate from the Federal Bureau of Narcotics school?

A. Yes.

Q. Indicating you passed?

A. Yes, sir.

Q. Okay. And on this occasion did you conduct the same Marquis reagent test as you had three or four hundred other times?

A. Yes.

Q. And did you conduct it in the manner prescribed by the Federal Bureau of Narcotics?

A. Yes, sir.

Q. And did you follow in the manner in which you had been taught to conduct this testing?

A. Yes, sir.

Q. And what was the color of the results after you conducted this test?

A. Purple.

Q. Indicating the presence of an alkaloid?

McKINNEY: I object at this time that the proper

foundation has not been laid for the introduction of this expert testimony. The fact that the, of the Sargeant's having attended school without further information without respect to the nature of the training, the qualifications of those that were giving the training or any other training that he has received in the field of chemistry or of the other scientific disciplines which ought to be required under the circumstances, has not been established.

THE COURT:

Overruled.

McKINNEY:

I respectfully except. May we approach the bench?

(Whereupon, a conference was had at the bench between the Court and Counsel.)

THE COURT:

It has been suggested by both Counsel that all prospective witnesses both for the People and for the Defense remove from the courtroom. Proceed.

BY MR. DEBOZIN:

Q. Now, Mr. Gristmacher, Officer Gristmacher, the results of that test was the solution in the vial turned purple, is that correct?

A. That's correct.

Q. Indicating the presence of what?

A. An opiate.

MR. MCKINNEY: Again, I object, Your Honor, on the ground that a sufficient foundation has not been laid as to the expertise of this witness.

THE COURT: Overruled.

MR. MCKINNEY: Respectfully except.

MR. DEBOZIN:

Q. Now after this was done what, if anything, did you do? after the testing was

A. I then told Trooper Steverson to drive my car down to Police Headquarters and then I got into a car with Captain Williams of the New York State Police and Chief Amico.

Q. And did Trooper Steverson then drive away with your car?

A. Yes, he did.

Q. Who was in his car with him? Anybody other than Steverson?

A. Arto Williams.

Q. And what, if anything, or where, if anyplace, did you go and what did you do after that?

A. We then drove to the corner of Woodlawn and Jefferson Avenues.

THE COURT: Let me get this clear, Sargeant. After, you say, the test was completed that you told Steverson to drive to headquarters?

THE WITNESS: Yes, sir.

THE COURT: And you were with whom?

THE WITNESS: Chief Amico and Captain Williams of the State Police.

THE COURT: Captain Williams is not the same Williams we were talking about before.

THE WITNESS: No, sir.

THE COURT: Alright.

MR. DEBOZIN:

Q. And after you said you arrived at the corner of Woodlawn and Jefferson?

A. That is correct.

Q. Where did you go and what did you do?

A. We went into the Afro-Asian bookstore located at 1412 $\frac{1}{2}$ Jefferson Avenue, Buffalo, New York.

Q. And what did you do?

- A. We searched the store.
- Q. And at the time you went to the premises did you have any document or documents in your possession?
- A. Yes, I did.
- Q. And what did you have?
- A. A search warrant signed by Judge Joseph Sedita.
- Q. And did you, did you or anybody in your presence announce who they were and what they were doing?
- A. I did not announce but I heard Officers in front of me announce that they were Police Officers and we had a search warrant for the place.
- McKINNEY: Your Honor, I object and move that that testimony be stricken on the grounds it constitutes hearsay unless it's further connected.
- MR. DEBOZIN: Your Honor, I am going to lay a further foundation.
- THE COURT: Well, subject to the further foundation I will only allow, at the present time, the fact that he did not announce it.
- MR. DEBOZIN:
- Q. When you entered the premises who, if anybody, was in the premises?
- A. The defendant, Geraldine Robinson, Martin Sostre.

There were either three or four other persons other than Police Officers in there.

Q. And did you see, well, would you relate -- strike that -- there were other Officers in front of you, is that correct?

A. That's correct.

Q. And some of these Officers said something?

A. Yes, they did.

Q. And did you see to whom they directed their comments and how they spoke?

A. I didn't see who they did.

Q. Did you hear how they spoke? Was it loud, soft, very soft?

A. I could hear it as I was coming into the doorway.

Q. And was it loud at the point that you heard it?

A. Yes, it was.

Q. And what did they say?

A. "We're Police Officers and we have a search warrant for the place."

Q. And did you conduct a search of the premises?

A. Yes, we did.

McKINNEY: Excuse me, Your Honor, I am sorry Mr. Debozin, I would renew my objection and move to strike on the ground that there is insufficient foundation laid to estab-

lish any connection to the defendant, Geraldine Robinson, or to show that she, in fact, heard any such warning that was given.

THE COURT: Well, I will overrule that at this time subject to this being connected up later in some possible way. He is only testifying as to what he heard.

MR. DEBOZIN:

- Q. Now Officer when you went into the premises, did you aid in the search?
- A. Yes, I did.
- Q. Other Officers search the premises also?
- A. Yes, sir.
- Q. Did there come a time that you obtained or took any personal property from one, Geraldine Robinson?
- A. Yes, there was.
- Q. And when was that and what was it?
- A. It was a purse and it was after we had been in the place for awhile.
- Q. About how long?
- A. Possibly ten minutes.
- Q. And where was the purse at the time you took it?
- A. In her hand.
- Q. And did there come a time when you opened that purse?

A. Yes, there was.

Q. And what was in the purse, Officer?

A. There were several bills and personal possessions, belongings.

Q. Do you know to whom those personal belongings belonged?

MR. MCKINNEY: Objection, Your Honor. Without the knowledge impossible to be within the knowledge of this witness as to who it belonged to.

MR. DEBOZIN: Your Honor, I think to

THE COURT: Well, ask him if he knows.

MCKINNEY: It calls for an ^{operation?} operation.

THE COURT: I don't know how he could possibly know the answer to that question.

DEBOZIN:

Q. Do you know who the personal property in the purse belonged to?

A. Not other than the names that were on the personal papers that were in the purse.

Q. And whose names were on the personal papers in the purse?

A. Geraldine Robinson.

Q. And what else was in the purse other than personal papers, did you say?

A. Several bills.

Q. Do you know approximately how many bills in total there were?

A. To the best of my recollection, there was \$18.00.

Q. And did there come a time that you, yourself, did something with or to this money?

A. Yes, I compared the money that was in the purse with the money that we had prerecorded the serial numbers of.

Q. To compare serial numbers?

A. That is correct.

Q. And what did that comparison reveal?

A. Out of the \$18.00, five of the \$1.00 bills contained serial numbers that we had prerecorded on July 14th, 1967.

Q. Would that be the five singles?

A. Yes, it was.

Q. And did you do anything else with or to the money?

A. Yes, I also looked at it with the fluorescent light and I could see my initials on the bills, A. G.

Q. Now

MR. MCKINNEY: Your Honor, may I respectfully request that the witness be directed to fix the time and the place these actions testified to took

place.

MR. DEBOZIN: Your Honor, I am if I may be heard on that, Your Honor. First of all, I don't know what acts Mr. McKinney is talking about. We're talking about an entire span of time. Mr. McKinney is given an opportunity to cross-examine where he can ask times.

THE COURT: Well, I have some indication here that this was some time after 11:50 P.M. on the 14th of July, 1967 and that this took place shortly thereafter. I don't know if there is any difference in time.

MR. DEBOZIN: Well, Your Honor, I will ask this question.

THE COURT: Alright.

DEBOZIN: If that is what he wishes. Officer, do you recall approximately the time that you entered the premises on Jefferson Avenue known as the Afro-Asian bookstore?

THE WITNESS: Approximately 12:05 A.M., July 15, 1967.

MR. DEBOZIN: Now, Officer, I show you People's -- strike that, I'd better get it marked -- (Whereupon an envelope was marked People's Exhibit #2 for identification.)

DEBOZIN:

- Q. I show you People's Exhibit 2 marked for identification and ask you if you recognize any of the contents therein?
- A. Yes, I do.
- Q. And, Officer, have you ever seen those bills on another occasion on July 14th, 1967?
- A. Yes, I did.
- Q. And where did you first see those bills on July 14, 1967?
- A. In our office at Police Headquarters.
- Q. And what are those bills, Officer?
- A. They are five \$1.00 bills.
- Q. And where did you see them in reference to what did you see them on July 14th, 1967 at Police Headquarters?
- A. I took the serial numbers off of them and I also marked them with a fluorescent pencil.
- Q. Are those, did you see those bills on July 15th, 1967?
- A. Yes, I did.
- Q. And where did you see them on July 15th, 1967?
- A. In one of our offices at Police Headquarters.
- Q. And where had you seen those on July 15th, 1967?
- Did you see those in respect to Geraldine Robinson

on July 15th, 1967?.

McKINNEY: Oh, Your Honor, I object on the grounds that that is a very leading question and it's

THE COURT: I think the question ought to be rephrased, yes.

McKINNEY: You are testifying.

DEBOZIN: Now, did you at any time see those bills, whether on Geraldine Robinson?

McKINNEY: Objection, Your Honor.

THE COURT: Sustained.

DEBOZIN:

Q. Where did you see those on July 15th, 1967 between 12:05 A.M. and 12:15 A.M.?

A. They were in a purse that Geraldine Robinson had in her hand at the Afro-Asian bookstore at 1412½ Jefferson Avenue, Buffalo, New York.

DEBOZIN: Your Honor, I would like to hook up an appliance to this and it seems as though it's stuck. This electrical outlet is stuck.

THE WITNESS: There's another outlet.

DEBOZIN:

Q. Now, Officer, did you bring a source of ultra violet light with you today?

A. Yes, I did.

Q. And, by the way, have you ever used this powder or whatever it is you put on the bills?

A. Yes.

Q. You have used it on other occasions?

A. Yes, sir, I have.

Q. And have you ever used an ultra violet light in order to determine whether or not the presence of that powder is on other substances be it bills or whatever?

A. Yes, I have.

Q. And approximately on how many other occasions?

A. Approximately a hundred times I would say.

Q. And you have brought a source of ultra violet light with you, have you not?

A. Yes, sire.

Q. And would you apply that ultra violet light to the bills? Can you see your initials on those bills?

A. Yes, I can.

MR. DEBOZIN: Your Honor, would it be possible to let the jury see that? Could we bring it over here?

McKINNEY: May Counsel see it too?

DEBOZIN: Go ahead, you are welcome to.

THE COURT: Yes, they may see it if it can be connect-
ed there so the Defense Attorney and the
defendant and members of the jury may see
it. I don't know if there is a connection.

DEBOZIN: Well, I am wondering.

McKINNEY: Very good.

DEBOZIN: Why doesn't he pick it up. Pick up the
bills, bring it around here. I want it
noted for the record, Your Honor, that
Mr. Gristmacher has got the light displayed
on the bills and is showing the fluorescent
light on the bills and the initials on the
bills.

THE COURT: Let the record so reflect.

McKINNEY: Your Honor, so that there can be no ques-
tion, I wonder if we can have it recorded
as to precisely what initials appear under
the light just so the jury knows what they
are looking for.

DEBOZIN: Mr. Gristmacher, what initials are appear-
ing under the light?

WITNESS: A. G. are the only ones that I am looking
at.

DEBOZIN: Are there any other initials appearing under the light?

WITNESS: Yes, there are.

McKINNEY: I am referring to

DEBOZIN: You want it limited to that.

McKINNEY: Yes.

DEBOZIN: Okay.

THE COURT: Now you can show it to me, alright.

DEBOZIN:

Q. Now, Officer, did you at any time find the \$10.00 bill which was marked in the same manner as the singles?

A. Yes, I did.

Q. Did you personally find the \$10.00 bill?

A. I was there when it was found.

Q. Alright, did you see from where the \$10.00 bill came?

A. Yes.

Q. Where did it come from?

McKINNEY: Objection, Your Honor, on the grounds that it is irrelevant and immaterial unless it can be connected to the defendant, Mrs. Robinson.

THE COURT: I will overrule your objection.

McKINNEY: Respectfully except.

THE WITNESS: It was found in Martin Sostre's pocket.

DEBOZIN:

Q. Were you present when it was found in Martin Sostre's pocket?

A. Yes, I was.

DEBOZIN: Want to mark that?

(Whereupon an envelope was marked People's Exhibit #3 for identification.)

DEBOZIN:

Q. Now I show you People's Exhibit 3 marked for identification and ask you if you recognize that.

A. Yes, it's a bill we have the serial number recorded on July 14th, 1967. It also contains my initials, A. R. G., 7-15-67.

Q. Now did you see that bill that you say you had the serial numbers recorded on July 14th, 1967?

A. Yes, I did.

Q. And where did you first see it on July 14th, 1967?

A. In our office at Police Headquarters.

Q. And did you do anything in reference to that bill?

A. Yes, I took the serial number. To the best of my

recollection, it has fluorescent powder too.

Q. What did you do with that \$10.00 bill, if anything?

A. This is the \$10.00 bill that I gave to Arto Williams at Police Headquarters on July 14th, 1967.

Q. And when you saw it again in whose possession, and what day and approximately what time?

A. It was in Martin Sostre's possession at the Afro-Asian bookstore, 1412½ Jefferson Avenue, Buffalo, New York.

Q. And that was on July 15, 1967?

A. That's correct.

Q. Approximately what time?

McKINNEY: Your Honor, at this time I respectfully again object to the testimony and urge that it be stricken on the grounds the Officer has testified that he was present when it was found without any indication as to who in fact is the person alleged to have found it. Therefore, given in that form it is totally objectionable and prejudicial against the defendant and should not be admitted as against her. For the further reason there is no connection even, granted that

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he identifies the person that found it upon Sostre, there is no connection to the defendant Robinson.

THE COURT: Up to this point, Mr. Debozin, where is the connection? It has to be shown by later testimony, I assume?

DEBOZIN: Yes, Your Honor, the problem with trials is the logical sequence has to be done by each witness as he comes along.

THE COURT: I understand why the witness' testimony would be allowed to remain subject to being connected up. At this time I will give you an exception, Mr. McKinney.

McKINNEY: Thank you, Your Honor.

DEBOZIN: Now what was the last question Mr. Knapp? (Whereupon, the last question by Mr. Debozin was then read back by the reporter.)

DEBOZIN:

Q. Approximately what time?

A. Approximately 12:15 A.M., July 15th, 1967.

Q. Now did you have an opportunity to examine that \$10.00 bill, People's Exhibit #3 for identification under an ultra violet lamp?

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A. I did at the time yes, sir.

Q. And what, if anything, showed on the \$10.00 bill?

A. I don't recall without looking at it.

Q. Okay, did you place your initials upon that in the, with the ultra violet powder?

A. To the best of my recollections I did.

Q. Well, would it refresh your recollection if you put your, put the light upon it to see?

A. Yes, sir.

McKINNEY: Oh, Your Honor, I object. That is using the fact to prove an assertion I think that if he wants to refer to some notes to see if, in fact, he did it, alright. But the showing it on the bills is attempting corroboration. He can't use corroboration to prove an assertion when he hasn't been able to corroborate the assertion

THE COURT: Sustained.

DEBOZIN: It is my understanding that you can use anything to refresh his recollection.

THE COURT: There seems to be some uncertainty as to whether or not the initials were put on in the first instance. If this refreshing his memory attempts to buttress his testi-

mony in the first instance, I think that is objectionable.

DOBOZIN:

Q. Officer, did you make notes of the transaction which occurred on July 14th and July 15th, 1967?

A. Yes, I did.

Q. And do those notes, would those notes refresh your recollection as to whether or not there was any paint or powder put upon the bill?

A. Yes, sir.

Q. And did you bring those notes with you today?

A. Yes, sir.

Q. Would you examine those notes to determine whether or not there was any paint or powder put upon the bill? Do they refresh your recollection, Officer?

A. Yes, sir.

McKINNEY: Your Honor, at this time I would respectfully request of voir dire on the question of the notes that have been referred to.

DOBOZIN: Your Honor, do I understand the Counsel is requesting a preliminary examination?

McKINNEY: Yes.

DOBOZIN: On the notes which have been referred to?

McKINNEY: To determine whether or not a reference

to the notes, Your Honor, is permissible under the circumstances not any notes would be permissible to refer to.

DOBOZIN: Your Honor, it is my understanding that it is refreshing his recollection. Now, if Counsel wishes to cross-examine at the proper time on those notes he can have those available to him but, at this time, I know of no requirement that he has to

THE COURT: I will overrule your objection to give you an exception.

McKINNEY: I respectfully except, Your Honor. May I ask that Your Honor direct the witness to testify as to when the notes were made.

DOBOZIN: Your Honor, I am not going to cross-examine my witness. If he wants to cross-examine him, fine, at the proper time.

THE COURT: I think I will let that in for part of the cross-examination, Mr. McKinney. You will have sufficient latitude in that connection.

DOBOZIN: Now, Officer - what was my last question, Mr. Knapp?

THE COURT: Did it refresh his memory as to whether
or not the initials were put on there?
I think that a

DOBOZIN:

Q. Does that refresh your recollection, Officer, as
to whether or not the initials are upon the \$10.00
bill?

A. Yes, sir.

Q. And are the initials upon the \$10.00 bill?

A. They should be, yes, sir.

Q. Okay. Do you want to put the lamp on the \$10.00
bill?

A. Yes. It contains my initials, A.R.G.

Q. Now, Officer, with reference to People's Exhibit
#1, marked for identification, after receiving
that glassine envelope on July 14th, 1967 and
after conducting the test you previously testi-
fied to what, if anything, did you do with the
envelope?

A. I locked it in our evidence locker at Police Head-
quarters.

Q. And from the time that you received it until the
time that you locked it, where was it?

A. It was in the locker.

Q. I mean from the time you received it until the time

you locked it in the evidence locker, where was it?

A. In my possession.

McKINNEY: What envelope are you referring to; the entire envelope?

DOBOZIN: No, the glassine.

McKINNEY: That's what I mean. You didn't specify.

DOBOZIN:

Q. We were referring to the glassine envelope in People's Exhibit #1 marked for identification.

A. Yes, sir.

Q. Now did there come a time when you removed that glassine envelope from the evidence locker?

A. Yes, sir.

Q. And what, if anything, did you do with it after you removed it, the glassine envelope?

A. I turned it over to the Buffalo police chemist, Joseph Vaughan.

Q. And, by the way, how many keys are there to this locker, evidence locker.

A. I have the only one.

Q. And was that key in your possession from the time that you locked it, the evidence, in the evidence locker until the time you picked up the evidence from the evidence locker?

A. That's correct.

Q. And what was the condition of People's Exhibit 1 at the time that you picked it up from the evidence locker?

A. I didn't hear the first part, sir.

Q. What was the condition of People's Exhibit 1 marked for identification, the glassine envelope of People's Exhibit 1; what was the condition at the time you picked it up before you had taken it to the police chemist?

A. It was in that envelope and it contained my initials and Arto Williams' initials.

Q. And the date?

A. And the date.

DOBOZIN: No further questions at this time, Your Honor.

THE COURT: We'll take a recess right now before cross-examination starts. Ladies and gentlemen of the jury I must admonish you not to discuss this case among yourselves or with anyone or to form any opinion thereon until this matter is finally submitted to you. If anyone attempts to talk to you about this case or discuss it within your hearing, it is your duty to

report it to the Court. There will be a ten minute recess.

(Whereupon, a short recess was taken at approximately 3:29 P.M.)

(Proceedings ^{puruant} to short recess commencing at approximately 3:47 P.M.)

THE COURT: All right, Mr. McKinney. The testimony of Alvin R. Gristmacher having been previously duly called and sworn as a witness on behalf of the People is on the stand and further testifies as follows:

THE CRIER: Mr. Gristmacher, you are still under oath.

CROSS-EXAMINATION BY MR. MCKINNEY:

Q. Sargeant Gristmacher, how long have you been in the police?

for the City of Buffalo?

A. Sixteen years.

Q. I believe you testified during the course of those sixteen years you spent several years on the Narcotics Squad or some narcotics division of the Police Department? Is that correct?

A. It is correct.

Q. I believe it was further, you further testified on direct examination that you have had occasion to make arrests of narcotic cases on numerous occasions, hundreds of times. Is that correct?

A. That's correct, sir.

Q. Do you know more specifically how many narcotic arrests you have made during your seven years on the Narcotics Squad?

A. Exactly or approximately?

Q. Well, as closely as you possibly can. I wouldn't expect you to know it down to the last one, but you said several hundreds. Would that be one hundred, two hundred, three hundred?

A. I would say well over a thousand.

Q. Well over a thousand?

A. That is correct.

Q. And these are, you are referring to arrests that you personally made, is that correct?

A. Either personally made or

Q. Set up?

A. Set up or was there when the arrests were made.

Q. And how many of these couple of hundred cases have you actually testified in court on?

A. I would say well over a hundred.

Q. Now you further testify - withdraw it - prior to July of 1967, how many cases have you testified in?

A. A hundred or more.

Q. How many arrests have you made?

A. Several hundred.

Q. And did any of these - incidentally, did you ever have any occasion to arrest Arto Williams?

A. No, I do not recall arresting Arto Williams.

Q. Have you ever had occasion or recall having been present when Arto Williams was arrested by someone else?

DOBOZIN: Objection, Your Honor.

COURT: Overruled.

DOBOZIN: Your Honor, it is my understanding that by indirect testimony you cannot affect the credibility of a witness who is going to testify or who has testified which is exactly what this is attempting to do.

COURT: I will let him answer that question, whether he was present at any time when this man

was arrested.

THE WITNESS: No, I was not present at any time.

McKINNEY:

Q. At your request, has Mr. Williams ever testified in a case before this case?

A. In the Martin Sostre he testified.

Q. Prior to that case?

A. No, sir, he did not.

Q. Did you ever request him to testify?

A. Not that I recall no, sir.

Q. Prior to July 14th 1967, on how many occasions have you been in the company of Arto Williams?

A. Around a dozen times to the best of my recollection.

Q. Let's go back now. When was the first time that you were in the company of Arto Williams?

A. Sometime in the year 1967.

Q. That was within six or seven months prior to the particular incident that you have testified to. Is that correct?

A. That is correct, sir.

Q. And on that occasion did you see him in the Police Headquarters?

A. I have seen him in Police Headquarters.

Q. No, I am referring to the first occasion that you saw

him. Was that in Police Headquarters?

A. I do not recall the first time, sir.

Q. Well, you do not recall where it was or you do not recall when it was?

A. When or where it was. It was sometime before July 14th of 1967.

Q. Well, when you saw him on July 14th, 1967 when was the last time you had seen him prior to that time?

A. Possibly a day or so before.

Q. And did you have a conversation with him at that time in reference to what you planned to do two days later?

A. I do not recall.

Q. Did you make arrangements with him on the two days before July 14th to meet him on July 14th?

A. I think I did, yes, sir.

Q. And where did you make arrangements to meet him?

A. I had his phone number.

Q. Pardon?

A. I had his phone number.

Q. Were the arrangements with you that you were to call him and he was to meet you?

A. That is correct.

Q. And on July 14th, 1967, did you have occasion to call him on the telephone?

- A. I do not recall right now whether I called him earlier on that day or if I had met him.
- Q. Well, at any rate, whenever you met him it was by prior arrangement. Is that correct?
- A. It is correct.
- Q. Where did you first meet him on July 14th of 1967?
- A. At the corner of Winslow and Fillmore.
- Q. Was anyone with you when you met him?
- A. No, there was not.
- Q. Was there anyone with him when you met him?
- A. No, sir, there was not.
- Q. And did you meet him at that corner as a result of having agreed to meet him on that corner?
- A. That is correct.
- Q. And after meeting him where did you go?
- A. We drove to Police Headquarters.
- Q. And when you got to Police Headquarters is that when you first met Mr. Steverson?
- A. No, I had met Mr. Steverson a little earlier in the evening.
- Q. Well let's try to fix some dates. When, first, the first time on July 14th, did you meet with Arto Williams?
- A. 9:30 P.M., July 14th, 1967.
- Q. And that was at the corner of

- A. Winslow and Fillmore.
- Q. When, first, the first time did you meet the Trooper Steverson? Is that Steverson, Stevenson?
- A. Steverson.
- Q. Steverson. When was the first time you met him on July 14th?
- A. I would say between 8:00 P.M. and 9:00 P.M., July 14th, 1967.
- Q. And where did you meet him?
- A. In our office at Police Headquarters.
- Q. So that when you went to meet Arto Williams you left the Trooper Steverson at Police Headquarters. Is that correct?
- A. That is correct.
- Q. Now when you spoke to Arto Williams two days before July 14th of 1967, that was the 12th of July, is that correct?
- A. Could have been yes, sir.
- Q. Did you discuss with him at that time what you planned to do on the 14th of July?
- A. I do not recall, sir.
- Q. You have no recollection whatsoever?
- A. None.
- Q. Do you recall under what circumstances you met with him two days before July 14th, 1967?

A. Not exactly, no, sir.

Q. Well did you just happen to chance upon him in the street? Did you call him? Did you have him come to Police Headquarters? Did you meet him in Police Headquarters?

DOBOZIN: Objection, Your Honor. He has already said he doesn't have any recollection.

THE COURT: Well, I think there are a number of questions. I think we ought to take them one at a time.

MR. McKINNEY:

Q. Yes. Well let's start. Do you recall where you met him two days before July 14th, 1967?

A. Exactly, no, sir.

Q. Approximately?

A. I would say someplace in the Cold Spring area.

Q. Was that in the street?

A. Undoubtedly it was in the street, yes, sir.

Q. Do you recall approximately what time it was on that day?

A. I don't know exactly but it was undoubtedly at night.

Q. Did you have a conversation with him that day apparently in the Cold Spring section at night?

A. I do recall talking to him. Yes, sir, I do.

Q. And had you gone looking for him?

A. I do not recall, sir.

Q. You don't know whether you were looking for him or whether you just happened upon him, is that it?

A. I do not recall.

Q. Well you do recall having had a conversation with him, now is that correct?

A. That is correct.

Q. Do you recall whether that conversation included what you intended to do on the 14th, on July 14th of 1967?

A. It could've, yes, sir.

Q. Do you have any recollection of whether or not it definitely did?

A. No, sir I do not.

Q. Did you take any notes at the time that you had a conversation with him on July the 12th?

A. No, sir I did not.

Q. Do you have any notes at all that refresh your recollection as to when, where and about what you spoke to Arto Williams on July 12th, 1967?

A. No, sir I do not.

Q. Did you see him on July 13th, 1967?

A. Could've, yes, sir.

Q. Do you recall

A. No, sir I do not.

Q. Did you have a conversation with him on the 13th if you saw him?

A. If I saw him I would have had a conversation.

Q. And if you saw him and if you had a conversation, do you recall whether or not you may have had a conversation with respect to what you intended to do July the 14th?

A. Possibly, yes, sir.

Q. Did you take any notes at that time?

A. No, sir I did not.

Q. Do you have any notes that would refresh your recollection?

A. No, sir I do not.

Q. And was it on July 13th when you met with him that you arranged to meet with him on July the 14th?

A. It could've been, yes, sir.

Q. And when you spoke to him on July the 13th did you mention anything about the Afro-Asian Bookstore?

A. Could've, yes, sir.

Q. Well, when you say, could have, you mean you may not have?

A. May not have and could have.

Q. And as to July 12th you may or may not have, is that correct? Your response?

A. That is correct.

Q. Well when was the first time that you formed in your own mind the intention of going to the Afro-Asian bookstore?

A. On July 8th, 1967.

Q. Now on July 8th of 1967 did you go to court and seek to procure a search warrant for the premises of 1412 Jefferson Avenue?

A. No, sir, I did not.

Q. And after having talked to Arto Williams on July 12th did you go to a court or to a judge?

A. No, sir.

Q. And seek to procure a search warrant?

A. No, sir I did not.

Q. And on July 13th after talking to Arto Williams, if you talked to him, did you go to a court or to a judge and seek to procure a search warrant for the

premises of 1412 Jefferson Avenue?

A. No, sir, I did not.

Q. And on July 14th until 9:30 of that day did you go to a court and seek to procure a search warrant for search of the premises of 1412?

A. No, sir I did not.

Q. And at what time was it - withdraw it - did there come a time on July 14th that you did go to a court or judge and seek to procure a search warrant for 1412 Jefferson Avenue?

A. Yes, there was.

Q. What time was it that you went a judge or court and got the search warrant?

A. Approximately 10:30 P.M., July 14th, 1967.

Q. And who was with you when you procured the search warrant?

A. Trooper Steverson and Arto Williams.

Q. Was anyone else with you?

A. No, sir there were not.

Q. Are you sure of that?

A. Positive.

Q. And did one of you offer an affidavit in order to get the search warrant?

A. I got the search warrant from Judge Sedita, yes, sir.

Q. And was this after you had introduced the informer

Williams to Trooper Steverson?

A. Yes, it was.

Q. Now you say there came a time on the evening of July 14th, 1967 that you conducted a search of the informer Williams, is that correct?

A. That's correct.

Q. Where did you conduct that search?

A. In my car in the parking lot along side of Police Headquarters.

Q. Was that on the way back from getting the search warrant?

A. That was after we had come back from Judge Sedita's house, yes, sir.

Q. And you searched him in your automobile?

A. That is correct.

Q. Right outside of the Police Headquarters?

A. In my automobile and outside, yes, sir.

Q. After you searched him did you go into the Police Headquarters?

A. No, sir, I did not.

Q. You did not go back to Police Headquarters after you searched him?

A. No, sir, I did not.

Q. Had you returned to Police Headquarters after procuring the search warrant?

- A. Yes, sir, I did.
- Q. And had Mr. Williams, the informer, gone with you to Police Headquarters after you got the warrant?
- A. He was in my car, yes, sir.
- Q. And, well, did he go into Police Headquarters after you got the warrant?
- A. No, sir he did not.
- Q. Did you go into Police Headquarters?
- A. Yes, I did.
- Q. Whom was he left with, if anyone, when you went into Police Headquarters?
- A. With Trooper Steverson.
- Q. Now Sargeant Gristmacher, you have conducted searches of informer before, haven't you?
- A. That is correct.
- Q. Is it customary for you to conduct the search in a parking lot in the car outside of Police Headquarters?
- A. Under certain circumstances, yes, sir.
- Q. Don't you usually take them to Police Headquarters and search them there?
- A. Under certain circumstances, yes, sir.
- Q. Now Sargeant Gristmacher, did you testify before the Grand Jury in this case?
- A. Yes, I did.
- Q. Do you recall the date or dates of your testimony?

A. Not directly.

Q. Well, approximately?

A. August 4th, 1967.

McKINNEY: At this time, Your Honor, I respectfully request the People be directed to produce the transcript of Sargeant Gristmacher's testimony before the Grand Jury and the date that he testified.

COURT: Let the minutes be marked for identification and turned over to defense counsel. (Whereupon, the Grand Jury minutes of Sargeant Gristmacher were marked People's Exhibit #4 for identification.)

DOBOZIN: Let the record note that I am submitting the Grand Jury testimony of Detective-Sargeant Alvin Gristmacher to Mr. McKinney.

COURT: Alright. The record may show.

McKINNEY: Your Honor, may I have a brief recess?

COURT: You may do it right here. We'll just wait for you.

McKINNEY: Alright.

McKINNEY:

- Q. Sargeant Gristmacher, you testified to one \$10.00 bill and five \$1.00 bills. When, first, did the particular \$10.00 bill that you tes--, that you have testified to and the five singles come into your possession?
- A. Sometime between 8 o'clock and 9 o'clock P.M., July 14th, 1967.
- Q. And from whom did you receive these bills?
- A. Chief Amico.
- Q. Was that in Police Headquarters?
- A. Yes, sir.
- Q. And at the time that he issued these bills to you were they recorded in Police Headquarters?
- A. No, it was after he had handed them to me.
- Q. Did Chief Amico, in your presence, record the serial numbers of the bills that he gave to you?
- A. No, sir I do not remember that.
- Q. Has it ever come to your attention that Chief Amico recorded the serial numbers of the bills that he gave to you?
- A. I don't think he did, sir.
- Q. Now do you know where the bills that he gave to you came from?
- A. Out of his pocket.
- Q. Did he have you sign a receipt?
- A. No, sir, he did not.
- Q. For those bills? Who was present when Chief Amico

gave you those bills?

A. Sargeant Ronald Smith and Federal Agent Bruce Jensen.

Q. And that was about 8 or 8:30?

A. Somewhere between 8 and 9 P.M., sir.

Q. Was it immediately after you received the bills from Chief Amico that you put your initials upon them?

A. To the best of my recollection, yes, sir.

Q. Do you recall who was with you when you placed your initials on those bills?

A. Sargeant Smith and Federal Agent Jensen.

Q. Did either Patrolman Smith or Agent Jensen place his initials upon those bills?

A. To the best of my recollection, yes, sir.

Q. Pardon?

A. Yes, sir.

Q. Which of the two placed his initials upon the bills?

A. To the best of my recollections both of them.

Q. Are you now referring to the \$10.00 bill and the five singles or all six bills?

A. Agent Jensen's initials appear on the five \$1.00 bills and Sargeant Smith's

Q. Excuse me, Sargeant Gristmacher, that was not my question as to whether or not their initials appear.

I am asking which of the officers affixed their initials on the bills at that time.

- A. Sargeant Smith and Agent Jensen.
- Q. And upon what bills did Sargeant Smith affix his initials?
- A. To the best of my recollections the \$10.00 bill.
- Q. Did you see him put his initials on the \$10.00 bill?
- A. Yes, I did.
- Q. Did you see him put his initials on the five \$1.00 bills?
- A. I do not recall that.
- Q. Did he place his initials on the \$10.00 bill at your request?
- A. Yes, he did.
- Q. Did you request him to place his initials on the five singles?
- A. I do not recall.
- Q. Upon what bills did Agent Jensen place his - withdraw it - Upon what bills did you see Agent Jensen place his initials?
- A. To the best of my recollections all of them.
- Q. That means both the \$10.00 and the five singles?
- A. That is correct.
- Q. But you don't recall whether or not Patrolman Smith placed his initials on the five singles. Is that correct?

A. No, sir I do not.

Q. Would there be any reason why you would ask Ronald Smith to put his initials on only one bill and not on the other five?

A. No, sir there would be no reason.

Q. When Agent Jensen placed his initials on all of the bills did he do so in your presence, the presence of Patrolman Smith?

A. To the best of my recollections in our presence.

Q. Do you recall exactly where you were when these initials were affixed?

A. Yes, sir I do.

Q. Where was that?

A. In the Intelligence Squad office at Police Headquarters.

Q. And was Arto Williams there at that time?

A. No, he was not.

Q. Had you been in touch with Arto Williams at that time and possibly earlier?

A. Yes, sir.

Q. Now who provided you with the instrument that you used to affix the initials on the bills?

A. That is locked in our office.

Q. Well

A. At Police Headquarters.

- A. Well did you go to wherever it was located and take it yourself or did someone - did you issue a requisition for it or what?
- A. Chief Amico opened the door.
- Q. And he gave you the instrument, is that correct?
- A. No, I took it out of the locker.
- Q. Now after you place the initials with - withdraw it - Now was it at this time that you recorded the serial numbers of the various bills?
- A. That is correct.
- Q. And you were still in the Intelligence Office, is that correct?
- A. That is correct.
- Q. And who actually recorded the serial numbers of the six bills?
- A. To the best of my recollections I did.
- Q. Do you recall upon what they were recorded?
- A. A piece of paper.
- Q. Do you have that piece of paper with you, sir?
- A. No, sir I do not.
- Q. Do you know where that piece of paper is, sir?
- A. Yes, it was destroyed when other notes were made up.
- Q. This is the piece of paper upon which you made the original recording of the serial numbers on the bills, is that correct?

- A. That is correct.
- Q. And you destroyed it, did you?
- A. Yes, sir.
- Q. Do you recall when you destroyed it, that piece of paper?
- A. I think it was July 17, 1967.
- Q. Now before July - withdraw it - After having recorded the serial numbers upon this piece of paper that you destroyed, did you record the numbers on any other piece of paper on the evening of July 14th before entering the premises of 1412 Jefferson Avenue?
- A. No, sir I did not.
- Q. So that you did not have in your possession, nor do you know of the whereabouts of any single piece of paper that bears the recording of the serial numbers of these bills that you allege you found that were made prior to the arrest in the case? Is that correct? Yes or no?
- A. No, sir.
- Q. Did anyone besides you record to your knowledge in your presence record the serial numbers that appeared on the bills at that time that the initials were affixed?
- A. Yes, sir I think one other officer did.

- Q. Do you know who that is?
- A. Agent Jensen.
- Q. Have you seen that piece of paper since July 14th when you recorded the serial numbers on that piece of paper?
- A. No, sir I have not.
- Q. Did anyone else record the serial numbers upon a piece of paper?
- A. Not that I recall, sir.
- Q. Now at the time that you claim that you compared the serial numbers on the bills, with what did you compare the numbers on the bills?
- A. The note that I had taken when I first got the bills from Chief Amico.
- Q. And that's the piece of paper that you destroyed on July 17th, is that correct?
- A. Yes, sir.
- Q. So that the very piece of paper upon which appeared the original serial numbers that you then used to compare the bills that you claim to have seized subsequently has been destroyed and is not available. Is that correct?
- A. That is correct.
- Q. Did you have that piece of paper in your possession at all times, sir, up until the time you destroyed

it?

A. Yes, sir, I did.

Q. Was it ever in anyone else's possession?

A. No, sir it was not.

Q. Now you have testified with respect to July 12th, you did see Arto Williams probably in the Cold Springs section of town, is that correct?

A. Yes, sir.

Q. Do you recall what condition he was in when you saw him?

A. Not really, no, sir.

Q. Was he under the influence of drugs?

A. Could've been, yes, sir.

Q. And when you spoke to him was he under the influence of drugs?

A. Could've been, yes, sir.

Q. And when you saw him on July 13th what condition was he in?

A. I do not recall if I was with him on the 13th.

Q. When you first saw him on July 14th - withdraw it - Prior to July the 12th, Sargeant Gristmacher, had you seen the informer, Williams, under the influence of drugs?

A. Yes, sir.

Q. Do you know, had you ever had any conversations

with him with respect to his drug habit?

A. Yes, sir.

Q. Do you know approximately what his habit was?

DOBOZIN: Objection, Your Honor, we're now before July 12th and again we're getting to the point where it is not material or relevant to the proceedings.

McKINNEY: I will withdraw the question rather than have the speeches. I will rephrase the question.

THE COURT: Alright.

McKINNEY:

Q. Now Sargeant Gristmacher, you say that you had known Williams for a period of about four or five months prior to July 14th, is that correct?

A. Approximately yes, sir.

Q. And you knew him as a drug addict, didn't you?

A. Yes, sir.

Q. Now when you met him on July 14th for the first time, now let's see if we can clear this up. Do you recall approximately what time it was you first saw him on July 14th?

A. At night, 9:30 P.M.

Q. And that was at Police Headquarters?

- A. No, it was not.
- Q. Where was it?
- A. At the corner of Winslow and Fillmore.
- Q. When you got there was he standing on the corner?
- A. No, I think I arrived first.
- Q. And he came and got into your car, is that it?
- A. That's correct.
- Q. Did you have some conversation at that time?
- A. Yes, we did.
- Q. Did you give him any heroin?
- A. No, sir I did not.
- Q. Did you help him to have a fix?
- A. No, sir I did not.
- Q. Was he under the influence of drugs at that time?
- A. Yes, sir I would say he was.
- Q. So that when you saw the informer, Williams, at 8 o'clock, 9:30 on the evening of July 14th he was under the influence of drugs?
- A. That is correct.
- Q. Now, sir, you have indicated that you are somewhat of an expert. Can you tell us based on your observations about how long prior to your first seeing him he had had his last fix?
- A. Not exactly, no, sir.
- Q. Can you approximate, based on your experience and

based on your observations?

A. I would say within a four hour period.

Q. Is that because he had a fix every four hours?

MR. DOBOZIN: Objection, Your Honor, that's completely hearsay.

THE COURT: Sustained.

McKINNEY:

Q. When you saw him was he nodding?

A. No, sir he was not.

Q. Was he what you call flying?

A. He was alert.

Q. He was way up there in the clouds, wasn't he Officer?

A. No, I would not say that.

Q. Well how did you determine - withdraw it - What observations did you make that led you to believe that he was under the influence of drugs?

A. Just the way he was acting.

Q. How was he acting, Officer?

A. He wasn't sick.

Q. He wasn't sick?

A. No, sir.

Q. Had you ever seen him sick?

A. Yes, I have.

Q. How many occasions have you seen him sick?

A. I do not recall exactly how many times.

Q. Approximately how many times?

A. A few times.

Q. Pardon?

A. A few times.

Q. When he was sick it meant he needed drugs, is that correct?

A. That is correct.

Q. Did you ever assist him in getting drugs so he would'nt be sick?

A. No, sir I did not.

Q. Well what did you do when you saw him on the several times that he was sick?

DOBOZIN: Objection, Your Honor, totally irrelevant.

THE COURT: Where is the relevancy, Counselor?

McKINNEY: Well, Your Honor, I am trying to establish the reliability of information that the Officer has testified to.

THE COURT: Well I think he testified that he was sick on occasions and that he apparently needed drugs. He didn't give him any. I think that covers sufficiently the area. He is not a doctor, of course he didn't treat him.

McKINNEY: Well, Your Honor, he has been qualified as

an expert apparently. I'm merely trying to draw upon his expertise.

THE COURT: Well I will sustain the objection.

McKINNEY: Respectfully except.

McKINNEY:

Q. Now, Officer, was it 9:30 that you saw, you saw him and he wasn't sick? Now based on your experience with Arto Williams over a period of five or six months how frequently did he need a fix in order to, in order not to be sick?

DOBOZIN: Objection, Your Honor.

McKINNEY: If you know

DOBOZIN: Objection, Your Honor.

THE COURT: I will let him answer if he knows.

WITNESS: I don't know exactly.

McKINNEY: Approximately?

DOBOZIN: Objection, Your Honor.

THE COURT: I will let him answer.

WITNESS: Three or four times a day.

McKINNEY:

Q. When you said three or four times a day that means means three or four times during the day when he is awake, is that correct?

- A. Three or four, three or four hours during the 24 hour period.
- Q. If you know, sir, in what quantities did he have his fixes three or four times a day?
- A. I don't know, sir.
- Q. Now approximately what time was it that you conducted your search of the informer, Williams?
- A. Between 1, between 11:15 and 11:30 P.M., July 14th, 1967.
- Q. Now between 9:30 when you first met him, is that correct? You met him at 9:30?
- A. Yes, sir.
- Q. Between 9:30 when you first met him and between 11:15 and 11:30 did he have, was he always in your presence?
- A. Either myself or Trooper Steverson.
- Q. You mean there were times he was not in your presence but in the presence of others, is that correct?
- A. That is correct.
- Q. To the best of your knowledge between the hours of 9:30 and 11:15 or 11:30 that evening, did he have a fix?
- A. No, sir he did not.
- Q. And I believe it was your testimony to the best of your ability as an expert, based on your observations,

VAACP

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[REDACTED]

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when you first met him at 9:30, he had had a fix in the previous four hours, is that correct?

A. Approximately, yes, sir.

Q. So that at 11:15 or 11:30 when you conducted your search of him he may very well not have had a fix for as long as six hours, is that correct, Officer?

A. Could've been, yes, sir.

Q. And is your testimony, to the best of your knowledge, he required three or four fixes a day?

A. Approximately.

Q. To avoid being sick?

A. I don't know for sure.

Q. Alright. Now after this alleged search and after you left the premises - withdraw it - What time did you finally leave the location of 1412 Jefferson Avenue on July 15th, 1967?

A. I don't recall the exact time, sir.

Q. Well the approximate time?

A. It would have been after 1 o'clock to the best of my recollections.

Q. And did you see the informer, Williams, when you left there?

A. Yes, sir.

Q. Where did you see him?

A. At Police Headquarters.

Q. Was he sick?

A. He was complaining.

Q. Pardon?

A. He was complaining.

Q. What do you mean he was complaining?

A. He was complaining that we were gone so long and he was sitting up there.

Q. And he needed a fix, right?

A. Well,

DOBOZIN: I am going to object. How could this Officer know what was in the mind of

McKINNEY: He said, he said I am asking him, he said he needed a fix, right?

THE WITNESS: He didn't state that, no, sir.

McKINNEY: When you say he was complaining, he complained in a manner that you knew it meant he needed a fix, is that correct?

DOBOZIN: Objection, Your Honor.

THE COURT: Well I will sustain that.

McKINNEY:

Q. And after you saw him - withdraw it - What time did you say it was you saw him back at Police Headquarters after leaving 1412 Jefferson Avenue?

A. Somewheres around 2:00 A.M.

- Q. And that was approximately six - withdraw it - Four and a half hours after you first met him at 9:30, is that correct?
- A. Approximately, yes, sir.
- Q. To your knowledge, was he at the Police Station all during the time that he wasn't with you?
- A. Yes, he was.
- Q. And how long did he remain at the Police Station after you arrived at 1:30, 2 o'clock?
- A. I don't know exactly what time he left but we did take a statement from him after I got there.
- Q. Well I didn't ask you whether or not you took a statement. Approximately what time was it that he stayed there 'til?
- A. I don't know.
- Q. Was it for a half hour, an hour?
- A. It could've been, yes, sir.
- Q. Could it have been longer?
- A. Could've been, yes, sir.
- Q. Could it have been until four or five o'clock in the morning?
- A. I don't think it would have been that long, sir.
- Q. Now, Sargeant Gristmacher, you've testified now to a period of time from approximately 8 o'clock when you first got these bills from Chief Amico until

sometime early the following morning, is that correct?

A. That is correct.

Q. Do you have with you today any notes that you recorded simultaneously with all these transactions that took place?

A. I have my notes that were typed up from other notes that I had made during the evening.

Q. Let me reframe the question. As the various events took place on the evening of July 14th and the morning of July 15th did you record in long hand with your own handwriting notes of the events that took place? Yes or no?

A. Yes, sir.

Q. Do you have that piece of paper or those pieces of paper upon which you made those notes? Yes or no?

A. No, sir.

Q. Are they still in existence anyplace?

A. No, sir, they are not.

Q. Have they been destroyed?

A. Yes, sir they have.

Q. And they have been destroyed just like the first piece of paper on which you recorded the serial numbers of the bills. Is that correct?

A. That's correct.

- Q. Now you volunteered the information that you recorded, you have some typewritten notes there, is that correct, Sargeant Gristmacher?
- A. That is correct.
- Q. And you say they reflect the notes - withdraw that - They are the transcript of your original notes, is that correct?
- A. That is correct.
- Q. Who typed that transcript?
- A. Agent Jensen.
- Q. And when did he, if you know. When did he make this transcription?
- A. To the best of my recollections, July 17th, 1967.
- Q. That was three days after these events started to unfold, is that correct, sir?
- A. That is correct.
- Q. Did Sargeant Jensen record - withdraw it - Now, sir, you say arrived at a corner somewhere near the Afro-Asian bookshop at approximately 11:30, is that correct? Approximately 11:30 on the evening of July 14?
- A. It was after 11:30.
- Q. Well approximately what time was it then?

A. Quarter to twelve.

Q. Alright. And it was at this corner, what is that corner?

A. Woodlawn and Dupont.

Q. And how far is the corner of Woodlawn and Dupont from the corner of Woodlawn and Jefferson?

A. One short block.

Q. And when you arrived at that location you were at that time accompanied by the informer, Williams, and State Trooper Steverson, is that correct?

A. That is correct, sir.

Q. Was anyone else with you at that time?

A. No, sir there were not.

Q. Was Agent Jensen with you?

A. No, he was not.

Q. When had you last seen Agent Jensen?

A. At our office, I think it was at about 11:15 P.M.

Q. Was this in the Intelligence Office?

A. In the Intelligence Office of the Narcotics Squad office.

Q. And when you last saw him at the Police Station was Williams with the two of you?

A. No, I think Arto Williams was down in the car with Trooper Steverson. I was up in the office by myself.

Q. So that when you searched, as you say, informer Williams, Jensen was not present, is that correct?

A. No, sir he was not.

Q. And when you searched the informer Williams, where were you and where was he in relation to the front and rear of the automobile?

A. To the best of my recollection he was seated on the passenger side of the car but we did get out of the car.

Q. Well you say to the best of your recollection, do you have any difficulty, sir, recalling the facts surrounding the search of Williams in your automobile on that night?

A. Not exactly, no, sir.

Q. Well when you say not exactly, what do you mean? Do you mean you some difficulty?

A. The incidents happened two years ago.

Q. I understand. It was a very important incident, was it not?

A. Yes, it was.

Q. You recall that you definitely searched him, do you not?

A. Yes, I do.

Q. No question in your mind about that?

A. No, sir.

- Q. Well to the best of your recollection, sir, where was Mr. Williams when you searched him?
- A. He was sitting in the passenger side of my automobile.
- Q. And where were you?
- A. Behind the wheel.
- Q. And did you have him take off his clothes?
- A. No, sir, I did not.
- Q. Did Trooper Steverson assist you in the search?
- A. No, sir he did not.
- Q. Did you conduct this search - withdraw it - I believe you say your car was parked in a parking lot, is that right? Next to the Police Station?
- A. That is correct, sir.
- Q. Were there other cars there?
- A. Could've been, yes, sir.
- Q. Are there overhanging lights over that parking lot?
- A. No, sir there are not.
- Q. Now no illumination on the outside?
- A. No, sir there is not.
- Q. And you conducted the search on the inside of the car?
- A. Inside and outside, sir.
- Q. Right outside of the car?
- A. Yes, sir.

- Q. In the parking lot?
- A. Yes, sir.
- Q. Did you have a flashlight?
- A. I had one, yes, sir.
- Q. Did you use it?
- A. I don't recall.
- Q. Okay. Now you conducted your search and you went to Woodlawn and one block from Woodlawn and Jefferson, Dupont and Woodlawn, as you rode from the parking lot next to the Police Headquarters to that location, who drove?
- A. I did.
- Q. Who was seated in the front?
- A. Arto Williams .
- Q. Who was seated in the back, if anyone?
- A. Trooper Steverson.
- Q. Was anyone else in the car?
- A. No, sir.
- Q. Alright. Then you got to the location and then got out, is that correct?
- A. That is correct, sir.
- Q. Did you search Williams again?
- A. No, sir I did not.
- Q. Did Officer Steverson search him in your presence?
- A. No, sir he did not.

Q. Now there came a time when you say that Steverson and Williams came back to the car?

A. Yes, sir.

Q. And someone handed you a glassine envelope, is that correct?

A. It is correct, sir.

Q. Who handed you that envelope?

A. Arto Williams.

Q. Did he have it in any other container?

A. No, sir, he did not.

Q. And this is the envelope that you allege he handed to you, People's Exhibit 1 for identification?

A. Yes, sir it is.

Q. And is that the condition in which it was at the time that he handed it to you?

A. Minus the initials, yes, sir.

Q. Pardon?

A. Minus the initials, yes, sir.

Q. And in every way, shape and form it is in the same condition as he handed it to you, is that correct?

A. I think the stuff is still in that.

Q. Pardon me?

A. I think there is something still in it, isn't there?
The scotch tape wasn't broken.

Q. The scotch tape wasn't broken?

A. No, sir it was not.

Q. Who broke the scotch tape?

A. I did.

Q. When did you break the scotch tape?

A. A little after midnight at the corner of Dodge and Main.

Q. Out in the street?

A. Yes, sir.

Q. And then what did you do with it?

A. I took the Marquis reagent of the contents.

Q. Now, tell us, Officer, more specifically, precisely what you did to conduct this test that you refer to?

A. Took a small amount of the white powder out of the glassine, the inner glassine envelope, the inner glassine bag, and dumped it into a small glass vial.

Q. Now before you proceed, Officer, do you have that vial?

A. The one that was used?

Q. Yes.

A. No, sir.

Q. Do you have the residue of the material that you took the test of?

A. No, sir I do not.

Q. Did you turn it over to the chemist?

A. That was in the bottle or in the vial? No, sir.

- Q. Yes, alright, now proceed. You put a little bit of this in that vial, is that correct?
- A. That is correct.
- Q. Then what did you do?
- A. Waited to see what happened.
- Q. Well when you put it in the vial was the vial empty or did it have something else in it?
- A. It had some fluid in it.
- Q. What is the fluid?
- A. Sulphuric acid.
- Q. What is sulphuric acid?
- A. I don't know, sir.
- Q. Didn't you receive training in narcotics and in the test?
- A. Not on the contents what was in, we were told what was in it but not actually what it was.
- Q. When you were trained to test narcotics, wasn't it explained to you why various chemical reactions take place?
- A. No, sir it was not.
- Q. And you were told that you used sulphuric acid, is that correct?
- A. That sulphuric acid was in it, yes, sir.
- Q. Well, wait a second, you were told when you were trained that sulphuric acid was in what?

- A. In the glass vial.
- Q. Were you provided these glass vials when you go for training?
- A. With these Marquises, Marquis reagents, yes, sir, we were.
- Q. You had a preprepared glass vial, is that correct?
- A. That is correct.
- Q. And it had sulphuric acid?
- A. Yes, sir.
- Q. Do you know what sulphuric acid is?
- A. No, sir.
- Q. Where did you get the glass vial on that particular occasion?
- A. It was furnished by the Federal Bureau of Narcotics as a test kit.
- Q. Who gave it to you?
- A. I don't recall exactly.
- Q. You have no recollection?
- A. I would say Agent Jensen but I am not sure.
- Q. And when you took it you just assumed it had sulphuric acid in it, is that correct?
- A. That is correct.
- Q. You don't know, as a fact, whether or not it did have sulphuric acid in it, do you?
- A. Not exactly, no, sir.

- Q. As a matter of fact, you don't even know what sulphuric acid is, do you?
- A. That is correct.
- Q. And you don't know why something has a certain reaction when it is submitted or it is exposed to sulphuric acid, do you?
- A. That is correct.
- Q. Now after you took -- Incidentally, did you measure the quantity of the substance that you say was in here before you put it in the vial?
- A. No, sir, I did not.
- Q. Now of course in order to put some of this in there you had to open it up, isn't that correct?
- A. That is correct.
- Q. So that it no longer was in the same condition as it was when it was handed to you?
- A. That is correct.
- Q. It didn't even contain the same quantity of what it was that Arto Williams allegedly gave you?
- A. That is correct.
- Q. Now after you took a quantity of whatever was in here and put it in this vial, what did you do with this package?
- A. Kept it in my possession.
- Q. Well, before you put it back - withdraw it - did you

do anything besides put your initials on it?

A. I put it back in that inner envelope and the outer envelope.

Q. You tried to simulate the condition that had existed when you first got it, right?

A. Yes, sir.

Q. But, in fact, it was not in the condition that it was when you first got it, was it?

A. That is correct.

Q. And then after you put it back in this envelope, did you put it in the white envelope? Is this envelope you put it in?

A. No, sir.

Q. Well what did you put it in?

A. Kept it in my pocket.

Q. Just as it is now?

A. That's correct.

Q. Do you remember what pocket you put it in?

A. No, sir, I do not.

Q. Do you remember what you did with it after you put it in your pocket on the morning of July 15th?

A. Yes, eventually I did put it in that envelope and placed it in the Evidence locker.

Q. On the morning of July 15th?

A. Yes, sir.

- Q. I ask you to take a look at this envelope which is marked People's Exhibit 1 for identification. Is there anything on that envelope that makes you able to say that that is the envelope in which you placed this package?
- A. No, sir there are not.
- Q. Did you put any identifying mark on it?
- A. No, sir I did not.
- Q. When did you put this glassine envelope in this envelope?
- A. Sometime in the early morning hours of July 15th, 1967.
- Q. Can you be more specific about what time was it?
- A. Four o'clock, five o'clock, I don't recall.
- Q. Alright. Did you seal this envelope?
- A. I don't recall that, sir.
- Q. You have no recollection?
- A. I just don't recall.
- Q. What did you do with the envelope after you put the glassine envelope inside the white envelope?
- A. To the best of my recollections
- Q. Did you put it back in your pocket?
- A. To the best of my recollections I stapled it to a laboratory analysis sheet.
- Q. Do you have that laboratory analysis sheet?

A. I don't have it right here, no, sir.

Q. Do you have it?

A. It's available, yes, sir.

Q. Put away someplace?

A. Yes, sir.

Q. After you stapled it to this laboratory analysis sheet, what did you do with it?

A. Placed it in my Evidence locker at Police Headquarters.

Q. About what time was that?

A. Four or five A.M.

Q. Now you testified that there came a time when you entered 1412 Jefferson Avenue.

A. That is correct, sir.

Q. Right, but there were other police officers ahead of you when you entered, is that correct?

A. That is correct, sir.

Q. Give us the names, rank and shield number, if you can, of each of the other officers that entered the premises before you or with you.

A. To the best of my recollections it was Detective Sargeant Smith.

Q. That is Ronald Smith that you referred to before?

A. Yes, sir.

Q. Yes.

A. Agent Jensen; Detective Hassett.

Q. I'm sorry, how do you spell that?

A. Hassett.

Q. Yes.

A. Investigator Rock of the New York State Police;
Ferdinand Strojnewski from the Narcotics Squad.

Q. How do you spell that?

A. Strojnewski.

Q. Thank you.

A. Captain Williams was there, Chief Amico was there.

Q. Now, excuse me, sir. Are these, these are names
of people that all went in before you?

DOBØZIN: I object to that. The question was be-
fore or with him.

THE COURT: That's right.

McKINNEY:

Q. I am sorry. Before or with you, yes.

A. There were some more but I just can't recall who
they were.

THE COURT: We'll adjourn now, Mr. McKinney. We'll
continue in the morning. Ladies and
gentlemen of the jury, the Court admon-
ishes you once again not to discuss this
case among yourselves or with anyone

or form any opinion on this case until it is finally submitted to you. If anyone should attempt to talk to you about this case, or discuss it in your hearing, it is your duty to report it to the Court. This Court stands in recess until 10:00 o'clock tomorrow morning.
(Whereupon, Court was adjourned for the day at approximately 4:48 P.M.)

Proceedings of May 20, 1969, commencing at approximately 10:08 A.M. Appearances as before noted. Jury polled, all jurors present. Two alternate jurors present. Defendant present.

THE COURT: We are at the point of cross-examination of the

of the people, resume the stand and further testify as follows:

MR. MCKINNEY:

Good morning, Your Honor, Ladies and Gentlemen of the jury, Mr. Debozin, Sgt. Grismacher. May I have the last series of two or three questions and their responses please.

WHEREUPON, the above requested testimony was then read by the reporter as follows, quote:

"Now excuse me, Sir, are these, these are names of people that all went in before you."

CROSS EXAMINATION by Mr. McKinney continued:

- Q. Now Sergeant, you have testified that several of these police officers that you have referred to entered the premises before you did, is that correct?
- A. That's correct Sir.
- Q. Do you know approximately how many of the total number of officers that entered before or with you or entered at that time, entered before you ?
- A. Three or four anyway.
- Q. Is it possible that more than three or four entered

before you?

A. It is possible, yes Sir.

Q. Now you testified that, withdraw it.

Now as you entered the premises, and three or four or more officers entered before you, may we assume that their backs were to you as you proceeded in?

A. Yes Sir.

Q. Now precisely where were you in reference to the actual doorway of the premises (pause) when you heard someone say, someone state their authority?

A. I was in the vestibule.

Q. When you say the vestibule, that is an area between the, from the building line, between the building line and the actual doorway into the premises. Is that correct?

A. Yes Sir.

Q. So that you had not yet actually entered the premises when you heard this. Is that correct?

A. No Sir.

Q. And those officers who had preceded in before you had their backs to you. Is that Correct?

A/ That is correct.

Q. Therefore, Sir, you didn't know who said what who said the authority of the group of officers entry. Is that correct?

A. No Sir. I do not. I didn't recognize who had said it.

Q. You did not know who made the statement.

A. No Sir.

Q. As a matter of fact you cannot say whether it was one of the officers, can you sir, since you could not recognize who it was who said it, isn't that correct sir?

A. I would say that it was one of the officers but I just didn't recognize.

Q. That is an assumption on your part, is it not sir?

A. No. I would definitely say that I heard one of the officers say that.

Q. If you heard one of the officers say it then you recognized the voice of the officer. Did you not?

MR. DEBOZIN: OBJECTION, Your Honor, It is assuming a statement of facts which hasn't been previously testified to.

COURT: I will SUSTAIN the objection.

MCKINNEY: While I respectfully except, officer you said that you know it was one of the officers' witness.

A. Yes Sir.

Q. Which Officer was it?

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- A. To the best of my recollections, I am almost positive it was Jeremiah Hasset.
- Q. Who?
- A. Jeremiah Hasset.
- Q. And do you believe it was Jeremiah Hasset because you recognized his voice?
- A. Yes sir.
- Q. Now do you recall the names of the officers who entered the premises before or would you at least give the names that you remember?
- A. Sargeant Smith, Investigator Rock, Detective Hasset, Agent Jensen . I just can't recall who else.
- Q. Now was Mr. Smith in uniform?
- A. No Sir, he was not.
- Q. Was Mr. Jensen in uniform?
- A. No Sir, he was not.
- Q. Was Mr. Hasset in a uniform?
- A. No Sir, he was not.
- Q. Was Mr. Rock in a uniform?
- A. No sir, he was not.
- Q. And before they entered the premises did Mr. Smith have a badge affixed to the outside of his suit?
- A. No Sir, he did not.
- Q. Did Mr. Jensen have a badge affixed to the outside of his suit?

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- A. No Sir, he did not.
- Q. Did Mr. Hasset have a badge affixed to the outside of his suit?
- A. No he did not.
- Q. Did Mr. Rock have a badge affixed to the outside of his suit?
- A. No Sir, he did not.
- Q. Before these four gentlemen entered the premises did they have any indicia of authority in terms of their being officers of the law in full view?
- A. No Sir, they did not.
- Q. Now I assume sir that after these four officers had entered the premises, you entered the premises, is that correct?
- A. That is correct.
- Q. Were you in uniform sir?
- A. No Sir, I was not.
- Q. Did you have a badge affixed upon the breast of your suit?
- A. No Sir, I did not.
- Q. Did you have any indication of your being a police officer in open view?
- A. No Sir, I did not.
- Q. Now detective, when you got into the premises, how many people were present in addition to the four off

ficers and yourself?

A. Geraldine Robinson, Martin Sostre, and three of the four younger boys.

Q. Do you know who any of those three or four younger boys were?

A. No Sir, I do not.

Q. Did you take their names at that time?

A. Yes I think they were taken to police headquarters.

Q. No. I am sorry. Will you please respond to my question.

Did you take their names at that time?

A. At the time, no Sir.

Q. I see. Did you have occasion to record their names.

A. I didn't, no sir.

Q. Do you have any notes in your possession now that would refresh your recollection as to who those two, three or four boys were?

A. No Sir.

Q. Do you know independently of your own recollection who those two three or four boys were?

A. I do know that there were some other persons taken to police headquarters.

Q. You don't know who they were?

A. Not right off hand, no sir.

Q. Now when you entered the premises, Sgt. Grismacher,

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where in relation to the, withdraw it.

Sgt., can you describe for us the interior of this shop?

- A. As you walk in on the right hand side there would be racks containing records and other items. About half way back there is a partition with an opening on the left, there possibly could have been an opening on the right but I don't recall the opening on the right. On the left hand side, there was a glass counter and other racks. I recall records and figurines inside the store.
- Q. When you entered who was the first person, other than the three officers that you saw.
- A. Geraldine Robinson.
- Q. And did you walk right over to her at that time.
- A. No, she was heading towards the back room.
- Q. Did you follow her?
- A. Pardon. Yes sir.
- Q. And where did you go?
- A. Into the backroom.
- Q. Did anyone else go in the back room with you?
- A. Yes Sir.
- Q. Who went into the backroom?
- A. Several officers were running after Mr. Sostre.
- Q. Did there come a time when you grabbed hold of

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Geraldine Robinson in the back?

A. I myself.

Q. Back room, I mean?

A. I, myself, no sir.

Q. Did there come a time when someone else grabbed hold of Geraldine Robinson in the back room?

A. I recall her being there, in the back room, yes sir.

Q. You don't recall any of the officers grabbing her by the arm or some other fashion?

A. No sir, I do not.

Q. You testified, did you not, sir, that someone, sir, or you, I believe or someone else took Geraldine Robinson and placed her in a chair and told her that she was under arrest.

A. No sir, I did not testify to that question.

Q. Well, you testified that you took the purse from Geraldine Robinson, is that correct?

A. That is correct?

Q. Where was she when you took her purse?

A. To the best of my recollection, she was standing near the opening, going into the back part of the store.

Q. But she was actually in the main portion of the premises. Is that correct? What would be called the front portion in front of the partition that you have re

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referred to?

- A. I would say that she was near the part yes.
- Q. And when you took her purse sir, was anyone, did anyone assist you in taking that purse,
- A. I recall agent Jensen being very close to me.
- Q. Did he assist you taking the purse, yes or no.
- A. I don't recall.
- Q. Well after the purse was, after you took the purse from Mrs. Robinson, did you keep it in your possession?
- A. Yes I did.
- Q. And did you go into the pocketbook, into the purse?
- A. No sir, not at that time, no.
- Q. When did you go into the purse of Mrs. Robinson.
- A. At police headquarters.
- Q. That is the first time?
- A. That is correct.
- Q. Did anyone else have possession of Mrs. Robinson's pocketbook from the time you took it from her in the premises until the time that you searched it in police headquarters?
- A. No Sir.
- Q. Are you sure of that?
- A. I am positive.
- Q. Did anyone else have their hands on it?

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- A. No sir.
- Q. From the time that you took it from her.
- A. No sir.
- Q. Did Officer Rock have his hands on it.
- A. No sir.
- Q. Officer Smith?
- A. No sir.
- Q. Agent Jensen.
- A. No Sir.
- Q. All right. Now when you got to police headquarters, and you conducted the search of the purse, where in police headquarters did the search take place?
- A. In the Intelligence Squad Office.
- Q. And this was how long after you had initially taken it from the possession of Mrs. Robinson?
- A. Approximately an hour.
- Q. And did the Intelligence officers say..
- A. That is correct.
- Q. Who was present when you conducted the search of that pocketbook?
- A. Agent Jensen and Sgt. Smith.
- Q. Now would you please describe to us exactly how you emptied that purse, or took out its contents.
- A. Opened it, tipped it upside down and all the contents went out on the desk.

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- Q. Did you do this personally, Sgt. Grismacher?
- A. Yes I did.
- Q. Did anyone assist you in doing this?
- A. No sir, they did not.
- Q. And when you entered the contents on the table of some kind
- A. On the desk, yes sir
- Q. Who was present
- A. Sgt. Smith, Agent Jensen
- Q. Now did you then take something from amongst the contents of that purse?
- A. Yes, we looked at the money.
- Q. No Sgt. Grismacher, if I ask you these questions Now when I say "you" I mean you personally, Sgt. Grismacher. Did you personally take something from amongst the contents that you had emptied out on the table.
- A. That is correct.
- Q. What did you take?
- A. The money.
- Q. When you said, "money", how much money?
- A. To the best of my recollections, it was \$18. and change.
- Q. And what denominations were the \$18.
- A. I do not recall.

- Q. You have no recollection whatsoever?
- A. Not exactly, no sir.
- Q. At the time that you emptied the contents of the purse on the table, did you record each item that you found inside the purse?
- A. No Sir, I did not.
- Q. Did you record the serial numbers of the bills that you found amongst the contents?
- A. No sir, I did not.
- Q. Did you return the contents of the purse to Mrs. Robinson?
- A. I didn't, no sir.
- Q. Was Mrs. Robinson present when you emptied the purse on the table in the intelligence room?
- A. No, I don't think she was.
- Q. And you made no notes whatsoever of what you extracted from her purse?
- A. No sir.
- Q. Did you give her a receipt for what you had taken from her, yes or no?
- A. I didn't, no sir.
- Q. Well did anyone else take items out of her purse besides you?
- A. No sir.
- Q. But you did not give her a receipt

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A. No. Sir.

Q. Did you record at the police station on any of the records of the police department the items that you seized from Mrs. Robinson?

A. No Sir.

Q. Now after you took these items from her purse did you take them and put them in your evidence locker?

A. No Sir.

Q. What did you do with them?

A. They were turned into the property clerk?

Q. Oh did you turn them into the property clerk?

A. Yes sir.

Q. Did you get a receipt? Yes or no.

A. There was a receipt, I don't recall whether I got it or Mrs. Robinson got it.

Q. Please respond to my question.

Did you get a receipt when you turned the items into property clerk?

A. I do not recall.

Q. Was Mrs. Robinson present when you turned the items over to the property clerk? Yes or no.

A. I do not recall.

Q. Did the property clerk in your presence take an inventory of the items that you submitted to the clerk.

A. I do not recall.

Q. Was anyone present with you when you turned these items over to the property clerk?

A. I do not recall.

Q. Did you turn over everything to the property clerk that you had taken out of the purse of Mrs. Robinson? Yes or no.

A. Yes

Q. Is it, withdraw it.

Now sir, getting back to the premises. I believe it was your testimony yesterday, correct me if I am wrong, that you were present when Martin Sostre was searched. Is that correct?

A. I was there, yes sir.

Q. But you did not search him, is that correct?

A. No sir.

Q. Well no it's not correct, or no you did not search him?

A. No I did not search him.

Q. You did not search him. There is no question in your mind about that, is that correct?

A. No sir.

Q. Who, withdraw it.

Was he searched in your presence by another officer?

A. Was standing along side of other officers that were searching him. Yes sir.

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Q. Do you recall who it was who searched him to the best of your recollection?

A. To the best of my recollections, Detective Hasset, Investigator Rock, Agent Jensen and Sgt. Smith were right there by him.

Q. I believe you testified that you were present when they found something upon his person. Is that correct?

A. No sir, I did not testify to that.

Q. Did you sir, withdraw it.

Will you please tell us exactly what happened in your presence, withdraw it. Sorry. Just a moment.

So officer, when you tell us that you emptied, withdraw. I believe you said that the first time you went into the purse of Mrs. Robinson after taking it from her was at police headquarters. Is that correct?

A. That is correct.

Q. You just took the purse and held it in your possession and you didn't go through its belongings before you got to police headquarters? Is

A. That is correct.

Q. You are absolutely certain of that sir?

A. Positive.

Q. Didn't you testify yesterday that you saw what was in the purse between 12:05 and 12:15 a.m. at

the Afro Asian bookstore?

A. No sir, I did not.

Q. You didn't testify to that yesterday?

A. No sir, I did not.

Q. Well if you did testify to that yesterday, were you in error yesterday or would you have been in error today?

DEBOZIN: OBJECTION, you Honor,

THE COURT: He said he didn't testify to it. The record speaks for itself. I will sustain the objection.

MCKINNEY: Your honor, may I please have the stenographer.

COURT: Well we're going to hear all of his testimony read.

MCKINNEY: No just the one question, your Honor. I have specific notes here. I would like to clarify it.

DEBOZIN: Your Honor,

MCKINNEY: It's toward the end.

THE COURT: Yes

DEBOZIN: Your Honor, does Counsel want us to stand here while Mr. Nab reads his notes to see the particular question that Counsel wants, or can we continue the cross

examination and have Mr. Nab ..

THE COURT: I think we ought to continue and have Mr. Nab look at his notes and find it later on.

MCKINNEY: Very well.

Q. Sgt. Grismacher you testified yesterday that after conducting the test upon the envelope contained in the white envelope, People's exhibit 1, for identification, that you kept it in your possession until July 17. Is that correct sir?

A. That is correct.

Q. That was for a period of three days. Is that right?

A. That is correct.

Q. That was for a period of three days. Is that right?

A. I said that I locked it in the locker on the 15th on the morning of the 15th. I opened the locker and then delivered it to the chemist on July 17/

Q. Right. Where is the police chemist's office or laboratory located?

A. On the fourth floor at police headquarters.

Q. Is that the same headquarters where you maintain your evidence locker?

A. Yes Sir.

Q. What floor is your locker?

A. The third floor.

Q. That is one floor below the police lab. Is that correct?

A. That's correct.

Q. Was the police laboratory opened on the morning of the 15th of July?

A. No sir, it was not.

Q. It was not opened?

A. No sir.

Q. What day of the week was that?

A. To the best of my recollections, it would have been Saturday.

Q. Was the police lab opened at all on Saturday?

A. No sir, it was not.

Q. How about on Sunday?

A. No sir, it was not.

Q. On Monday?

A. Yes Sir.

Q. Now I assume that you delivered the envelope on Monday morning to the police lab, is that correct?

A. Yes Sir.

Q. And to whom did you deliver it?

A. To the police chemist, Joseph Vaughn.

Q. Now when you delivered, when you delivered the

envelope to the police chemist, Vaughn, did you deliver it to him in that white envelope?

A. That is right.

Q. Was it sealed?

A. I don't recall if it was sealed.

Q. Well did you seal that envelope at any time after placing the glass envelope inside?

A. I don't recall whether I sealed it or not.

Q. When you delivered it to the police chemist, Vaughn, did you have any conversation with him at that time?

A. Not that I recall sir.

Q. You just delivered it to him?

A. That's correct.

Q. Indicating that it was evidence to be tested, is that correct?

A. We have a standard form that we present with any evidence and its made out in usually triplicate. He retains one copy of it and gives us the other copy of it

Q. Did you make out that form?

A. To the best of my recollections, yes.

Q. Do you have a copy of that form with you?

A. There is a copy of it available.

Q. May I see it?

A. There is a copy of it in Mr. Debozin's office.

THE COURT: Mr. Dobozi, he said there is a copy in your office.

DOBOZIN: Your Honor, if it please the court, I will take a quick walk over there.

McKINNEY: Well, Your Honor, I will continue if it can be provided later.

DOBOZIN: The police chemist will be coming over with his, in any case.

THE COURT: Alright, it will be furnished later.

McKINNEY:

Q. Now, with respect to that envelope that we have been talking about, Sargeant Gristmacher, did you record on the same piece of paper on which you recorded the serial numbers of the bills that you alleged you gave to Arto Williams?

DOBOZIN: Now I am going to object to Counsel's

THE COURT: Sustained.

DOBOZIN: Thank you.

THE COURT: Sustained.

McKINNEY: I don't understand what is being sustained.

THE COURT: His objection apparently. You are referring to to some testimony that he gave.

McKINNEY: Yes, sir.

THE COURT: Which, in the Court's recollection, he

did not give Now if you want to rephrase your question perhaps it might be clearer to me.

McKINNEY:

Q. I am sorry. Am I mistaken, Sargeant Gristmacher, was it not your testimony that you had given certain bills to Arto Williams?

A. That's correct, sir.

Q. Marked bills?

A. That is correct, sir.

Q. And that before you gave him these bills you recorded the serial numbers on a piece of paper?

A. That is correct, sir.

Q. Right, and that is the piece of paper that you destroyed?

A. That is correct, sir.

Q. Alright. My question is, did you record on that piece of paper that you had recorded the numbers of the bills, did you also record any notes with respect to the tests that you conducted on the contents of that envelope?

A. It would have been in my handwritten notes, yes, sir.

Q. So that your original notes with respect to the test and the result of your tests were on the

piece of paper that was destroyed, is that correct?

A. That is correct, sir.

Q. May we assume that all of the original handwritten notes that you took about the events of that day were on that piece of paper and that was destroyed?

A. That particular evening, yes, sir.

Q. So that you don't have any handwritten notes in your possession or available to you in your handwriting that were taken on the night and morning of these series of events, is that correct, sir?

A. That is correct, sir.

Q. You knew that you might have to testify in the trial of this case, did you not, Sargeant Gristmacher?

A. That's correct.

Q. And you knew, did you not, sir, that notes taken and recorded simultaneously or immediately after the events that you allege were important as evidence in a case, sir. Yes or no.

A. Yes.

Q. And in spite of the fact that you knew that these original notes might be used in the trial and it might be important evidence you destroyed these original notes?

DOBOZIN: Objection, Your Honor.

THE COURT: I will let him answer.

McKINNEY:

Q. Yes or no.

A. I don't think it can be answered with a yes or no.

Q. Well you have just testified that you knew that these notes might be important in the course of the trial, did you not?

A. Yes, I did.

Q. And with this knowledge you destroyed those original notes, did you not? Yes or no.

A. I don't think it can be answered with a yes or no question answer.

Q. Did you have knowledge that the notes might be important in the trial of the case against Mrs. Robinson? Yes or no.

A. Yes, I did have knowledge.

Q. Alright. And did you have that knowledge at the time that you destroyed the notes?

A. I won't answer it yes or no.

Q. You cannot answer that question yes or no?

A. No, sir.

McKINNEY: Your Honor, I respectfully ask the Court to direct the witness to answer the question yes or no, since it is perfectly capable of being so answered.

THE COURT: The question is whether or not, Detective

Sargeant, you had this knowledge at the time the notes were destroyed. I think the question is capable of being answered yes or no. It might be further explained, according to your judgment, but that question has to be put to you. I think the question can be answered.

THE WITNESS: Yes, I had knowledge that they would have been important.

McKINNEY:

Q. How did you destroy them, Officer?

A. By crumbling the paper up.

Q. You threw it away?

A. That is correct, sir.

Q. Did you throw away anything else relating to that evening or that morning?

A. Could've, yes, sir.

Q. What else did you throw away?

A. I do not recall at this time.

Q. So that when you testified here in court that you compared the serial numbers on these bills with a prior recording you are referring to a prior recording that you don't even have at this time, isn't that correct, sir?

A. The actual piece of paper?

Q. Yes.

A. No, sir.

Q. And when you refer to having recorded the events of the evening either simultaneously with or shortly after the occurrence you are talking about a recording that you no longer have, is that correct, sir?

DOBOZIN: Objection, Your Honor, redundant.

THE COURT: I think this was covered, Counsel.

McKINNEY: I will withdraw the question, Your Honor.

McKINNEY:

Q. Now, Sargeant Gristmacher, you testified that you placed notations on these bills and you used an infra-red lamp, isn't that correct?

A. Yes, sir, that is.

Q. On how many prior occasions have you used this instrument to make notations on bills or anything else and then used the infra-red lamp to determine whether it's the same bill or evidence that you had so made your notation on?

DOBOZIN: I think Counsel is referring to an ultra violet

McKINNEY: I'm sorry, ultra violet.

THE WITNESS: I have used it many, many, many times.

McKINNEY:

- Q. Well, approximately how many times? Approximately a hundred times?
- A. Approximately a hundred times.
- Q. And at the time that you used it in 1967, July of 1967, at that time approximately how many times would you say you had used this method?
- A. Approximately a hundred times.
- Q. Pardon?
- A. Approximately a hundred times.
- Q. So that if you said on a prior occasion that you had done it on a couple of dozen times you were in error, is that correct?
- A. If you said on a prior occasion that you had used the infra-red, the ultra violet lamp, approximately two dozen times, you were in error, is that correct?
- A. I don't recall saying that, sir.
- Q. I see. Do you recall having testified in a trial back in March of 1968?
- A. Which trial was it, sir?
- Q. Pardon me?
- A. Which trial was it.
- Q. Well you remember testifying in a trial in March of 1968, don't you, sir?

DOBOZIN: Your Honor, let's get it marked and

identified properly, please. Objection.

THE COURT: Yes.

McKINNEY: I am referring to the trial 33,508-B, Your Honor.

THE COURT: This is a transcript?

McKINNEY: Proceedings before Judge Marshall commencing on the 4th day of March, 1968. I am more specifically referring to Page 65 of the transcript.

DOBOZIN: Your Honor, would we have Counsel's copy marked for identification if Counsel is going to use it, please?

McKINNEY: Well, Your Honor, I believe that

THE COURT: Don't you have a copy, Mr. Dobozin?

MR. DOBOZIN: Your Honor, according to the copy I have, Mr. Gristmacher wasn't testifying on Page 65. I want to see Counsel's, maybe mine is in error.

McKINNEY: Well, according to my copy, it's continuation of his testimony. One Page is upside down.

DOBOZIN: Evidently it was left out of this transcription, Your Honor, because it skips from 62 to 94 in my papers. I would appreciate having it marked and properly used.

McKINNEY: Your Honor, I have no objections.

THE COURT: You can ask the questions.

McKINNEY:

Q. Alright. Now, sir, referring to ... would you like to look at it?

DOBOZIN: That's all right.

Q. Referring to Page 65 of the transcript from which you testified, do you recall being asked this series of questions by Mr. Notaro, prosecuting that particular case, and do you recall giving those answers. Quote. I show you People's Exhibit #3 for identification and ask you if you can tell us what it is? A. It's a light that contains an infra-red ray bulb. End Quote. Do you recall being asked that question and being given that answer?

A. I could've, yes, sir.

Q. Next question. Do you recall having been asked this question and having given the following response? Quote. Alright, and have you had occasion prior to today to use this lamp in any fashion? A. Yes, I have. Q. On how many occasions? A. I would say oh, about two dozen occasions. End Quote. Do you recall being asked that question and giving

that answer?

A. I could've, yes.

Q. And now today your testimony is that at that time you had used the infra-red lamp on at least a hundred occasions. Wasn't that your testimony?

A. Possibly, yes, sir.

Q. Now, when were you in error, in July of 19...in March of 1968 or now?

A. I will say that I at the time in July of 1967 had used fluorescent powder on at least 100 occasions.

McKINNEY: Your Honor, may I ask that the Officer be directed to respond to the question?

THE COURT: Yes, read the question.

(Whereupon, the last question was read back by the reporter.)

THE WITNESS: Could've been in the first trial.

McKINNEY:

Q. In other words, when you testified in March of 1968 you had used the two dozen times, you believe that you were in error, is that correct?

A. That is correct, sir.

Q. So that you do make errors, don't you, Sargeant?

A. Yes, sir.

DOBOZIN: Would you mark that.

(Whereupon, laboratory request form was marked People's Exhibit #5 for identification.)

DOBOZIN: Your Honor, I am submitting this to Counsel, a Request for Laboratory Form marked People's 5.

McKINNEY:

Q. I show you People's Exhibit 5 for identification and I ask you is this the form that you referred to before as the form or a copy of the form that was attached to the white envelope when you submitted it to the police chemist?

A. Yes, sir.

Q. Now after having looked over that People's Exhibit 5 for identification, Officer, do you see anything there that indicates that you were informing the police chemist that you had conducted a test upon the proceeds, contents of that envelope already?

A. No, sir.

- Q. Did you tell the police chemist at the time that you submitted it to him, orally, that you had conducted a test upon the contents of that envelope?
- A. No, sir.
- Q. And when you handed him the white envelope, you handed him the little glassine envelope rewrapped in what you believed to be the same condition as it had been when you had opened it. Isn't that correct, Officer?
- A. It was opened when I handed it to him.
- Q. Pardon?
- A. It was opened when I handed it to the police chemist.
- Q. Was the glassine envelope opened when you handed it to him?
- A. The scotch tape was opened, yes, sir.
- Q. Didn't you testify yesterday that you had rewrapped the scotch tape around it?
- A. No, I did not.
- Q. I am sorry. So that when you handed it to the police chemist it was opened?
- A. That is correct.
- Q. And it had been opened for a period of approximately three days. Is that correct?
- A. That is correct.
- Q. While it was in your possession and no one else's?

A. That is correct, sir.

Q. But you did not tell the police chemist that you had taken a quantity of the contents and conducted some kind of a field test, did you?

A. No, sir, I did not.

Q. Now, speaking of that test that you referred to yesterday, you said you conducted while you were still out in the field before you returned to police headquarters, is that correct?

A. That is correct, sir.

Q. Will you tell us precisely where you were at the time that you conducted that test?

A. I was on Dodge Street near Main.

Q. Was that out on the street?

A. That is correct.

Q. In your car or what?

A. I was standing outside of the car.

Q. Outside the car?

A. Yes, sir.

Q. Was anyone else standing outside of the car with you?

A. To the best of my recollections, Captain Williams and Chief Amico were very close to me.

Q. On the outside of the car?

A. Yes, sir.

Q. Was Trooper Steverson on the outside of the car?

- A. No, sir he was not.
- Q. Was he there at all?
- A. He was inside the car.
- Q. And how close to the car were you standing when you conducted this test?
- A. I don't recall exactly how far away I was.
- Q. Were you standing in front of the car, the rear of the car or on the side of the car?
- A. I do not recall, sir.
- Q. Now, Sargeant Gristmacher, you testified that when you entered the premises of 1412 Jefferson Avenue you had in your possession a search warrant, is that correct?
- A. That is correct, sir.
- Q. Did you personally have it in your possession?
- A. No, sir, I did not.
- Q. Did someone else have it in their possession?
- A. One of the other officers had it.
- Q. Do you recall who it was that had it?
- A. Detective Hassett.
- Q. Did you see it in his hand before he entered the premises?
- A. I handed it to him, yes, sir.
- Q. Do you know what he did with - withdraw it - When did you hand it to him?

- A. At the corner of Dodge and Main Street.
- Q. And do you know what he did when you handed it to him?
- A. No, sir I do not.
- Q. Did he put it in his pocket?
- A. No, he had it in his hand the last I see it.
- Q. Did the two of you walk together then to 1412 Jefferson Avenue?
- A. No, we did not.
- Q. Now, to the best of your ability, sir, to estimate what is the difference from the doorway of 1412 Jefferson Avenue to the rear partition that you referred to?
- A. Approximately thirty (30) feet.
- Q. Could you describe it to us in terms of this courtroom from where you are standing to approximately where in this courtroom would the partition - withdraw it - Let's assume that where you sitting is the doorway of 1412 Jefferson Avenue. Approximately where in this courtroom would the partition that you referred to be?
- A. Possibly where the railing is or a little further back.
- Q. And so when you entered, when you entered the premises, when you first saw Geraldine Robinson it is

your testimony that she was approximately this distance away from you. Is that correct?

DOBOSIN: Objection. That wasn't the testimony.

THE COURT: Let him testify if he recalls as to how far away she was from him.

McKINNEY:

Q. Approximately how far away from you was Geraldine Robinson when you first saw her when you entered the premises?

A. Approximately twenty (20) feet.

Q. About two-thirds of the way to the railing?

A. Yes, sir.

Q. And was her back to you or was her front to you?

A. Her back was to me.

Q. Where were the other officers in relation to Geraldine Robinson when you entered the premises?

A. Running toward the back room.

Q. Were they between her and the partition or between her and you?

A. They were between her and the partition.

Q. So that they had already passed her after entering the premises, is that correct?

A. That is correct.

Q. Was there any Officer standing in her, standing in

her immediate vicinity at that time?

A. Not actually standing, no, sir.

Q. And where were the two or three or four boys that you referred to, in relation to the rest of the premises?

A. When we first went in I don't recall seeing the boys that were there.

Q. Well, is there any question in your mind as to whether or not they were there when you entered?

A. No, there is no question.

DOBOZIN: I am going to object. If he doesn't recall, how can he testify as to whether or not they were there?

McKINNEY: He didn't recall where they were.

THE COURT: The testimony I have is, he didn't see the three or four boys when he first entered. Is that correct?

THE WITNESS: That's correct, Your Honor.

THE COURT: Alright, take it from there.

McKINNEY:

Q. Alright, but is there any question in your mind as to whether there were three or four boys there?

A. No, there is no question.

Q. Alright. Can you refresh your recollection at

all, Officer, by notes or otherwise, to tell us the names of any of those boys?

A. I do not have them in my notes, no, sir.

DOBOZIN: Your Honor, if I may submit to the Court, that would be made available to Counsel.

McKINNEY:

A. Alright. Now, Officer, we have talked about police officers entering before you and with you. Did there come a time when additional officers came in?

A. Yes, sir.

Q. Do you recall who they were?

A. Investigator Wilcox from the State Police; Investigator Steinmetz from the State Police and, eventually, some uniformed officers.

Q. When you say, "Eventually, some uniformed officers", may I assume from that that Investigator Steinmetz and Investigator

A. Wilcox.

Q. Wilcox were not in uniform?

A. That is correct, sir.

Q. And how long were six or eight non-uniformed officers in the premises before uniformed officers came in?

A. Approximately 15 or 20 minutes.

Q. And did either Investigator Wilcox or Investigator

A. Steinmetz.

Q. Steinmetz have any badges affixed to their suits when they entered?

A. No, sir, they did not.

Q. In other words, when they entered they looked just like any other civilian in civilian clothes, is that correct?

A. Yes, sir.

Q. The same is true when you entered?

A. Yes, sir.

Q. The same is true of Mr. Smith when he entered?

A. Yes.

Q. The same is true of Mr. Hassett when he entered?

A. Yes, sir.

Q. And the same is true of Mr. Jensen when he entered?

A. Yes, sir.

Q. And the same is true of the fourth officer when he entered before you?

A. That is correct, sir.

Q. So it wasn't until 20 minutes after the initial entrance into the premises that uniformed officers, who you could clearly recognize as officers, entered the premises.

DOBOZIN: Objection, Your Honor.

THE COURT: Sustained.

McKINNEY:

Q. I will reframe the question. Is it not a fact, sir, that it wasn't until approximately 20 minutes after you entered the premises that any officer in uniform entered the premises?

A. Approximately, yes, sir.

Q. And isn't it a fact, sir, that there was nothing about the appearance of you and your fellow officers before the uniformed officers came in to identify you from your appearance as officers of the law?

A. No, sir.

Q. That is not correct?

A. Our appearances didn't show us as police officers.

Q. And isn't it a fact, sir, that when you entered the premises, Mrs. Robinson yelled "Hold up"?

A. I was not there when they first entered the premises, sir.

Q. You cannot deny that, can you, sir, that she said "Hold up" when the people entered into the premises.

DOBOZIN: Objection, Your Honor.

THE COURT: I will sustain that.

McKINNEY:

Q. Incidentally, Sargeant Gristmacher, you had seen that bookshop before that evening, had you not?

A. Yes, sir.

Q. On many occasions?

A. Yes, sir.

Q. You know what it looks like?

A. Yes, sir.

Q. Can you describe the condition of the outside of the store on the evening of July 14th?

A. It had plywood over the windows and over the door.

Q. So that from the outside you could not see in and from inside you cannot see out unless the door is open, isn't that correct, sir?

A. That is correct, sir.

Q. And is it not further correct, sir, that the doorway to those premises are recessed from the building line along the sidewalk?

A. Yes, sir.

Q. And approximately how far is that doorway recessed from the building line?

A. I would say approximately three feet.

Q. And approximately how wide is that doorway?

A. Three feet.

Q. Did you see the first officer open the door to those premises that night?

- A. No, sir, I did not.
- Q. Do you know - withdraw it - Officer, if you know, who placed Mrs. Robinson under arrest?
- A. I do not recall who it was, sir.
- Q. Did you place her under arrest?
- A. No, sir, I did not.
- Q. Did you see her when she was being placed under arrest?
- A. Not that I recall, sir.
- Q. Do you know at approximately what time she was placed under arrest?
- A. No, sir, I do not.
- Q. Do you know where she was placed under arrest?
- A. Inside the store, I recall that.
- Q. How do you know that she was placed under arrest inside of the store if you don't remember who placed her under arrest or what time she was under arrest?
- A. I recall one of the officers saying that "You are under arrest, stay there".
- Q. Do you recall which officer said that?
- A. Agent Jensen.
- Q. So you do recall who placed her under arrest.
- A. I recall Agent Jensen telling her that she was under arrest and to stay where she was.

Q. When he told her she was under arrest that meant that he was placing her under arrest, did it not?

A. No, sir, it did not.

Q. What did it mean?

A. It meant that she was a prisoner and that she should remain where she was. We then went all over the store.

Q. You mean when Officer Jensen said "You are under arrest" it did not mean that he was placing her under arrest, is that correct, sir?

DOBOZIN: I am going to object to this line of questioning. It's still a legal conclusion as to what 'under arrest' means.

THE COURT: Well, I think it's an argumentative thing. The question was whether or not the witness knew whether she was under arrest. He said he recalls Officer Jensen telling her that she was arrested and to stay where she was. Leave it that way.

McKINNEY:

Q. Do you recall approximately when in relation to the time that you entered the premises it was that you heard Officer Jensen say "You are under arrest"?

A. Approximately five minutes after we went into the

store.

Q. Did you hear anyone say to Mrs. Robinson prior to the time you heard Officer Jensen say it, that she was under arrest? Yes or no.

A. No, sir.

Q. So the first knowledge that you had that Mrs. Robinson was under arrest even after you entered the premises was at least five minutes after you had been inside?

A. That is correct, sir.

Q. Did you hear Officer Jensen say what she was under arrest for?

A. No, sir, I did not.

Q. Did you hear anyone tell her at that time what she was under arrest for?

A. No, sir, I do not.

Q. Did you tell her what she was under arrest for?

A. No, sir, I did not.

Q. Did you tell her at any time before you left the premises, did you tell her any time before you left the premises?

A. Not that I recall, no, sir.

Q. And when you finally left the premises, when Mrs. Robinson finally left the premises, in whose custody was she?

A. I can't recall how she went to police headquarters.

Q. Was she in your custody, Sargeant?

A. Not that I recall.

Q. So that there can be no mistake, Sargeant, as to what your testimony is now, I ask you one final question with respect to a certain bill.

DOBOZIN: Your Honor, if I may just at this time caution the handling of these bills. That powder brushes off.

McKINNEY: I am not taking it off. I am just looking inside.

DOBOZIN: Just so we know.

McKINNEY:

Q. Sir, with respect to People's Exhibit 3 for identification, a \$10.00 bill that you showed to us under the infra-red lamp yesterday, who confiscated that \$10.00 bill inside 1412 Jefferson Avenue?

A. It wasn't confiscated. In a way it was confiscated. All of the money that Martin Sostre had on his possession was handed to me inside of 1412 Jefferson Avenue.

Q. Who handed it to you?

A. I can't recall, sir.

Q. Did you see all of the money that was on his person?

PAGE(S) MISSING IN ORIGINAL

(Apparently there is no Page 182 in this transcript so I'll repeat the last question.)

Page 181 - last question.

Q. Did you see all of the money that was on his person actually taken from his person?

A. No, sir, I did not.

Q. Did you not say that you were present when this was found?

A. There were three or four officers searching him, yes, sir.

Q. In other words, when you said you were present, you meant you were present in the premises?

A. I was right along side of them.

Q. But you didn't actually see it taken from his person?

A. No, sir, not that I recall.

Q. Now, sir, referring back to the trial which you testified in March of 1968, do you recall, sir, having been asked this question and having, or, these series of questions and having given these responses?

DOBOZIN: Your Honor,

McKINNEY:

by Mr. Notaro referring to Page 62

DOBOZIN: That's what I wanted.

McKINNEY: Do you have it?

DOBOZIN: Yes.

McKINNEY:

Q. Alright. Starting at line 5, starting at line 8, referring to the search of Martin Sostre, Quote: Q. Was he searched at this time?

A. Yes, he was. Q. What, if anything, was found on him personally? A. I found a \$10.00 bill on his possession that I had given to Arto Williams while we were parked in the parking lot at police headquarters. End Quote. Do you recall being asked those questions and having given those answers?

A. Yes, sir.

Q. So when were you in error, Sargeant, at the time that you testified in June, in March of 1968 when you said you found the \$10.00 bill or today when you said that you did not find the \$10.00 bill was only present in the premises when it was found?

A. Today.

Q. You were in error today?

A. Yes, sir.

Q. On how many other items of your testimony are you in error today, Sargeant Gristmacher?

A. None that I recall.

Q. So now it is your testimony, sir, that you found the \$10.00 bill on Martin Sostre, is that correct?

A. Possibly, yes, sir.

Q. But you had no recollection of having personally conducted his search, is that correct?

A. That's correct.

Q. And, of course, you destroyed the notes that might have refreshed your recollection, didn't you, Sargeant?

A. That is correct.

McKINNEY: No further questions.

REDIRECT EXAMINATION BY MR. DOBOZIN:

Q. Officer, in reference to your seeing that bookshop at 1412 Jefferson Avenue, had you or officers of the State Police been conducting a surveillance on that bookshop?

A. Yes, sir, we were.

Q. For approximately how long?

A. Approximately two weeks.

Q. And so you were very familiar with 1412 Jefferson Avenue and the surrounding area, were you not?

A. Yes, I was.

Q. Now when you take handwritten notes, Officer, how do you take them? I mean, do you take them longhand, every word that is said, and everything that is done, or just bits and scraps of things?

A. Just make notations of times and places.

Q. Do you sometimes abbreviate?

A. Yes, I do.

Q. And is this what you did on July 14th and 15th?

A. Yes, sir.

Q. And actually on July 17th, also, when you took the glassine envelope with the white powder in it to the police chemist, is that what you did, Officer?

A. That is correct.

Q. Just made notations, bits and scraps and abbreviations?

A. That is correct.

Q. Then, on July 17th after this had all been accomplished, did there come a time that you prepared those notes in typewritten form?

A. Yes, sir.

Q. By the way, do you type, Officer?

A. Not that well, sir.

Q. So you asked Officer Jensen to type this for you?

McKENNEY: Your Honor, I object. Mr. Doboizin is leading the witness.

THE COURT: I think you ought to rephrase your questions, Mr. Doboizin, they are leading.

DOBOZIN:

Q. How did the typewritten notes get prepared?

A. Agent Jensen typed them up.

Q. And did you dictate it?

A. Yes, sir.

Q. And that typing was prepared? Is that correct?

A. Yes, sir.

Q. Now you say that you turned over everything that had been taken out of the person, Geraldine Robinson, to the Property Clerk, is that correct?

A. That is correct, sir.

Q. What about the five \$1.00 bills?

A. To the best of my recollections, that was turned over to

Q. To the Property Clerk?

A. Yes, sir.

Q. Did there come a time, then, that they were removed from the Property Clerk's possession?

A. There was a hold placed on the evidence and during the trial in 1968 they were removed from the Property Clerk's office.

Q. Now, Officer, there was one other error in your testimony, was there not?

A. Yes, sir, there was.

Q. and, most specifically, you said that

McKINNEY: Objection, Your Honor, this is redirect. I don't believe that Mr. Dobozi should be permitted to put words in the Officer's mouth.

DOBOZIN: Are you saying that I am leading, is that the

objection?

McKINNEY: Yes.

DOBOZIN:

Q. Okay. Officer, do you recall your testimony in reference to the fact that Arto Williams in your opinion had had a fix on July 14th, 1967? Do you recall testifying to that on cross-examination by Mr. McKinney?

A. I do recall saying he had a fix.

Q. Or, if he could have?

A. Yes, sir.

Q. Now, did you have an opportunity to check this out to determine this?

A. Yes, sir.

Q. And how did you determine this, Officer? How did you determine this?

A. I contacted the jail, the Erie County jail, and found out that Arto Williams was in jail on July 14, 1967.

Q. And when did he enter the jail?

A. On June 20th, 1967.

Q. So from June 20th, 1967 'til July 14th, 1967 he was in the Erie County jail?

A. That is correct, sir.

Q. So, were you in error when you said he may have had

a fix?

A. Yes, sir.

Q. By a fix, what are we talking about?

A. A shot of heroin.

DOBOZIN: No further questions.

RE-CROSS-EXAMINATION BY MR. McKINNEY:

Q. Well, then, Sargeant Gristmacher, you really, you are really in error, aren't you? You are in error that he had a fix because he was in jail so you were in error when you said you saw him over in Cold Springs on July 12th. You were in error when you said

DOBOZIN: Objection, Your Honor, this is a multiple question, in the first place. In the second place, he never said he saw him in Cold Springs on July 12th.

BY MR. McKINNEY:

Q. I will withdraw it. You were in error when you said you had seen him on July 12th, isn't that correct, sir?

A. No, sir, it is not an error.

Q. You were not in error?

A. No, sir, I was not.

Q. Where had you seen him?

A. I recall being asked the question, had I seen him on July 12th and I recall saying, yes, I had seen him, and you asked me where I had seen him and I recall that I could not recall exactly where it was. It could have been in the Cold Spring area.

Q. I see. Now you, but now you remember that you actually saw him in jail, is that correct?

A. That is correct, sir.

Q. You saw him in jail on July 12th?

A. That is correct, sir.

Q. You had no recollection of that yesterday?

A. No, sir, I did not.

Q. When you saw him on July 13th, that also was in jail, is that not correct?

A. That is correct, sir.

Q. And you had no recollection of that yesterday?

A. No, sir, I did not.

Q. And on July 14th you didn't meet him on the street, on a corner by prior arrangement, he was in jail, is that correct?

A. Yes, I did meet him.

Q.

MR. DOBOZIN: Objection.

THE COURT: Just a minute. Just a minute. First of all, the stenographer can't take four people at one time. One question at a time, Mr.

McKinney.

McKINNEY: I am sorry, Your Honor. So that when you said yesterday

DOBOZIN: Hold it, Your Honor. There was a question that was still to be answered.

THE COURT: Well, read the last question.
(Whereupon, the last question was read back by the reporter.)

THE COURT: The answer was yes, you did meet him? A.
Yes, sir.

THE WITNESS: Yes, sir.

McKINNEY:

Q. But, you didn't see him on a corner some place by prior arrangement, did you?

A. I met him as a result of a prior arrangement, sir.

Q. Sir, will you please respond to my question, you did not meet him on a corner someplace by prior arrangement, did you? Yes or no.

A. What part of the day, sir?

Q. On July 14th - withdraw it - Was it your testimony, sir, yesterday that you had met Arto Williams on a corner someplace by prior arrangement in the street and then went to the police headquarters? Wasn't

that your testimony yesterday?

A. Yes, sir.

Q. But you, in fact, did not meet him on a corner some-
place and then go to police headquarters, did you sir?

A. Yes, I did meet him on a street corner.

Q. You mean on the street corner outside of the jail house?

A. No, sir, at the corner of Winslow and Fillmore.

Q. Well, hadn't he been in jail on July 14th?

A. During the early part of the day, yes, sir.

Q. And did you arrange for his release?

A. No, sir, I did not.

Q. Was he scheduled to be released on that day?

A. He was released on bail.

Q. He was released on bail?

A. Yes, sir.

Q. Who posted the bail?

Q. I didn't, I don't know who did.

Q. How long had he been in jail up until July 14th of
1967?

A. From a, from June 20th, 1967 to July 14th of 1967.

Q. Right here in Erie County jail across the street?

A. Yes, sir.

Q. So that, of course, now - withdraw it - So yesterday
when I asked you had he had a fix, based on your ex-

pertise and observations, you said you thought so, isn't that correct? Isn't that what you said?

A. I don't recall saying that I thought he had a shot, no, sir.

Q. Do you recall my asking you, well, what was it that you observed that made you believe that he had a shot, you said he wasn't sick?

A. That is correct.

Q. So you do recall telling me that you thought that he had had a shot, isn't that correct?

A. I don't recall saying that he had a shot, no, sir.

Q. Well, sir, if you have difficulty in recalling what you said yesterday, how is it that you can be so sure of what happened in July of 1967?

DOBOZIN: Objection, Your Honor.

THE COURT: Sustained.

DOBOZIN: It's argumentative.

McKINNEY:

Q. Do you recall my asking you yesterday how frequently do you think he required a shot and you said about three or four times a day?

A. Yes, sir.

Q. And you recall that we estimated that he was without

a shot from about 8 o'clock in the evening until he left you sometime around 3:30 or 4 o'clock in the morning, do you recall that?

A. You estimated that, sir.

Q. Well, I mean you didn't disagree with me, did you?

DOBOZIN: I am going to object unless this is some sort of private conversation going on.

THE COURT: I will let the testimony that was adduced yesterday to the jury to decide and decipher.

McKINNEY: Now, Sargeant Gristmacher, now we want to find out what really happened

DOBOZIN: Well, I am going to object to Counsel's comments, Your Honor.

McKINNEY: Where did you

DOBOZIN: And ask that the jury disregard it, please.

THE COURT: Disregard comments. Confine it to questions and answers, please.

McKINNEY: Where did you, in fact, meet the informer, Williams, on July 14th of 1967?

DOBOZIN: Objection, Your Honor, it's redundant,

THE COURT: Sustained.

McKINNEY: Well, Your Honor, the Sargeant has changed his testimony. I think I ought to be permitted to inquire.

MR. DOBOZIN: Your Honor, Counsel already did.

THE COURT: It has been already inquired into. I have it in the testimony that he met him on the street corner and that's been established twice, at least, in my judgment.

McKINNEY: May I ask the witness at what time he met him?

THE COURT: Alright.

McKINNEY:

Q. At what time did you meet him?

A. At 9:30 P.M.

Q. So that yesterday when you said you met him about 8 o'clock, you were in error, is that correct, sir?

DOBOZIN: Objection, Your Honor, that wasn't the testimony yesterday. Counsel is assuming a state of facts that was not testified to.

McKINNEY: I will withdraw the question.

THE COURT: Alright. Question withdrawn.

McKINNEY:

Q. Do you recall, Sargeant, when was the first time that you visited Arto Williams in jail?

A. No, sir, I do not recall the first time.

Q. Do you recall approximately how many times you visited

him in jail prior to the evening of July 14, 1967?

- A. I recall two or three occasions that I was over in the jail talking to Arto Williams.
- Q. Was that during the week immediately prior to July 14th?
- A. It was prior to the 14th, yes, sir.
- Q. You didn't see him on the street at any time on July 13th, did you?
- A. No, sir, I did not.
- Q. You didn't see him on the street at any time on July 12th?
- A. No, sir.
- Q. Now, any time during the entire month of July did you?
- A. No, sir, that is correct, sir.
- Q. Nor during the month of June?
- A. Yes, during the month of June I saw him.
- Q. You saw him on the street?
- A. Yes, sir.
- Q. Before he went to jail?
- A. That is correct, sir.
- Q. Was he in jail as a result of your arrest?
- A. No, sir, he was not.
- Q. Now, sir, you had indicated that you made several errors in your testimony yesterday. When did you discover

that you made these errors?

DOBOZIN: Well, I am going to object, Your Honor.
First of all, it's an all-inclusive question.

McKINNEY: I will withdraw it and reframe the question.

THE COURT: Alright.

McKINNEY:

Q. When, sir, did you first discover that you had made those errors in your testimony yesterday?

A. After I left the courthouse yesterday.

Q. And what is it that refreshed your recollection that you hadn't seen him out on the street but in jail?

A. I talked to Arto Williams.

Q. On?

A. Yesterday afternoon.

Q. I see. Now, you are relying upon what Mr. Williams told you to say when, in fact, you saw him, is that correct?

A. Not exactly, sir.

Q. Well, are you comparing his best recollection of the facts or your best recollection of the facts?

DOBOZIN: I am going to object, Your Honor, there has been nothing here stated that has, that any comparison of recollections

McKINNEY: I will reframe the question.

THE COURT: Reframe it.

McKINNEY:

Q. You had a conversation with Arto Williams yesterday?

A. That's correct, sir.

Q. After you left here?

A. Yes, sir.

Q. Did you ask him when you had seen him before July 14th?

A. Somewhat like that.

Q. Well, did you - I didn't mean to interrupt you. What were you going to say?

A. I had the conversation with him about when I had seen him prior to 8:30 P.M. on July 14th or 9:30, July 14th, 1967.

Q. Did you ask him had you seen him on July 13th at Cold Springs or on the street someplace?

A. Didn't have to ask him that.

Q. He volunteered the information?

A. He told me something and then I did something else about that.

Q. Did you have any notes that were taken at the time that would refresh your recollection as to when and where you saw him?

A. No, I do not.

Q. Sir, just as you were in error yesterday, Arto Williams may be in error also, isn't that true?

A. About what, sir?

Q. About when you saw him.

A. No, no, sir, I do not think so, sir.

Q. You believe his recollection of the facts as more reliable than yours, is that correct, sir?

DOBOZIN: Objection, Your Honor.

THE COURT: Sustained.

McKINNEY: No further questions.

REDIRECT EXAMINATION BY DOBOZIN:

Q. Officer, after talking to Arto Williams, what did you do?

A. I called the jail office at the Erie County jail and asked him, asked the jailor there when Arto Williams was confined to the Erie County jail. I was informed by the jailor of the Erie County jail that Arto Williams

MR. McKINNEY: Your Honor, I object on the grounds this is hearsay.

THE COURT: Sustained.

DOBOZIN: No further questions.

THE COURT: No further questions?

McKINNEY: Your Honor, may I reserve the right to recall this witness after the testimony of Arto Williams?

DOBOZIN: Now, Your Honor, if he's through with the cross-examining, cross-examination of this witness and he wants to recall this witness

as his witness, I have no objection. But if he is not through with cross-examination of this witness, I submit to the Court that he should be entitled to further cross-examination and we have time, I think.

THE COURT: How do you feel about this, Mr. McKinney?

McKINNEY: Well, Your Honor, I believe in the matter of such seriousness that the greatest latitude ought to be granted Defense Counsel. I think it should be quite clear to the Court why further cross-examination of this witness might be necessary after the testimony of one of the other witnesses and I should not have to call him as my witness as, obviously, he is a hostile witness.

DOBOZIN: Your Honor, there has been no foundation laid to that effect. And, Your Honor, I submit to the Court that we have every case that is tried in this courtroom and

in this courthouse is of a serious nature and I don't believe that the rules of procedure ought to be changed because Mr. McKinney is trying this case.

McKINNEY: I don't ask for any special consideration, Your Honor.

THE COURT: I know that. I would prefer, Mr. McKinney, that you exhaust your cross-examination of this defendant as far as possible.

McKINNEY: May I have a brief recess then, Your Honor, so I may consider if I wish to?

THE COURT: Fine, we'll take a recess now.

McKINNEY: Thank you.

THE COURT: We will not excuse you yet Mr., Detective-Sargeant, until we make this determination. I admonish the members of the jury not to discuss this case amongst yourselves or with anyone or form any opinion thereon until it is finally submitted to you. If anyone should try to talk to you about this case or discuss it within your hearing, it is your duty to report it to the Court. A short recess.

(Whereupon, a short recess was taken at

approximately 11:32 A.M.)

Proceedings pursuant to short recess commencing at approximately 11:45 A.M. Appearances as before noted. Jury polled. All Jurors present. Two alternate Jurors present. Defendant present.

THE CRIER: Mr. Gristmacher, you are still under oath.
(Alvin R. Gristmacher, having been previously called and sworn as a witness on behalf of the People, resumed the stand and further testified as follows.)

CROSS-EXAMINATION BY MR. McKINNEY CONTINUED:

Q. Well,

MR. McKINNEY: I believe I have just one question, Your Honor, depending upon the answer.

THE COURT: Alright.

Q. Sargeant Gristmacher, I believe your testimony is now

that you met the informer, Williams, at 8:30 or 9:30?

A. 9:30.

Q. And that was on the corner of

A. Winslow and Fillmore.

Q. And after you met him, did he get in your car?

A. Yes, sir.

Q. Did you ride around awhile before you went to police headquarters or did you go directly to police headquarters?

A. Directly to police headquarters.

Q. I see. Did Arto Williams know where police headquarters was?

A. I would imagine that he did, yes, sir.

Q. Is the corner where you met him is near where he lives or near before he went to jail?

A. He lived on Winslow Street, yes, sir.

Q. So that you met him at that location because it was convenient to where he lived, is that correct?

A. Yes, sir, that is correct, sir.

Q. And then you drove him to police headquarters ?

A. Yes, sir.

Q. Do you know what time he was released from Erie County jail on July 14th?

A. Exactly, no, sir.

Q. Do you know approximately?

A. During the early part of the day.

Q. Before noon?

A. I don't recall, sir.

Q. Did you see him between the time that he was released from jail and the time that you met him at 9:30?

A. Yes, sir, I did.

Q. Where did you see him?

A. At police headquarters.

Q. You saw him during the course of the day of July 14th at police headquarters?

A. Yes, sir, I did.

Q. Then you arranged to meet him later to bring him to police headquarters?

A. Yes, sir, that is correct.

Q. How did he get to police headquarters the first time you saw him there? Did you pick him up?

A. No, that was when he was released on bail.

Q. When he was released on bail he came over to police headquarters?

A. Yes, sir.

Q. Was that by prior arrangement?

A. Yes, sir.

McKINNEY: No further questions, Your Honor.

THE COURT: Detective-Sargeant, you say you met him at

9:30?

THE WITNESS: Yes, sir.

THE COURT: At Woodlawn and Winslow?

THE WITNESS: Winslow and Fillmore, Your Honor.

THE COURT: Winslow and Fillmore. And you introduced him to Trooper Steverson, is that correct?

THE WITNESS: Later on after I arrived at police headquarters.

THE COURT: And, in answer to the question of Mr. McKinney, you indicated that you did not ride around before you went to police headquarters.

THE WITNESS: No, sir, I did not.

THE COURT: You did or didn't?

THE WITNESS: I did not, sir.

THE COURT: Alright. Fine, that's all.

MR. MCKINNEY: Excuse me, correct me if I am wrong, Officer, didn't you testify yesterday that after meeting him you had ridden around in your car before going to police headquarters?

THE WITNESS: No, sir, I did not.

DOBOZIN: Officer, you stated that you rode around when you had Steverson and Williams in the car, is that correct?

THE WITNESS: Yes, sir, after I went to police headquart-

ers.

DOBOZIN: In other words, you went to police headquarters with Arto Williams and then there came a time after that with Arto Williams and Trooper Steverson that you got in the car again and rode around and you went by 1412 Jefferson Avenue?

THE WITNESS: Yes, and to Judge Sedita's house.

DOBOZIN: Then you went there?

THE WITNESS: Yes, sir.

DOBOZIN: I have no further questions.

THE COURT: You are excused, Detective Sargeant. Thank you very much. Witness excused.

DOBOZIN: Your Honor, I was just wondering if we are going to start and stop in the middle of direct examination if we might just start in the afternoon, start and conclude the examination?

THE COURT: I have no objection. How do you feel?

McKINNEY: I have no objection, Your Honor, if that's what Mr. Dobozin wishes to do.

THE COURT: Alright. Have your next witness here at two o'clock.

DOBOZIN: Yes, he is here now.

THE COURT: Yes. I admonish the jury again not to discuss this case among yourselves or with anyone. If anyone attempts to talk about this case or discuss it within your hearing, it is your duty to report it to this Court, nor are you to form any opinion thereof until the matter is finally submitted to you. Recess until 2 o'clock.

(Whereupon, a luncheon recess was taken at approximately 12:01 P.M.)

TRIAL OF GERALDINE ROBINSON

P. 367

Mr. Steverson:

Q. You were talking about an affidavit that you executed on the 17th day of July, three days after this alleged seizure. Do you recall that?

A. Yes.

Q. The facts were clear in your mind at that time. Were they not?

A. That's correct.

Q. Were you lying at the time when you executed this affidavit, or are you lying under oath today when you say that you did not observe anything happen to that glassine envelope when it was given to Sergeant Gristmacher

Objection. Attorney resumes questioning.

Mr. Steverson:

Q. Is that the truth that was contained in that affidavit or is that the truth that you told on the stand a short while ago?

A. This is the truth here in the affidavit. What I said here on the stand prior was to the best of my recollection. I don't recall seeing the test.

TRIAL OF GERALDINE ROBINSON

P. 368

Q. Well, now that you have been confronted with the affidavit is there any question in your mind as to which is the true version of the facts?

Objection.

DEBOZIN:

The Court:

He may answer.

The Witness:

No.

McKinney:

All right. Where now do you claim that you saw the sgt. conduct the test?

A. To the best of my recollection he did it by the car because I never left the area of his car.

Q. I see. So that if Arto Williams says he didn't see any investigation being done near that car before he walked to the officer's other car he was in error. Is that correct?

A. Otto Williams was sitting in the front seat of the car. We were outside of the car.

Q. Well, you said that you got out of the car only to get in front of the wheel. Is that correct?

A. That's what I said prior, yes.

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Q. Were you in error?

A. Yes.

Q. And when you said before that you hadn't seen anything done to that glassine envelope from the first time that you saw it after it was passed to Gristmacher was at police headquarters, you were in error. Is that correct:

A. That is correct.

Q. Sir, would you like to reflect back on any of your testimony and see if there are any other errors?

A. Other errors? No!

Q. No other errors? Now think carefully. Have you had occasion to testify in court before?

A. Yes.

Q. On how many occasions have you come to court and testified in various cases in which you had been involved?

A. In nine years?

Q. Approximately?

A. Approximately one hundred fifty times to two hundred times.

Q. You are an experienced police officer, aren't you?

A. That is correct.

Q. And on the night in question you knew the serious-

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contd.
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ness

of the investigation that you were embarking.

Did you not, sir?

A. That is correct, yes.

Q. You knew that it might very well come to pass that you were going to testify in a court of law in reference to the facts of that case.

Did you not, sir?

A. Yes.

Q. Now since the time when you made the observations with respect to the search to Arto Williams did you record what you saw Sgt. Grismacher remove from his person?

A. I did not record it no.

Q. You observed certain monies passed to Sgt. Gritmacher from Arto Williams outside of the car in the parking lot did you record in a notebook what observed or on a piece of paper of any kind?

A. No, I did not.

Q. Did you examine the money and record the serial numbers?

A. No.

Q. Did you examine the money to see if there were any initials or any marks of any kind of them?

A. No.

Q. When you went to write down on the pad and you got out

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of the car and you started walking ~~the~~ toward the book shop did you carry with you your notebook in your pocket or a pen or a pencil?

A. No.

Q. When you observed Sgt. Gristmacher as saying "Yes, I am doing business but not with the stranger present" did you record those remarks?

A. No.

Q. Did you record the observations you allegedly made with respect ~~to~~ to ~~money being~~ the midnight money being passed to Geraldine Robinson?

A. No.

Q. Did you record the relative position of any of the people in the store at the time that you made these observations?

A. No.

Q. Did you record what Arto Williams did with the glassine envelope which you believed you saw passed when you came out of the store?

A. No.

Q. Did you make any notes whatsoever to the activities on your pad during the course of the night of July 14th or the morning of July 15th?

A. No notes were taken.

Q. You didn't make notations and then destroy them like

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contd. P. 372

Sgt. Gristmacher, did you?

DEBOZIN:

Objects.

MC KINNEY:

Resumes questioning.

Q. Now, officer I am sorry I used the term interchanging officer and trooper. Trooper, when you returned to police headquarters you returned with Otto Williams, didn't you?

A. Yes.

Q. Having driven in Sgt. Gristmacher's car

A. Right.

Q. What is the next thing that happened in police headquarters after you got there in connection with this case?

A. Arto and myself went into the narcotics unit and vice squad office and sat and waited.

Q. You sat and waited?

A. Yes.

Q. You waited for Sgt. Gristmacher, did you?

A. Yes.

Q. And did there come a time when Sgt. Gristmacher

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arrived?

A. Eventually.

Q. How soon after you arrived did Sgt. Gristmacher return?

A. Maybe an hour or an hour and half.

Q. When he returned did he give you the glassine envelope?

A. No, he didn't.

Q. When next did you see that glassine envelope?

A. I believe it was on the table in the narcotics unit.

Q. Did it have any identifying marks on it at that time?

A. To the best of my recollection, I believe there was somebody's initials on it.

Q. Did you fix your initials on the glassine envelope?

A. No, I did not.

Q. Did anybody ask you to?

A. No.

Q. Did there come a time when you saw some money up there?

A. No, I don't remember seeing any money.

Q. When is the first time after you say you saw Arto Williams hand something

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contd. P. 374

that looked like money to Geraldine Robinson
did you see any money that was extensively
connected with the case?

Debozin:

Attorney objects.

The Court:

I will allow it. Answer the question.

The Witness:

A. The next time I saw the money after it was
allegedly passed. Is that correct?

McKinney:

Q. That is correct. Yes.

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A/ I believe it was at the Grand Jury a few months later.

Q. Incidentally Officer Steverson did you testify before the Grand Jury in this case?

A. Yes, I did.

There is a short intermission as McKinney have transcript of Officer Steverson submitted before the Grand Jury. Marked Peoples Exhibit 6 for identification.

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resuming after recess

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Cross examination by McKinney continued.

McKinney:

Q. Trooper Steverson there appears on Peoples Exhibit 1 for Identification of Glassine envelope some initials. Did you observe any of these initials being affixed to this envelope?

A. No.

Q. Now sir you had occasion to testify relative to the facts to this case in a prior 377 occasion?

A. Yes.

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Q. More specifically, in March of 1968 is that correct?

A. I believe that was the date.

Q. That was approximately eight or nine months after the events that you testified to. Is that correct?

A. That is correct.

Q. At that time you testified, just as now, under oath. Is that correct.

A. That is correct.
today

Q. Initially, you testified you and Mr. Williams went to this particular corner where you met this other car and he got out and walked to the other car and you got behind the wheel and you didn't see anything happen and then after ---
Objection.

Debozin:

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McKinney resumes:

Q. Do you recall having testified relative to these facts in March of 1968?

A. Yes.

Objection.

Now McKinney wards prior testimony into the record.

McKinney:

Q. Do you recall sir having been asked this question and giving this answer, "After you returned" I am sorry referring to line 2 on Page 4, McKinney "Q-okay", this is by Mr. Notaro. "After you returned to the car with Mr. Williams and the bag was handed to Gristmacher as you have testified to what if anything did you do?"

A. I was in the back seat at that time and then when Det. Sgt. Gristmacher returned to that vicinity of Main Street and Dodge he got out of the car, then I drove the car back to police headquarters."

Q. Do you recall having been asked that question and giving that answer?

A. Yes.

DEBOZIN!

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(Pp. 379, 380? none)
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Q. You didn't say anything about Sgt. Gristmacher having done anything with that bag or of taking a test of any kind. Did you?

DEBOZIN:

Objection.

Mc Kinney resumes: Q. Officer Steverson you testified earlier to making certain observations from the door, at the time, of 1412 Jefferson Avenue. Is that correct?

A. That is correct.

Q. How long were you in the premises the first time that you entered?

A. Less than a minute.

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q. Pardon.

A. Less than a minute.

Q. And how long did you watch what you claimed took place inside from your advantage point outside of the door?

A. Maybe another minute.

Q. Prior to 1967 had you ever seen Geraldine Robinson before?

A. No.

Q. In your testimony sir saying that you saw Geraldine Robinson was based on having saw her at your first appearance and again from your advantage point of the doorway while you were making these observations, is that correct?

~~The~~ DEBORIN objects.

DEBORIN:

McKinney:

Q. Officer, have you ever seen Geraldine Robinson before?

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A. No.

Q. In your life?

A. No.

Q. And the first time that you saw her you were standing with Arto Williams, Martin Sostre and a lady the first time you entered the building. Is that correct?

A. Yes.

Q. For less than a minute?

A. Approximately three minutes all total.

Q. Didn't you say you were there less than a minute?

A. I was walking toward the store, was inside the store, left the store and stood in front of the store.

Q. Oh, how long were you in the store the first time? Didn't you say less than a minute?

A. Less than a minute when I was in the store.

Q. And how did you make observations from outside of the store after you went out?

A. Approximately a minute.

Q. Approximately? So that your observations of approximately three people and the premises with the other thing that took place was that being to spare was at most a minute and a half. Is that correct?

A. Four minutes.

Q. When you said less than a minute you were in the

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first time?

A. That is correct.

Q. In the your observations from outside the transactions that you described the first time here was about a minute and a half. Isn't that what you said?

A. Yes.

Q. So that actually your observations totalled exactly two minutes?

~~The~~ DEBOZIN objects.

DEBOZIN

The Court:

I will let him answer the question.

The Witness:

A. No, it was more than that.

McKinney:

Q. All right. Sir, how long were you on the premises the first time that you entered?

A. Less than a minute. Approximately a minute at the most.

Q. And when you say less than a minute you mean from

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the time that you entered until the time
that you left. Isn't that correct?

A. That is correct.

Q. Including the time that it took you to walk
from the doorway to where Sostre was. Is that
correct?

A. That is correct.

Q. And back out?

A. Yes.

Q. Right. And while you were in there most of
that minute you were standing with Arto Williams
facing Martin Sostre with Geraldine Robinson in
the back as you say. Isn't that correct?

A. Yes.

Q. So that most of that minute you were observing
Martin Sostre. Isn't that correct?

A. That is correct.

Q. And you left?

A. Yes.

Q. Less than a minute in the premises the entire
time at that point. Is that correct?

A. Yes.

Q. Then you went out on the sidewalk and you talked
with Arto Williams?

A. Yes.

Q. And after that conversation you posted yourself

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at the building line or at the doorway, near the doorway; 3 ft. from the doorway and made observations from the inside as Otto Williams entered. Isn't that correct?

A. That's correct.

Q. And you watched him as he entered the building. Did you not?

A. That is correct.

Q. And you kept your eyes fixed on him, did you not? So that you knew exactly what he did?

A. That is correct, yes.

Q. And the observations that you made from that vantage point after he went in, or as he went in, and until he came out took about another minute. Isn't that correct?

A. That is correct.

Q. So that, the only observations that you made there both when you were there and from the outside were two minutes. Isn't that correct?

A. That is correct.

Q. And most of the first minute that you were in there you were observing Martin Sostre. Isn't that correct? Because you said that Geraldine Robinson was 9 ft. behind you. Isn't that correct?

A. Yes.

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Q. And while you were making the observations from the outside for just about a minute you had your eyes fixed on Arto Williams because he was one who was going to engage in this transaction. Now isn't that correct sir?

A. Yes.

McKinney:

No further questions.

Redirect ~~the~~ examination
by Deben ~~DR~~ ROBINSON

Q. Did you see Geraldine Robinson on the afternoon of July 14, 1967 in Martin's Book Store when Otto Williams walked in?

A. Yes, I did.

Q. Does she appear here in the courtroom today?

A. Yes.

Q. Will you point her out please?

A. Sitting at the table with counsel.

Q. In the pink jacket?

A. With the pink.

Q. Let the record indicate the witness is identifying Geraldine Robinson.

The Court:

The Record shows it.

McKinney:

Will the court take judicial notice there is a period of almost two

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~~Deborson:~~
DEBOZIN:

McKinney:
~~Deborson:~~
DEBOZIN:

McKinney:
~~Deborson:~~
DEBOZIN:

years since the initial observation was made.

Almost three years your Honor.

Q. Almost three years?

Q. Can I have the exhibit please?

A. Two years 1967.

Q. Thank you.

Q. Now I am showing you this defendant's Exhibit A and you previously stated that is your signature there. Isn't that correct?

A. That is correct. Yes.

Q. And that was sworn to me on the 14th day of July, 1967?

A. Yes.

Q. That was after the incident?

A. That is correct.

Q. And since that day until the time when it was shown to you by Mr. McKinney did you have an opportunity to see and read that?

A. No.

Q. That was first instance. Is that correct when Mr. McKinney showed it to you since July 17, 1967?

A. Since the previous trial, yes.

Q. Did you see it on the previous trial?

A. Yes.

Q. So that would be since March of 1968?

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A. That is correct.

Q. Now before you testified here today though you didn't have an opportunity to read this did you?

A. No, I did not.

Q. On this affidavit here is made up of 1,2,3,4,5,6 paragraphs on one page. Is that correct?

A. That is correct.

Q. The portion Mr. McKinney related to you was one portion in the last paragraph?

A. Yes.

Q. In the other six paragraphs there is no question about it in your mind?

A. No.

Debor^{son}~~son~~:

I will make an offer at this time, the affidavit Your Honor do you have any objections? While they overthis for a while re-cross examination by Mr. McKinney.

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Q. Officer, when you say that ~~that~~ you didn't have
an opportunity

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to look at the affidavit, did you look at anything previously in connection with this case?

A. Yes.

Q. And did you go over carefully what you said before you came in here today to testify?

A. I read it. That is correct.

Q. You read everything so that when you came in here today to testify you had read the transcript and seen what you said before and when you testified you testified as closely as possible to what you said before. That Correct?

Debozin: Objection.

McKinney Resumes: I will rephrase the question.

Q. Trooper, when did you read your prior testimony?

A. Approximately a week ago or a week and a half.

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Q. Did you read all of it?

A. Yes, most of it.

Q. And when you testified today did you think back to what you had read?

A. Yes.

Q. So that when you testified today you were testifying not ~~only~~ on the basis of your independent recollection but on the basis of having been reminded of what you said before. Is that correct?

A. Both.

Q. I see. When you made the error with respect to what happened after they got to did you testify on your independent recollection or did you testify on the basis of having read the transcript?

Objects.

Q. I will try to reword the question and try to make it clear.

Q. When you testified today/^{originally}that you didn't see anything when you got to Jefferson and Dodge, except Sgt. Gristmacher got out and walked to the car, that you never saw the envelope again until after you got to police headquarters did you testify

DEBOLIN
Deberson:

McKinney:

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based on your independent recollection of events or did you testify on having refreshed your memory after reading the transcript a week ago?

A. Both again.

Q. Both. You didn't indicate at the time that you so testified that you had difficulty recalling the facts. Did you?

A. I can't remember.

Q. When you testified that you didn't see anything happen with that envelope you never saw it again until after you got to the police station. You didn't say "Well, I think not because I can't recall" did you?

Objects.

McKinney:

No further questions.

DEBOZIN:
Deborson:

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Testimony of John Alan Wilcox,

New York

Debozin:

Direct Examination

- Q. Where are you employed?
- A. New York State Police.
- Q. How long have you been with the New York State Police?
- A. Approximately nine years.
- Q. Are you assigned to any particular unit?
- A. I am assigned to the identification section.
- Q. And on July 14, 1967 where were you employed?
- A. By the New York State Police.
- Q. Did there come a time on the evening of July 14, 1967 that you were in the area of 1412 Jefferson Avenue?
- A. Yes, I was.
- Q. And where were you in relation to 1412 Jefferson

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Avenue?

- A. Directly across the street in an upstairs apartment at 1413 Jefferson Avenue.
- Q. What were you doing at 1413 Jefferson Avenue?
- A. Conducting a surveillance on 1412 Jefferson Avenue.
- Q. And how long had you conducted that surveillance at 1412 Jefferson?
- A. Approximately three days.
- Q. And do you recall approximately what time you arrived at 1413 Jefferson Avenue on 7/14/67?
- A. Yes Sir I do. It was approximately 10 o'clock P. M.
- Q. And when you arrived there what did you do?
- A. I surveyed the premises of 1412 Jefferson Avenue.
- Q. And did you use any instrument to aid you in surveying those premises?
- A. Yes sir. I had a camera and telescopic lens.
- Q. And when you looked through the telescopic lens what effect did that have?
- A. It brought the premises of 1412 Jefferson Avenue closer to view.
- Q. And when you arrived at 1413 Jefferson Avenue at approximately 10 o'clock in P.M. did you have an opportunity to view the premises of 1412 Jefferson Avenue?

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A. Yes Sir.

Q. And when you did did you see anybody who is in the courtroom today?

McKinney:

Objects:

Debozin:

Q. When looking at 1412 Jefferson Avenue wd, if anybody, did you see?

McKinney:

Objects again.

The Court:

He established it at about 10 o'clock in the evening of July 14, 1967. All right proceed.

Q. Who did you see, officer?

The Witness:

A. I saw Martin Sostre and Geraldine Robinson in the store located at 1412 Jefferson Avenue.

Q. Had you seen Geraldine Robinson before July 14, 1967?

A. Yes, I had.

Q. Does she appear here in the courtroom today?

A. Yes sir she does.

Q. Would you point her out please?

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- A. She is defendant's table.
- Q. And ~~xxxxxx~~ with which individual?
- A. Pardon.
- McKinney: Q. Was it me?
- A. No sir, it was not.
- Debozin: Q. Are you referring to who?
- The Witness: A. I am referring to the female sitting next to ~~xxxxxx~~ counsel.
- Debozin: Let the record indicate that the witness is referring to Geraldine Robinson, the defendant.
- The Court: Record may show.
- Debozin: Q. Now officer do you know ~~xxxxxx~~ Trooper Steverson?
- A. Yes sir.
- Q. Just one second. At the time you were at 1413 Jefferson Avenue were you alone or in the company of someone?
- A. I was in the company of someone else.
- Q. And who was that?
- A. Investigator Steinmetz.
- Q. And did there come a time after you arrived at 1413 Jefferson Avenue when you saw Trooper Steverson?
- A. Yes sir, I did.

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Q. And do you recall approximately when you saw him?

A. It was approximately 11:50 P.M.

Q. Would you relate to the court first of all, the court and the jury, was he alone or in the company of someone?

A. He was with another gentleman known to me as Arto.

Q. Do you know a last name for that individual?

A. It is Arto Williams.

Q. What if anything did Arto Williams and Trooper Steverson do?

A. They went into the store at 1412 Jefferson Avenue.

Q. Continued. By the way the only aid you had was the single instrument the telescopic lens. Is that correct?

A. That is correct.

Q. You had no transmitting aid or anything of that nature?

A. No sir!

Q. Relate, if anything, that you saw?

A. Trooper Steverson and Arto Williams went into the premises of 1412 Jefferson Avenue, was there momentarily and then both of them came back out, and Arto Williams went into the store by himself. He passed something to Geraldine Williams and at this time --

MC KINNEY: Geraldine Williams?

WITNESS: A. Martin Sostre walked to the back of the store and reappeared a short time later, a few seconds, and handed Arto Williams something. Arto Williams then left the store, joined up with Trooper Steverson, and then left the area.

DOBOZIN: Q. You said Geraldine Williams! Did you mean to say Geraldine Robinson?

A. Yes sir! I did.

Q. On the first occasion that you saw Trooper Steverson and Arto Williams at 1412 Jefferson Avenue did you see them approach anybody?

A. They approached Martin Sostre and Geraldine Robinson.

Q. Then Trooper Steverson left. Did Arto Williams --

MC KINNEY: Objection!

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Q. On the first occasion when they left, as you testified that they left, were you talking about how?

Strike that.

Q. Arto Williams and Trooper Steverson went to the premises and approached Martin Sostre and Geraldine Robinson. Is that correct?

A. That is correct sir.

Q. After first approaching them did you previously testify that they then actually left from the premises?

A. Yes sir I did.

Q. And then what happened after they left the premises?

A. Arto Williams then went back into the store.

Q. Where was Trooper Steverson?

A. Trooper Steverson was standing just outside the door.

Q. Now, what did Arto Williams do after he left Trooper Steverson? Where did he go?

A. He went back into the store and approached Geraldine Robinson.

Q. Was Geraldine Robinson alone when he approached her?

A. No, Martin Sostre was standing with her.

Q. Can you state the proximity of Martin Sostre and Geraldine Robinson when Trooper Steverson Strike that.

Did Arto Williams proceed to approach them alone now?

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Debozin:

A. I would estimate it to be 2 or 3 feet.

No further questions at this time.

There was a recess.

(They marked Defendant's exhibit "A" of
photocopy of Steverson's affidavit. McKinney
objects introduction of the entire document.)

P. 402-406 (none)
P. 407

Cross Examination of Wilcox by McKinney

- MC KINNEY: Q/ Mr. Wilcox I believe in your direct testimony, and correct me if I am wrong, you indicated that you had been in the vicinity of 1412 Jefferson Avenue prior to July 14, 1967. Is that correct sir?
- A. I testified to three days.
- Q. Three days. I believe it was your testimony that you placed yourself in the building across the way at 1413 Jefferson Avenue. Is that correct sir?
- A. That is correct sir.
- Q. Was that 1413 Jefferson Avenue?
- A. That is correct sir.
- Q. On what floor of that building did you place yourself on on each of these days?
- A. The second floor.
- Q. What was the particular apartment in which you located in?
- A. I don't know the number of the apartment. I know the name it was rented in.
- Q. Whose name was it rented in?
- A. It was rented in the name of a Dentist by the name of Dr. Reid.
- Q. Dr. Reid? Now is it your testimony that you had taken photographs from that location?
- A. I had on several occasions done that. Yes.
- Q. I didn't understand, sir. Is it your testimony that

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you took photographs on the 11th, 12th, and 13th?

A. No sir.

Q. I am sorry. Would you then tell us when you took photographs?

A. I took photographs there on the 8th and 10th of July.

Q. Did you take photographs at any other time?

A. No sir.

Q. At any time while you were present in that apartment maintaining surveillance over the premises of 1412 did anyone take photographs in your presence.

A. Not to my knowledge.

Q. Did you have any knowledge of any other photographs that were taken from that location or on that side of the street during the dates that you have just stated?

A. Yes.

Q. Who else took photographs?

A. Sir, you didn't ask me you asked me if there were any other photographs taken.

Q. Now I say other than the ones you took do you know of any other photographs other than the ones you took?

A. I know of no others.

Q. Do you have any photographs that were taken on the 10th of July?

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A. No sir.

Q. Do you know of any photographs that were taken on the 11th of July?

A. No sir.

Q. Sir, do you know of any photographs that were taken on the 12th of July?

A. No sir.

Q. Do you know of any photographs that were taken on the 14th of July?

A. No sir.

Q. During the day?

A. No sir.

Q. During the evening?

A. No sir.

Q. During the morning of July 15th?

A. No sir.

Q. So you took photographs on the 8th and 10th of July and then on the 14th you really had the place under surveillance. Is that correct?

A/ That is correct, sir.

Q. Did you have your camera with you?

A. Yes.

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- Q. You didn't use it to take photographs. Is that correct?
- A. That is correct, sir.
- Q. In your testimony this morning, what did you say you viewed as you looked through the lens of your camera as you looked down at the book store. Is that correct?
- A. That is correct.
- Q. Did you take a photograph of what you saw?
- A. No sir.
- Q. Did anyone take a photograph of what you say you saw while you were there?
- A. Not to my knowledge.
- Q. Have you ever been face to face with Geraldine Robinson before you claim you saw her through the telescopic lens on the night of July 14, 1967?
- A. No sir.
- Q. Now sir, do you have any notes with you that you can refer to with respect to the observations that you made on that night?
- A. No sir. I do not.
- Q. You say that you observed . . . Actually, I believe you observed Trooper Steverson and the informer, Arto Williams, walking toward the book store. Is that correct sir?

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- A. I said that. Yes sir.
- Q. Did you see them through the telescopic lens?
- A. I saw them through both that and my own visual observations.
- Q. I see. Did you record the fact that you observed them walking toward the book shop at approximately 11:30 on the night of July 14th.
- A. I did not make a written note. No sir.
- Q. You didn't make any notes whatsoever. Is that correct?
- A. That is correct sir.
- Q. Did you testify before the Grand Jury sir?
- A. No sir.
- Q. Sir, did you talk to Sgt. Gristmacher during the day of July 14, 1967?
- A. No sir.
- Q. Did you talk to Trooper Steverson?
- A. No sir.
- Q. Did you talk to Arto Williams?
- A. No sir.
- Q. You say that while you were in Dr. Reid's office looking down upon the premises of 1412 that you were using telescopic lens. Was that telescopic lens that was attached to a camera for camera purposes?
- A. It was sir.

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Q. Was it in fact attached to the camera at the time that you viewed through it?

A. That's correct.

Q. What type of camera was it that it was attached to?

A. It was attached to a 35mm Miranda.

Q. Was that a Miranda Sensorex single lens reflex?

A. A single lens reflex!

Q. Miranda Sensorex! Is that the specific model?

A. No! It was not.

Q. Was that a sensomat?

A. No sir!

Q. What particular model was it?

A. It is called a Miranda and it has film in it.

Q. Did it have film in it at the time that you were viewing the premises through a telescopic lens?

A. Yes sir! It did.

Q. You didn't take a picture! Did you?

A. No sir! I did not.

Q. You had Geraldine Robinson in full view, allegedly participating in an illegal act! You had a camera! And You had a telescopic lens! And you mean to tell this jury you did not take a picture!?

A. That is correct, sir.

MC KINNEY: No further questions.

Re-direct examination by Mr. Dobozi

DOBOZIN: Q. Why didn't you take the picture Mr. Wilcox?

A. Because the camera was loaded with color film

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and it was night time. I could not take a picture with color film under the light condition.

DOBOZIN: No further questions.

Re-cross examination by Mr. McKinney

MC KINNEY: Q. Mr. Wilcox what time did you get to 1413 Jefferson Avenue?

A. I arrived there at 10 P.M.

Q. So that when --- excuse me. Where did you get the camera?

A. I had the camera on my person prior to arriving there.

Q. Did you have it with you all day?

A. Yes sir! I did.

Q. During the day time?

A. Yes sir!

Q. You knew you were going there at 10 P.M.?

A. No sir! I did not.

Q. Well, you knew that you might take pictures at night

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time as well as day time. Didn't you?

A. I was not aware of it early in the day. No sir.

Q. You know you are a police investigator and you travel around with film that will take pictures only in the day time. Is that correct?

A. No, it is not correct sir.

Q. Did you have film that would take pictures at night time?

A. Yes sir. I did.

Q. Did you have it with you?

A. No sir. I did not.

Q. Where was it?

A. It was in my car.

Q. Where was your car?

A. It was at police headquarters.

Q. Well, when you left police headquarters what time was it - approximately?

A. It was approximately 9:45.

Q. Was it night time? Was it not?

A. That is correct.

Q. And you had film that would take pictures at night time at police headquarters when you left. Is that right?

A. That is correct.

Q. But you didn't take it with you?

MC KINNEY:

A. No sir.

DEBOZIN:

No further questions.

THE COURT:

I have no questions.

Mr. Wilcox, there is some testimony that you took photographs on the 8th and 10th of July and then there was some mention of the 8th and 9th. Which was it the 8th and 10th?

THE WITNESS:

A. It was the 8th and 10th, sir!

THE COURT:

All right. That is all. You're excused.

Left off at P. 415 starting with the testimony of
B R U C E J E N S E N, 77 French Reid Road
West Salica, New York.

AACP

CASE FILES

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Proceedings of Monday, May 26, 1969 commencing
at approximately 10:20 A.M.

Appearances as before noted:

JURY POLL
ALL JURORS PRESENT
2 ALTERNATE JURORS PRESENT
DEFENDANT PRESENT
MR. DOBOZIN
THOMAS CONSTANTINE

THOMAS CONSTANTINE, residing at
5424 Lakeshore Road, Hamburg, New York, having been
duly called and sworn as a witness on behalf of
the PEOPLE was examined and testified as follows:

MC KINNEY:

May I inquire if Mr. Dobozin intends to
recall Mr. Smith.

DOBOZIN:

Yes! But this is a more logical sequence. This
is why I put Mr. Constantine on.

MC KINNEY:

Mr. Smith has already started to testify, if I
recall.

DOBOZIN:

That was because Mr. Constantine was sick. As
long as we are going in the regular chronological
order I thought I would put Mr. Constantine on.

THE COURT:

There was a question of inadmissibility of certain evidence which Officer Smith is going to testify to which the court will allow the district attorney to make some offer of proof on. But, I understand,--- At least it was my understanding that he would permit Officer Constantine to testify then follow through with Officer Smith.

All right. You may proceed.

Direct Examination by Mr. Doboizin:

DOBOZIN:

Q. Now, Mr. Constantine where are you employed?

A. I am employed by the New York State police.

Q. Under what capacity?

A. I am a sergeant attached to the narcotic unit in Pithavier, New York.

Q. For how long have you been in the New York State police?

A. Approximately eight year snow.

Q. And how long have you been involved, was that with the Criminal Bureau of Investigation?

A. That is right. The Criminal Bureau of Investigation.

Q. You would then be investigator?

A. That is correct.

Q. And opposed to uniform?

A. That is correct.

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Q. How long have you been an investigator?

A. Approximately three years now.

Q. Now, did there come a time on July 15, 1967 when you were in the area of 1412 Jefferson Avenue?

A. Yes sir! I did.

Q. Did there come a time when you went to the premises 1412 Jefferson Avenue?

A. Yes sir! I did.

Q. And approximately what time was that?

A. It was shortly after midnight. I would assume about five or ten minutes after midnight.

Q. When you entered the premises were you alone or in the company of other officers?

A. ^{No,}
I was in the company of other officers.

Q. Do you recall the other officers who was with you?

A. Yes! I was driving a vehicle which contained Det. Sgt. Gristmacher and Smith, from the Buffalo Police Department, and investigator Rock, from the New York State police. These people preceded me into the establishment.

Q. What happened then?

A. I went to the rear of the store to assist Det. Sgt. Smith and Det. Hassetta and Investigator Rock in making an arrest in the rear of the store - the rear portion.

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Q. And do you know who was being arrested at that point?

A. Yes! I do.

Q. And who was that?

A. The subject identified to me at that time was Martin Sostre.

Q. And what occurred at the time of arrest? If anything?

A. I assisted in handcuffing the subject. He had already been there. There was a struggle of some type in the back room and I assisted in placing the handcuffs on the defendant.

Q. Were you present during course of the struggle?

A. Not all of it! No.

Q. When you entered the premises did you see one, Geraldine Robinson?

MC KINNEY:

I object to the phrasing of the question and respectfully request that the court rephrase the question.

DOBOZIN:

Q. Who else did you see when you went to the premises?

A. As I went to the rear of the store I saw a female subject behind a glass type counter on my left and then there were two young ladies over on the right hand side of the store as I went through the front portion.

- Q. And during the course of the struggle did you again see the female person?
- MC KINNEY: Your Honor, I object. It is leading the court. I think you ought to ask him what happened. Ask him what he observed.
- DOBOZIN: Q. What happened during the course of the struggle, if anything? What did you see? What did you hear?
- A. During the course of the struggle in the back room the only thing that I saw was what was taking place between the police officers and the Sostr subject. I heard a woman screaming bust.
- Q. Sir, did you see any other, other than the Negro woman subject you referred to?
- A. No! That was the only woman in the store.
- Q. Sir, does that individual appear here in the court today?
- A. Yes! She does.
- Q. Would you point her out?
- A. The young lady sitting in the green dress.
- Q. Did you know her before July 15, 1967?
- A. No.
- Q. Do you know her by name?

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A. Yes, I do.

Q. What is her name?

A. Geraldine Robinson.

Q. Sir, do you know approximately
Strike that.

After the struggle that you refer to what, if
anything, did you do?

A. After the subjects were all placed under
arrest the detail of men proceeded to search
the premises of the book store.

Q. Did you yourself search the premises?

A. Yes! I was assigned to the - it would be the
south wall. There is a filing cabinet in the
arear Just in the rear portion, I would say,
about three feet past the arch way into the
book room and I started to search the filing
cabinet and the material on top of it and
around it.

Q. And where would this cabinet be in relation to
the front door?

A. It is on the south wall in the back room. I
would approximately three feet into the back
room on the south wall.

Q. And where was ---

I object to any testimony as to what occurred
after the subject and the other defendant was
placed under arrest

MC KINNEY;

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as not being relevant or material to the charges against the defendant, Mrs. Geraldine Robinson.

THE COURT:

I don't know how far the district attorney intends to go. I'll have to listen to more testimony. This time I'll overrule your objection.

DOBOZIN:

Q. Where was the filing cabinet in relation to the struggle which took place?

A. It was in the general area of the struggle. In fact it took place just about between the alcove into the back room and the filing cabinet right in the general area along the south wall.

DOBOZIN:

Your Honor at this time I am going to make an offer of proof. Do you want me to proceed at this point or how do you want it?

THE COURT:

Come up to the bench counsel. (Where upon the court and counsel had a conference at the bench.)

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DOBOZIN:

Q. Officer, approximately to the best of your ability would you relate the amount of time that elapsed from the time you entered the premises to the time you actually started searching?

A. Ten - fifteen minutes.

Q. Would you state your search and what, if anything, you found?

MC KINNEY:

Your, Honor, I object at this point to any testimony with respect to the fruits of any search, the effect of any search, on the grounds that it is absolutely immaterial and irrelevant to the facts in this case. There is no charge here with respect to anything other than resisting arrest and allegedly aiding and abetting in the single envelope of herion. There is no testimony to connect this defendant to anything else that took place in that room on that evening. And any evidence that the district attorney offers at this time which has nothing to do with this defendant can only serve to be most prejudicial to the defendant's rights. And I very vigorously object to any such introduction of evidence. If the court sees fit I respectfully ask for

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an adjournment on a claim of surprise on the grounds that there is no reason to believe that, and I have no reason to believe, the district attorney would attempt to offer into evidence against this defendant any fruits of an alleged, any alleged fruits of an alleged search, and therefore I was denied an opportunity to bring the proper motion before this trial for purposes of exclusion. In view of the fact that I say I am not appraised of this fact because the testimony, the word indictment does not in any way accuse this defendant of anything other than aiding and abetting in the single sale and resisting arrest. If my request is denied, I have proof. First of all the fruits of whatever was found I submit to the court as permissible for the purpose of it shows motive on the part of the defendant to resist as corroborating evidence of the sale and as part of the overall fact situation, part of which is called the res gestae. In reference to prior sentence, Mr. Mc Kinney, I think it should

DOBOZIN:

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cleared up that Mr. McKinney has at his disposal, and has referred to, the minutes of another trial in which the search warrant was put into evidence, in which there was testimony as to the fruits of any search. Sir, I submit to the court the case that Mr. McKinney has no surprise whatsoever as all those things were made available to him and all the knowledge beforehand in reference to these things. And, by-the-way, Mr. McKinney has been retained on these things for a number of months, more than ample time to make any motions which were needed. In reply to the last statement, if I had been retained on these matters for three years there is no reason to believe, or for me to have reason to believe, that the district attorney was going to offer the fruits of an alleged search against this defendant. What I may have had in this position did not apply to this defendant. There is no reason to believe that any fruits of an alleged search would be offered against this defendant. There is only one charge in

MC KINNEY:

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involving --- two charges involving this defendant. One is aiding and abetting in the sale of narcotics in some section of this particular store. The other is in having resisted arrest. This evidence that the district attorney has offered arose with respect to the alleged sale. He has offered evidence with respect to resisting arrest and anything else that can possibly be considered relevant and material to the extent that it may be remotely relevant is extremely outweighed by extremely prejudicial nature of the evidence against the rights of this defendant. I again renew my application for a voir dire in view of what I consider as a surprise of the offer of evidence.

THE COURT:

I overrule the objection Mr. McKinney and I'll allow the introduction into evidence of this only as it has its bearing upon the credibility of what did occur in the front of the premises. The defendant is charged with aiding and abetting and resisting an officer insofar as it gives credit to facts that an alleged pass or passage glassine envelope was obtained by another person in the rear of the premises and only to that extent will the court permit this testimony to be offered.

MC KINNEY:

Your Honor may I respectfully request that the court give very specific and very detailed

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instructions to this jury with respect to the
extent to which this evidence is considered
admissible by the court.

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THE COURT:

because I believe what we are doing here we are attempting to prosecute this defendant by offering evidence of some other person. That is not the intent of the court and I instruct the jury here and now that this evidence that is being admitted is not being admitting for any other purpose except the jury in their judgment believes it gives some weight to what occurred in the front of the premises. The defendant is charged with the charge of the sale of aiding and abetting in the sale of a single glassine envelope and for resisting an officer. This introduction into evidence is in no way to be considered against the defendant in the

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matter of possession of other glassine envelopes. Nor, to the fruits to a search to which she is not a party. It is only allowed for the purpose that the court has designated.

MC KINNEY: That was it is not admissible for the purpose of trying to establish knowledge which is an important element in any crime.

DOBOZIN: Now, I am going to object to that instruction.

THE COURT: That matter I'll leave to the judgment of the jury in the testimony that has already been given is not to be charged against the defendant on the question of a legal search and if there is a legal search and seizure, the fruits of the seizure is only allowed as it might give credence to the testimony that has already been given.

MC KINNEY: I respectfully ²⁴accept to the instructions of the court on the grounds that it is not specific on the present state of law with respect to the particular matter at hand.

THE COURT: ²⁴Your acceptance is noted. Proceed.

DOBOZIN: Would you mark that please.

- MC KINNEY: Is your Honor denying of voir dire.
- DOBOZIN: I haven't even examined on the area.
- MC KINNEY: I am trying to find out the position of the court before we proceed.
- DOBOZIN: Your Honor, I don't know how we can have a voir dire which I understand counsel is referring to a preliminary examination before I even begin to establish what I am going to establish.
- MC KINNEY: I'll make the application.
- THE COURT: All right. Make it. Let's go on.
Where upon the envelope was marked People's Exhibit # 7 for Identification.
- DOBOZIN: Q. Mr. Constantine what if anything did you find pursuant to your search?
- A. In the top draw of this particular cabinet that we had described after a period of about ten minutes the packet of glassine envelopes wrapped in a rubber containing an apparent white powder.
- Q. I show you People's Exhibit # 7 marked for identification

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and ask you if you recognize the contents of that. Do you want to examine that?

A. There was a group of these glassine envelopes which contain my initial and the date and others that don't.

Q. Now, did you see the glassine envelopes which contained your initials and the date on July 15, 1967?

A. Yes! These were the envelopes that I initialed on that date.

Q. Where did you initial them?

A. At the book store.

Q. Did there come a time that --- Strike that --- when you described the glassine envelopes as you saw them on July 15, 1967?

MC KINNEY: Your Honor, the glassine envelopes speak for themselves. Unless the witness is going to say that there are in different states than they were before.

DOBOZIN: May I proceed.

THE COURT: Well that is true. Yes! I'll sustain the objection in this connection.

DOBOZIN: Q. Was it a single glassine envelope? Double glassine envelope?

A. The bags of the glassine envelopes in question that

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I saw that night appeared to me on the exterior to be a double glassine envelope with the scotch tape sealer and the white powder inside. This is the usual way.

MC KINNEY: I object as to what is usual.

THE COURT: Sustained.

DOBOZIN: Q. Now what envelopes did you initial, if any?

A. I initialed ten envelopes--apparent outer envelopes.

Q. You didn't initial inner envelopes?

A. No! I didn't.

Q. Now, after finding them in this filing cabinet what did you do them?

A. I returned them on my person to the Buffalo Police Headquarters and turned them over to Det. Sgt. Smith, of the narcotics squad.

Q. And from the time that you found them until the time that you turned them over to Det. Sgt. Smith were they ever out of your possession or control?

A. No; they were not.

Q. I am showing you one of the glassine envelopes, People's Exhibit #7 and I ask you if that, what is that?

A. It is a glassine envelope with my initials and the date, 7/15/67 on it

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Q. Who put the date on there?

A. I did.

Q. And when did you put it on there?

A. That day, that evening or early morning.

Q. July 16, 1967?

A. Right sir.

DOBOZIN: No further questions of this witness.

THE COURT: I'll allow you to cross examine him now Mr. McKinney.
In connection with future voir dire I'll deny
your request at this time.

MC KINNEY: Thank you. Respectfully except.

CROSS EXAMINATION BY MR. MC KINNEY

Q. Det. Constantine when you entered the premises
of 1412 Jefferson Avenue how many officers
entered before you?

A. Three or four. I can't recall which.

Q. And those were Hassette, Smith and Gristmacher?

A. That is correct.

Q. As a matter of fact, Det. Sgt. Gristmacher was
immediately in front of you. Isn't that correct
sir? He was the last of those who preceded you?

A. I can't recall. It is possible.

- Q. When you entered the premises who was the first person that you saw other than the officers who preceded you?
- A. The first thing that I saw when I entered the premises was somebody coming from the side, which would be the north side of the building, and a shuffle started. That is the first thing that I observed.
- Q. Well, you testified under direct examination that at some point you saw a female. Is that correct?
- A. That is correct.
- Q. And that female was the only female on the premises?
- A. That is correct.
- Q. And you subsequently identified that person as Mrs. Robinson?
- A. That is correct.
- Q. When is the first time that you saw Mrs. Robinson after you went to the premises?
- A. I think as I went by her toward the shuffle is the best I can recall seeing her.
- Q. When you went by her she was standing, sir, on the side. Isn't that correct?
- A. That's right.
- Q. And when you went to the doorway she was approximately three or four feet right from the door. Isn't that correct, sir?

- A. No, I don't recall. I recall her being more towards the rear of the building.
- Q. Would it be fair to say that she was approximately ten feet toward the rear of the building?
- A. I can't recall how many feet.
- Q. I see. At any rate you had to pass her in order to get to the shuffle. Isn't that correct?
- A. That is correct.
- Q. How far would you say it was to where the shuffle was taking place and the entrance to the premises?
- A. It would be a guess of about twenty-five to thirty feet.
- Q. Right. And Mrs. Robinson was no more than ten or twelve feet from the front door when you went there?
- A. I don't really recall as I said previously. As best I can recall she was near the rear front portion.
- Q. She was beyond the front of the rear portion, wasn't she?
- A. Yes.
- Q. So that she was closer to the front than she was to the rear. Isn't that correct?
- A. No! I would say that she was, as I have said twice previously, she was in the rear portion as I can recall of

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the front part of that store.

Q. Would that be then that she was midway towards the rear of premises?

A. Towards the rear of the total premises. Yes!

Q. Approximately midway?

A. Towards the rear of the total.

Q. Between the building, the front and the rear?

A. Right.

Q. Did you say anything to her when you went pass her?

A. No! I did not.

Q. Did you hear anyone say anything to her as she went pass you and before you? Yes or no?

A. Yes!

Q. Who did you hear say anything?

A. I heard Investigator Rock.

Q. Did you hear him say something?

A. Yes!

Q. Did you hear him say something to Mrs. Robinson or did you just hear him shout something?

A. I heard him shout.

Q. Did you see where he was when he said something in relation to Mrs. Robinson?

A. I would say he was --- in relation to Mrs. Robinson?

Q. Yes.

A. Almost parallel to her, I would say.

Q. Rushing towards the rear! Is that correct?

A. Yes, I would say he was rushing.

Q. As a matter of fact all of you went right in and rushed towards the rear. Isn't that correct?

A. The group that I mentioned previously! Yes.

Q. Were you wearing a uniform, sir?

A. No, I was not.

Q. Did you have your badge fixed to the front of your jacket or whatever you were wearing that night?

A. I did not.

Q. Did you have any proof of your authority as a police officer attached to your outer body? Yes or No?

A. No.

Q. Did you go over to Mrs. Robinson and tell her that she was under arrest?

A. No! I did not.

Q. Sir, did you see her engaged in the commission of any crime?

DOBOZIN: Objection.

MC KINNEY: Q. Yes or No?

DOBOZIN: Objection! Your Honor.

THE COURT: Sustained.

MC KINNEY:

Q. What, if anything, did you see Mrs. Robinson do when you entered the premises and walked pass her other than standing there?

A. I didn't her do anything.

Q. Did there come a time when you heard Mrs. Robinson yell?

A. I heard a woman's voice screaming.

Q. You heard a woman's voice, and that voice came from behind you. Isn't that correct?

A. It came from the front portion of the store.

Q. While you were in the back?

A. That is right.

Q. You could hear a female voice from the front portion of the store?

A. That is correct.

Q. Did you hear what the voice said? Yes or No?

A. NO! I did not.

Q. Would it refresh your recollection if I told you that the voice said, " Hold up"?

A. No!

Q. You have no recollection?

A. No recollection.

Q. It does not refresh your recollection?

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- A. No sir.
- Q. Now sir you say there came a time when you conducted a search in the rear of the premises. Is that correct?
- A. That is correct.
- Q. And that search which you conducted was on the other side of the partition in the rear of the store?
- A. It was the rear portion of the store.
- Q. Isn't there a partition in the rear of the store that divides the front portion from the rear portion?
- A. That is correct.
- Q. There is a small room in the back. Isn't that correct?
- A. That is correct.
- Q. And this cabinet that you are referring to was in the rear portion. Isn't that correct?
- A. That's right.
- Q. Who was present when you conducted the search of that filing cabinet?
- A. Present in the room or --
- Q. Present in the room, the rear room?
- A. At the time I was searching the rear room, would have been Det. Sgt. Smith, Det. Hassetta, and Senior Investigator Denis, from the State police. That's all I can recall at this time.
- Q. Sir, was agent Jensen there at the time you were

conducting the search?

A. I can't actually recall whether or not he was in the back room or the front room.

Q. Was the defendant, Geraldine Robinson, there while you were conducting your search?

A. In the back room?

Q. In the back room!

A. No!

Q. Behind the partition?

A. No!

Q. As a matter of fact, officer, at no time did you ever see Geraldine Robinson behind this partition. Did you sir?

A. No! I did not.

Q. Did you have a search warrant in your possession while you were searching that filing cabinet?

A. No! I did not.

Q. Did you inspect that search warrant before you entered the premises. Yes or No?

A. No!

Q. Had you procured that search warrant personally?

A. No! I did not not.

Q. Sir, did you know what it said in that search warrant? Had you read what it said in that search warrant?

A. No, I hadn't.

Q. Did you know what names appeared in that search warrant?

A. No! I did not.

Q. Did you know that Geraldine Robinson's name did not appear in that search warrant?

A. No! I did not.

Q. Sir, so that at the time that you searched the premises in the back you did not know whether you were the possessor of a valid search warrant or not. Did you, based on your own observation and knowledge?

A. Based on my observation, no.

Q. Now have you testified, sir, to everything that you recall on that particular evening?

DOBOZIN: Objection! Your Honor. He wants a narrative here. That is not a proper question.

THE COURT: Well, predicated upon what questions were put to him now if there are some other things that you want to make inquiries well you may.

MC KINNEY: Q. I'll narrow the question. Perhaps, it will satisfy Mr. Dobozi.

Mr. Constantine have you testified to everything that occurred in the rear room of the premises on this night or morning?

DOBOZIN: Objection your Honor. Same objection.

MC KINNEY: Q. To the best of your knowledge.

THE COURT: I'll let him answer that question if he knows.

WITNESS: A. To the best of my recollection as far as the police or law enforcement duties. That's all I can remember about what happened in the back room.

Q. And when you tell us that you saw a female, who you now identify as Mrs. Geraldine Robinson, in the mid portion of the store when you entered and then you heard a voice-a female voice-while you were in the back, is that all that you remember with respect to the defendant, Geraldine Robinson, up until the time that you searched that filing cabinet? Yes or No?

DOBOZIN: Objection your Honor.

THE COURT: Sustained.

MC KINNEY: Q. Now, Mr. Constantine you referred to the struggle that was taking place in the rear of the premises. Is that correct?

A. That is correct.

Q. Now what precisely--where was that struggle taking

place. Was it behind the partition in the rear of the premises?

A. Yes! The struggle took place behind the partition.

Q. And you had to go through the door in order to get to the rear of the premises?

A. I can't actually remember whether it was a door or an alcove type of thing. But it separated from the back at any rate.

Q. That alcove of the doorway is a certain width. Isn't that correct?

A. That is correct.

Q. Do you recall approximately how wide that door alcove was?

A. No! I don't.

Q. No recollection at all?

A. No!

Q. Would it be fair to say it was similar to the average doorway in an home or office?

A. I think it might have been a little wider, but the same type of set up. I can't actually recall to tell you the truth.

Q. Sir, now with respect to these envelopes that you allegedly found in the filing cabinet. What did you do with them immediately after you took them out of this filing cabinet?

- A. I told the people in the room that I had found narcotics and showed them.
- Q. Did you say that you placed your initials on them and put them in your pocket? Is that correct?
- A. Well, I put them in my pocket first and then I took them back out and remembered to put the initials on them and then I put them back in my pocket.
- Q. Did you take these envelopes and give them to the police chemist?
- A. No! I did not.
- Q. Sir, did you fill out a form that is usually filled out when a piece of evidence, or especially what is alleged to be narcotics, is submitted to the police chemist?
- A. No! I didn't fill out any forms sir.
- Q. Did you execute a return to the search warrant?
- A. No! I did not.
- Q. Sir, did you fill out inventory of what you had seized?
- A. No! I did not.
- Q. Sir, as a matter of fact, you have never reported to any court upon that warrant that you seized anything from that rear room. Did you, sir?
- A. No! I have not.
- Q. Until you testified perhaps on an earlier occasion you had never officially reported to anyone that you seized a quantity of narcotics in the rear of

that room. Isn't that correct, sir?

A. I laid in information--

Q. Pardon.

A. I laid in information charging a misdemeanor possession against another subject in the building at that time. Immediately, I think it was the next Monday.

Q. There was another person in the room?

A. That is correct.

Q. Is that person Geraldine Robinson?

A. No! It is not.

Q. And, as a matter of fact, what happened to that case where you signed in information against another person in the room?

A. I don't actually recall.

Q. Would it refresh your recollection if I told you that the case was dismissed?

A. No!

MC KINNEY:

No further questions.

DOBOZIN:

I have no further questions.

THE COURT:

Q. You say, officer, you were in a room behind an alcove doorway, alcove towards the rear of the premises?

A. That is correct.

Q. And there were some officers. There was Mr. Smith and

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Hassetts, and one of the New York State police?

A. That is correct.

Q. Sir, did you see an officer by the name of Jensen there?

A. In the back room?

Q. Yes? At what time?

A. Well during the shuffle. There was a shuffle there.

Q. Did you see an officer by the name of Jensen?

A. No! When we were struggling with the subject! No.

THE COURT:

All right. That's all.

Re-direct examination by Mr. Dobozi

DOBOZIN:

Q. Where did the struggle start? Do you recall?

A. It started right about the doorway and continued on to the back room.

Q. From the doorway to the back room?

A. That is correct.

Q. Sir, and during the time that you were engaged in the struggle were you facing where--in which direction were you facing?

A. Looking down.

Q. Okay, and could you see when you say looking down? Would you try to the best of your ability to describe the position you were in?

A. It is difficult to remember at a time like that just

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exactly where, but I was looking down and handcuffing the subject. I was looking down at the subject I was handcuffing at that time.

Q. And were you struggling with him also?

A. That is correct.

Q. Were you facing the front or the back of the store or the side of the store?

A. I would say, more of less, facing the south towards the south wall. South and Jefferson.

Q. That would be towards the rear of the store?

A. No! Towards the side.

Q. Towards the side of the store! And you don't know if Officer Jensen was to your rear or to your back?

MC KINNEY: Your Honor, I object.

THE COURT: Sustained.

DOBOZIN: Q. You don't. Well, do you know where Officer Jensen was?

A. At that time! No.

DOBOZIN: No further questions.

THE COURT: You're excused.

DOBOZIN: Your Honor, I'm just going to get Officer Smith.

THE COURT: All right.

MC KINNEY: Your Honor may I ask the district attorney

to instruct Mr. Constantine to remain available in the event that I request a voir dire and that request is granted upon any offer that may be made through him.

THE COURT: I'll have to wait until he comes back into the room.

Mr. Dobozi, Mr. McKinney asks that the previous witness be kept available.

DOBOZIN: I'm sorry.

THE COURT: Mr. McKinney asked that the previous witness, Mr. Constantine, be kept available for possible voir dire at some time later on.

DOBOZIN: Well, he has been available. At this point I know of no reason why he couldn't be.

Testimony of R O N A L D S M I T H, 75 Arlington Place, Duprew, New York, having been first called and duly sworn and recalled as a witness by and on behalf of the PEOPLE was examined and testified as follows:

Direct examination by Mr. Dobozi

DOBOZIN: Q. Now, Officer at the time you entered the premises at 1412 Jefferson Avenue did there come a time that a struggle ensued?

A. Yes sir.

Q. Where was that struggle and with whom?

A. The struggle occurred in the rear of the store with one, Martin Sostre.

Q. And how long did that struggle take? How long approximately?

A. Several minutes.

Q. And during the course of that struggle was you injured?

A. Yes!

MC KINNEY: Objection.

THE COURT: I'll sustain your objection.

DOBOZIN: Q. During the course of that struggle could you see Officer Jensen?

A. No sir.

Q. Could you hear Officer Jensen?

A. Yes sir.

Q. Can you relate where he was?

MC KINNEY: Your Honor I object on the grounds the witness said he couldn't see him.

THE COURT: He did say he couldn't see him. He said he could hear him.

DOBOZIN: Q. To the best of your ability could you relate where he was?

MC KINNEY:

Objection your Honor.

COURT:

Well, if he predicates that upon where his voice came from I'll let him answer that question.

DOBOZIN:

Q. To the best of your ability can you relate where his voice came from?

A. Yes, It was directly behind me.

Q. Could you hear any other voices?

A. Yes sir.

Q. And what other voices could you hear?

Objection your Honor.

MC KINNEY:

Overruled.

COURT:

A. I could hear a female voice.

WITNESS:

Q. And where was that?

DOBOZIN:

Objection your Honor.

MCKINNEY:

Well, if he knows who it was or in the direction it came from or can state where the voice came from he testify to that. He may testify to what he heard.

COURT:

DOBOZIN:

Q. Where was the voice if you can tell?

A. It was directly behind me also.

Q. Did there come a time when Sostre was subdued?

A. Yes sir.

Q. And what, if anything, occurred after that?

A. After he was subdued I conducted a search of the area and in the basement of the building.

Q. Sir, did there come a time when you again saw-- well strike that. Did there come a time when you received something from Officer Constantine?

A. Yes sir.

Q. And where was that?

A. At headquarters.

Q. Do you recall what it was that you received?

A. Yes sir. Ten glassine envelopes.

MC KINNEY:

Your Honor I object to the testimony even for a limited purpose that the court ruled from what proceeds the fruits of the search were admissible. This goes beyond any question with respect to credibility as to what may have occurred before and the only effect of further testimony with respects to the fruits of the search is to prejudiced the minds of the jury with respect to this defendant and there has been no connection shown between this defendant and the search. As a matter of fact I believe it was through the court's own questioning that, and this was of

concern to the court last week before we adjourned, and that was the question of whether or not any evidence with respect to the search would be offered in view of the fact that the defendant at no time had been placed in the back room where the search was conducted.

COURT: I'll sustain the objection.

DOBOZIN: Your Honor, if I may submit to the court that the only purpose for the question, and if I recall the question it related to the fact that he received something from Officer Constantine, is for the purpose of sustaining the evidence.

COURT: Yes! That has already been testified to. I'll let him answer the question of whether he received it. I'll let that in.

DOBOZIN: Q. Did you receive something from Officer Constantine?

A. Yes sir! I did.

Q. What was that?

A. Ten glassine envelopes containing a white powder.

Q. Did you do anything in reference to those ten glassine envelopes?

A. Yes sir! I retained them in my possession until I

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subsequently turned them over to the police chemist.

Q. And I show you People's Exhibit #7 marked for identification and ask you if you recognize the contents therein. Do you want to examine that, please?

A. Yes! I remember these. They contain my initials.

Q. Sir, and did you see those on July 15, 1967?

A. Yes sir!

Q. And where did you see them?

A. I received these from Officer Constantine.

Q. Are those the ten glassine envelopes that you are referring to?

A. Yes sir!

Q. By the way, there is more than ten there. Isn't there?

A. Yessir!

Q. Why is that?

MC KINNEY: Your Honor, I object.

COURT: Sustain.

DOBOZIN: Q. When you received the ten glassine envelopes were they single bags, double bags?

A. They were double. One inside the other.

Q. And after receiving those ten glassine envelopes what, if anything, did you do with them officer?

A. They were subsequently turned over to the police chemist by me.

Q. And do you recall when they were turned over to the police chemist?

A. I believe it was the Monday morning.

Q. And from July 15, 1967, when you received them until Monday morning, do you recall where they were?

A. They were under my control.

MC KINNEY: Your Honor, I object on the ground that that is not specifically responsive.

DOBOZIN: I am going to continue in this frame, your Honor, if I may.

COURT: All right!

DOBOZIN: Q. When you say under your control officer what do you mean by that?

A. Locked in a locker.

Q. And where is the locker?

A. This locker is in our narcotics squad office.

Q. Is this locker commonly called the "evidence locker"?

A. Yes sir!

Q. And how many keys are there to the locker?

A. Just one.

Q. And who has possession of that key?

A. The police chemist.

Q. Would you elaborate or state just how--just what you do in reference to your chem--to the ten glassine

envelopes?

A. Well, the locker is left open by the chemist and then we have --

MC KINNEY: I object as to what is done unless he is referring specifically to what occurred on that particular morning, night or day, not what usually is but what happened on that particular day.

COURT: Yes! What happened on that particular day? If he can testify to it it can be recounted, not what happens generally.

DOBOZIN: The locker was left open on the day?

MC KINNEY: I object to the leading of the district attorney.

DOBOZIN: Q. What was the condition of the locker, if at all?

A. It was open.

Q. And what did you do with this locker, if anything?

A. I placed the evidence into it and locked it.

Q. Did you have a key for this locker if you did?

A. No sir!

Q. And then Monday morning came. Is that correct?

A. Yes sir!

Q. And what did you do on Monday morning?

A. Well, the chemist picked it up himself

Monday morning.

MC KINNEY: Your Honor, I object and ask that it be stricken on the ground that it is not responsive.

COURT: Sustained!

DOBOZIN: Q. Did there come a time when you went to the laboratory on Monday?

MC KINNEY: I regret it is necessary for me to rise so frequently but the district attorney continues to lead the witness. He might just as well be testifying himself. I respectfully ask that he be directed to discontinue it.

COURT: I think the witness ought to be asked what he did.

DOBOZIN: Q. What, if anything, did you do on Monday morning with reference to the laboratory?

A. Nothing that I can recall.

DOBOZIN: I have no further questions at this time.

Cross Examination by Mr. McKinney

MC KINNEY: Q. Is it correct to say that you were the first officer to enter the premises at 1412 Jefferson Avenue?

A. Yes sir!

Q. Is it there further correct to say that upon entering

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1412 Jefferson Avenue you proceeded immediately towards the rear of the store?

A. Yes!

Q. Sir, and is it fair and correct to say that you proceeded immediately towards the direction where you saw a male. Is that correct?

A. That is correct, sir.

Q. Is it fair to say that as you went back to -- Strike that. Is it correct to say that as you headed towards the rear of the store towards the particular male that you passed a female whom you now identify as Geraldine Robinson?

A. Yes sir!

Q. And is it also fair to say that she was in the forward position of the store when you passed her going to the rear?

A. Yes sir!

Q. And how long would you say it took you to get from the door to the rear of the premises where you were headed?

A. Seconds!

Q. A matter of seconds?

A. A matter of seconds!

Q. As a matter of fact the time that you passed the defendant, Geraldine Robinson, it was even a few

number of seconds than it took you to get to the rear. Isn't that correct?

A. Yes sir.

Q. And when you entered the premises were you dressed in a uniform, sir?

A. No.

Q. Did you have your badge affixed to the outer part of your body, sir? Yes or No.

A. No!

Q. Sir, Were you dressed similarly to the way you are dressed now as you sit on the stand?

A. Yes sir!

Q. And I believe it was your testimony, sir, that you had a badge in your hand. Isn't that correct?

A. That's correct.

Q. May I see the badge that you had in your hand?

A. Yes sir!

Q. Did you have it on this folder like this?

A. No sir! It's a new folder.

Q. Sir, did you have it on any folder or have it just as it is here?

A. I had it on another type folder similar to that.

Q. And you had it in your hand?

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- A. Yes sir!
- Q. Do you recall what hand you did have it in?
- A. Yes sir!
- Q. Which hand?
- A. My left hand.
- Q. Like this?
- A. Yes sir!
- Q. Sir, can you demonstrate to us exactly how you had it in your left hand?
- A. The other folder was a different type and it remained open as this and I had it like that.
- Q. You walked in?
- A. I had it like that.
- Q. I see and as I stand here may I see it. As I stand here now can you read what is affixed on this badge?
- A. No sir!
- Q. More specifically, if I run pass you in a matter of seconds can you see what is on this badge?
- A. No sir!
- Q. Sir, how long--withdrawn. As you went from the doorway to the rear where you went to engage in the struggle with someone did you keep that badge in your hand?
- A. Yes sir!

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Q. Sir, did there come a time when you grabbed someone in the back room?

A. Yes sir!

Q. Did you have the badge in your left hand?

A. No sir!

Q. What had you done with it?

A. It had been knocked out of my hand.

Q. I see. Where was it? Do you know?

A. On the floor somewhere.

Q. You were not then displaying it?

A. At that time?

Q. Yes?

A. No sir!

Q. Sir, this is all a matter of seconds after you entered the premises. Isn't that correct?

A. That is correct.

Q. And how long were you engaged in the struggle in the rear portion of those premises after your arrival there? And you say that you had to grab somebody.

A. Several minutes.

Q. All right. And where at first did you actually engage in battle attack with this person in the rear of the premises. Where specifically in those premises?

A. I would approximately say it was three to four feet inside the opening to the rear portion.

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Q. In other words you were three or four feet away from the main section of the premises. Isn't that correct, sir?

A. Yes sir!

Q. So you were already in to what you call the rear room. Isn't that correct, sir?

A. That is correct.

Q. And when you finally subdued the subject that you're referring to did you subdue him in the front of the premises or in the rear of the premises?

A. In the rear, sir.

Q. And you say that you did not see Geraldine Robinson after you saw her when you entered? Is that correct? Up until the time that you subdued the prisoner. Isn't that correct, sir? You did not see the defendant, Geraldine Robinson, between the time that you passed her and the time that you finally subdued the prisoner. Isn't that correct?

A. Yes sir! That is correct.

Q. And when you refer to having heard a voice you don't know where that voice came from do you sir? Other than it was some place in the store?

A. It was directly behind me, as I stated earlier.

Q. Sir, you don't know where in that store other than in the rear of you that it came do you?

A. From, I would say it was close to me.

Q. I see. You can say it was close to you.
Have you ever heard that voice before?

A. No sir!

Q. Did you hear what was said? Yes or No?

A. Yes!

Q. Did you hear any other voices from in back
of you?

A. Yes sir!

Q. Were those voices, that you had heard prior
to that particular evening or morning, the
other voices that you had heard prior to that
particular evening or morning?

A. Yes sir!

Q. Did you see the person or persons whose voices
you heard at the time you heard the voices?

A. No sir!

Q. Now, after you subdued the subject in the rear
room did you return to the front portion of the
premises?

A. Yes sir!

Q. And when you returned to the front portion of
the premises did you see the defendant, Mrs.
Geraldine Robinson?

A. Not that I can recall.

Q. After returning to the front portion of the
premises do you recall seeing Mrs. Geraldine
Robinson at

all that night?

A. Yes sir!

Q. Was it in the premises?

A. Yes sir!

Q. Was it in the front of the premises?

A. Yes sir!

Q. Up towards the door, the front door seat of that chair?

A. Yes sir!

Q. How close to the front door did you see her?

A. Is this relating to afterwards?

Q. Yes? When you returned to the front portion of the premises and you saw her in the front portion of the premises seated in a chair?

A. It was to the rear of the counters that were on the left side of the building. Possibly, oh, I would say almost into the middle of the room between the back partition and the front.

Q. About how far from the back portion was that?

A. Fifty feet.

Q. At any time officer did you ever see any glassine envelope in the possession of the defendant?

A. No sir!

Q. At any time did you see her--withdrawn--When you entered the premises and you passed by her rapidly going to the rear in a matter of seconds

what was she doing?

A. Standing.

Q. Was she doing anything other than just standing there? Yes or No?

A. No!

Q. Was she standing next to the counter?

A. Approximately!

Q. Was anybody next to her?

A. No!

Q. Now, you testified that there came a time when you were given some glassine envelopes by Officer Constantine. Is that correct?

A. Yes sir!

Q. Sir, I believe that you testified that he gave them to you in the police headquarters. Is that correct?

A. That is correct, sir.

Q. Sir, did he give them to you at any time in the premises 1412 Jefferson Avenue?

A. No sir!

Q. Were they ever in your possession before you got to police headquarters?

A. No sir!

Q. Sir, did you ever see them before you got to police headquarters? Yes or No?

A. Yes!

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- Q. Where did you see them?
- A. In the hand of Officer Constantine.
- Q. Where did you see them in the hand of Officer Constantine?
- A. In the rear portion of the book store.
- Q. Didn't you just say that you hadn't seen before you got to the police headquarters?
- A. When you were saying this I thought you were referring to when they were turned over to me. But I had seen them at the place, yes.
- Q. I see! You had seen them in the possession of Officer Constantine?
- A. Yes sir!
- Q. Did you see where he got them from? Did you observe him remove them from any particular place with your own eyes?
- A. No sir!
- Q. Sir, now are you the one who turned them over to the police chemist?
- A. Yes sir!
- Q. Did you fill out a form with respect to that evidence?
- A. Yes sir!
- Q. Do you have that form with you?
- A. No sir!
- Q. Do you have the form Mr. Doboizin?

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- DOBOZIN: A. I don't know to tell you the truth. I'll have to check through my file. I'll have to make it available.
- MC KINNEY: Thank you.
- MC KINNEY: Q. Now when you submitted this to the police chemist did you make representation with respect to the condition which they were in?
- A. Unless I looked at the form I really couldn't answer that question honestly. I have not looked at the form.
- Q. Do you know of your own knowledge, sir, whether or not when you received those envelopes they were in precisely the same condition as when they were found by Officer Constantine? Yes or No?
- A. No!
- Q. And when you handed them over or submitted to the police chemist, sir, do you know whether they were in the same condition as when they were retrieved by Officer Constantine? Yes or No?
- A. No!
- Q. Sir, when you affixed--withdrawn--Did there come a time when you affixed your initials to these envelopes?
- A. Yes sir!

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- Q. Did you affix your initials on all of the envelopes that you have referred to?
- A. The outer envelopes.
- Q. How many of those were there?
- A. There were ten.
- Q. So that your initials appear on ten envelopes! Is that correct?
- A. Yes sir!
- Q. At that time that you affixed your initials to that envelopes you did not know, sir, did you whether in fact those had been the envelopes that were retrieved from the premises 1412 Jefferson Avenue. Did you? Yes or no?
- A. No!
- Q. Sir, after you submitted these envelopes to the police laboratory did there come a time when you uttered an affidavit for inventory in connection with the proceeds of the search? Yes or no?
- A. No sir!
- Q. Sir, did you ever report to any judge in any court the specific items that you submitted to the police laboratory? Yes or no?
- A. Sir, would you please ask that again?
- Q. Did you ever report to any court or any judge an inventory of the fruits of you sub-

mitted to the police laboratory?

A. Yes sir!

Q. You did sir?

A. Yes sir!

Q. Sir, and to what court or what judge did you report an inventory of what you submitted to the police laboratory?

A. That would have been Judge Marshall at the trial of another person.

Q. No sir! I'm sorry! My question was confusing. Prior to testifying at another trial back in March of 1968, did you some time immediately or shortly after you submitted this evidence to the police laboratory report the item that you submitted to any court or judge in connection with the return of the search warrant?

A. Oh, no sir!

Q. So sir, is it not correct to say that you did not know as a matter of fact whether those envelopes that had been presented to you right here today were in fact the envelopes that were found in the premises of 1412 Jefferson Avenue. Is that not correct, sir? You do not know as a matter of fact, do you sir?

A. No!

Q. Sir, you don't even know, do you, whether or not those

envelopes, assuming you knew those, were the envelopes gathered up inside 1412 Jefferson Avenue had been opened before you received them at police headquarters. Do you sir?

A. They were not opened.

Q. You don't know whether they had been opened, do you sir, from your own knowledge?

A. When I received them they were sealed with scotch tape.

Q. Well, sir it is possible to open up the scotch tape and reseal it is it not?

A. I would imagine it is possible.

Q. So that you don't as a matter of fact whether those envelopes had been opened and resealed before you received them at police headquarters. Do you sir?

A. No!

Q. Did you testify before the Grand Jury Mr. Smith?

A. Yes!

MC KINNEY: Respectfully request production of the Grand Jury testimony.

DOBOZIN: I'll have it marked.

Whereupon Grand Jury testimony was marked People's Exhibit # "8" for Identification.

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- DOBOZIN: Your Honor I am submitting People's Exhibit # 8
the Grand Jury testimony of Officer Smith.
- COURT: Do you want a few minutes to look that over?
- MC KINNEY: I can look at it very briefly your Honor.
- COURT: All right. Go ahead.
- MC KINNEY: Q. Mr. Smith you were on the stand last Wednesday,
were you not?
- A. Yes sir! On Thursday I believe.
- Q. ON Thursday! Al right. Now, since that time
have you talked to Mr. Constantine about this
case?
- A. No sir!
- Q. You haven't talked to him at all since last
Wednesday or Thursday?
- A. I saw him for the first time this morning since
then.
- Q. Did you speak to him briefly?
- A. Yes sir! I did.
- Q. Before testifying here on Thursday did you have
the occasion to go over the testimony that you
had given on the previous occasion back in
March of 1968?
- A. Yes sir!
- Q. And did you go over this testimony, sir, even
before you took the stand?

A. Yes sir!

Q. Sir, did you have the occasion, when you were going over that testimony, to go over the testimony of Officer Constantine?

A. No sir!

Q. Sir, did you go over anyone else's testimony?

A. No sir!

Q. Now did you place the defendant, Geraldine Robinson, under arrest on the night of July 14th or the morning of July 15th?

A. No sir!

Q. Without telling us who, did you place anyone else under arrest on the night of July 14th or the morning of July 15th?

A. Yes sir!

Q. And have you had occasion to testify in court in the prosecution of the case against that person that you arrested?

A. Yes sir!

Q. Was that in March of 1968?

A. I believe so. Yes sir!

Q. Incidentally, did you at any time conduct a test of any kind of the contents of the envelope you say you got from Officer Constantine?

A. Yes sir!

Q. You personally did?

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A. Yes sir!

Q. Where did you do that?

A. In the narcotics squad office after the incident was over.

Q. Now, how much time elapsed from the time you entered the premises at 1412 Jefferson Avenue and the time that you finally submitted those envelopes that you got from Officer Constantine to the police chemist?

A. I don't really recall the time lapse in that time.

Q. Well, you didn't give it to the chemist on the morning of the 15th. Did you?

A. No sir!

Q. You didn't give it to the chemist on the 17th. Wasn't that your testimony?

A. That would be Monday, right!

Q. So, it was approximately two or three days. Isn't that correct?

A. Yes sir!

Q. And I appreciate you testified that for some time during those days it was in a locker, an "evidence locker". Is that correct?

A. Yes sir!

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Q. Do you have access to this "evidence locker"?

A. Yes sir!

Q. Does that police chemist have access to that "evidence locker"?

A. Yes sir!

Q. Now, sir, do you have notes that you took on the evening of July 14th with you?

A. No sir!

Q. Sir, do you have any notes that you took on the morning of July 15th?

A. No sir!

Q. Sir, did you take any notes in your handwriting, in your own handwriting, on the evening of July 14th with respect to this case?

A. Yes sir!

Q. Did you take any notes on the morning of July 15th with respect to this case?

A. Yes sir!

Q. Sir, in your own handwriting?

A. In my own handwriting.

Q. Can you place your hands on those notes now?

A. No sir!

Q. If you are given time can you get them and bring them into court?

A. No sir!

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- Q. Did you destroy them, sir?
- A. Yes sir!
- Q. When did you destroy them?
- A. When I completed the reports of the case.
- Q. When was that?
- A. Some time afterwards. I don't recall exactly when.
- Q. And at the time that you destroyed these notes were you aware of the fact that you might have to testify in this case?
- A. Certainly.
- Q. Sir, were you aware of the fact that those notes might be important in the case?
- A. Certainly.
- Q. Notes taken contemporaneously with the facts that you are actually being reported. Do you remember that? Do you recall that?
- A. I don't follow that question.
- Q. Do you realize that notes you took with your own handwriting contemporaneously with the facts that you are relating now would be important when you came to testify in this case?
- A. They were put into form. Why keep the notes plus the form?
- Q. The form is not in your own handwriting. Is it sir?

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A. No, it is typed.

Q. And the typed report was made some time afterward.
Was it not sir?

A. Yes sir!

Q. How long after the events that took place were
the typed written notes made?

A. I don't recall.

Q. Approximately how long afterwards?

A. I wouldn't be able to say. I don't know.

Q. Was it a matter of days, weeks?

A. I just told you, sir, I don't know.

Q. I see. But there is no question in your mind
that you destroyed the notes?

A. Yes, I destroyed the notes.

MC KINNEY: No further questions.

Re-Direct examination of Mr. Doboizin

DOBOZIN: Q. You said you heard the words that a female said .
Can you repeat what those words were?

A. Yes sir!

Q. What did she say?

A. "Get your dirty mother fucking hands off of him".

Q. Now, when you entered the premises was your badge
in your hand? Did you say anything?

A. Yes sir!

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Q. What did you say?

A. I said, "I'm a police officer. We have a search warrant. I pointed to the other individual and told him he was under arrest".

Q. How did your badge get knocked away?

MC KINNEY: Objection.

WITNESS: A. The other person swung at me.

COURT: Sustained.

DOBOZIN: Your Honor I understood that was brought out on cross examination.

COURT: The fact remains that he did testify that the badge was knocked out of his hand and that apparently came from the shuffle. Now we will let it go right there.

DOBOZIN: Q. Now, when you--The "evidence locker". When you close the "evidence locker" can you get access to it again?

A. No sir!

Q. What happens to it when it is closed?

MC KINNEY: Your Honor I object to what happens. I believe the court--

COURT: Sustained. I sustained that before. I'll sustain that again.

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- DOBOZIN: Q. Did you try the evidence locker after you closed it?
- A. Yes!
- Q. Could you open it?
- A. No! It was locked.
- Q. How long have you been waiting to testify in this case Mr. Smith?
- MC KINNEY: Objection!
- COURT: Sustained.
- DOBOZIN: Q. When you first came to testify in this matter, Officer Smith, you came to my office. Did you not?
- A. Yes sir!
- Q. At that time you went over your testimony?
- A. Yes sir!
- Q. And by that I mean what did you do?
- A. I read through my testimony.
- Q. And at that time did I say anything to you in reference to reading anybody else's testimony?
- A. No sir!
- Q. Did you read anybody else's testimony?
- A. No sir!
- Q. Do you recall approximately when Arto Williams came here to testify? When he was present in my office to testify?
- A. Yes sir!

Q. When was that?

MC KINNEY: Objection! Improper re-direct. There was no mention of Arto Williams on original direct or cross.

COURT: What's the point Mr. Doboizin?

MC KINNEY: It's irrelevant and immaterial.

DOBOZIN: I want to show how long. There was a statement by counsel the other day in reference to the adjournment and I thought that maybe the jurors should be made aware of the time that has elapsed since we have been waiting to testify in this case.

COURT: I don't think it is that material. I'll sustain the objection.

DOBOZIN: I have no further questions.

Examination by the Court

COURT: Q. Let me ask this question Officer Smith. You say you were one of the first officers on the premises on the night or the morning in question?

A. Yes sir!

Q. When you say you went in there and what happened? Did you have a badge with you?

A. Yes sir!

Q. And did you--you said something in a loud voice. What did you say?

A. I said, "I'm a police officer", and had the badge in my hand, "we have a search warrant for the premises and that an individual was under arrest".

Q. Was the defendant in the room when making that announcement at the time?

A. Yes, she was.

Q. All right.

Re-cross examination by Mr. McKinney

MCKINNEY: Q. Mr. Smith I take it that you said this as you were running from the doorway to the back. Is that correct?

A. Yes sir!

Q. And you said this in the very few seconds that it took you to get from the doorway to the back where the other subject was?

A. I said it twice! Yes!

Q. Oh, now you said it twice.

DOBOZIN: Objection! That has been his testimony all along.

COURT: I'll let the testimony speak for itself. He said he said it twice.

MC KINNEY: Q. Did you say you said it twice before you arrived at

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the rear of the premises?

A. Yes!

Q. In the few seconds it took you to go 30 feet, "I'm a police officer. I have a search warrant to search these premises and you're under arrest". You said that twice! Is that correct? Is that your testimony, sir?

A. Yes sir!

Q. And, of course, you were moving all the time that you were saying that. Is that correct?

A. Yes sir!

Q. And apparently the second time that you said it you must have already passed the defendant. Hadn't you?

A. Yes sir!

Q. Would you repeat for us now exactly how you said "I'm a police officer. I have a search warrant to search these premises and you are under arrest" in a matter of a few seconds?

DOBOZIN: Objection! Your Honor.

COURT: Well, if he could give the substance what he said at that time he may give it again.

DOBOZIN: That's redundant.

COURT: He may give it again, if he gives it in substance, if he knows.

WITNESS: A. I said, "I'm a police officer. We have a search warrant. You're under

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arrest".

MC KINNEY: Q. And again!

A. "We have a search warrant. You're under arrest. I'm a police officer." Not in that sequence but it was the same both times.

Q. Is that the tone of voice and is that the cadence at which you said it?

A. No! It was much louder.

Q. What about the cadence, sir, as you were running into the premises?

A. In the beginning, the initial entrance, I wasn't running. As the one defendant began to move away I began to run.

Q. You said it only took a few seconds to get from the door to the back. Are you suggesting that before you ran or before you got into the doorway you said something about the place being searched, and we have a search warrant, and you're under arrest?

DOBOZIN: Objection! It has been gone over three or four times.

COURT: Sustained.

MC KINNEY: Q. And how long after you entered the premises was the badge knocked out of your hand?

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A. Until the other person was subdued.

Q. Sir, didn't you say that when you got to the back to the other party that your badge was knocked out of your hand?

A. Yes sir!

Q. You had to have both hands free to go and grab him. Didn't you sir?

A. Yes sir!

Q. How long after you entered was that that the badge was knocked out of your hand? How many seconds, how many minutes?

A. It would still be a matter of seconds.

Q. Did you have any other indication of the fact that you were a police officer other than the badge which, you by your own confession, could not be read at a distance between you and me?

DOBOZIN: Objection!

COURT: Sustained!

MC KINNEY: Q. Did you have anything else that was indication of the fact that you were a police officer that was openly visible for all to see? Yes or no?

A. No!

Q. And did you, sir, tell Mrs. Robinson as you entered the premises that she was under arrest?

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A. No!

MC KINNEY: No further questions.

DOBOZIN: No questions.

COURT: You're excused.

We'll take a five minutes recess here. I admonish the jurors not to discuss among yourselves nor with anyone. If anyone should attempt to talk to you about the case or discuss in your hearing please report it to the court. Take the short recess.

Whereupon, a short recess was taken at 11:48 A.M.

Proceedings commencing after recess at 12:02 P.M.

Jury Poll - All Present.

Alternate Jurors - All Present.

Defendant and Counsel - Present.

DOBOZIN: If it would please the court, your Honor, my last witness is Joseph Vaughn, the police chemist. I was informed that Mr. Vaughn had something of a family problem, that he had to go to Baltimore, Maryland and he is expected back probably this

morning, and he hasn't come back yet. I don't really expect him back today. I would request that we adjourn until tomorrow morning so that I can find out where he is.

COURT:

Well, I'll say this Mr. Dobozi. The court is terribly sorry that your last witness in the PEOPLE's case is not here. I don't what prompted his leaving the city at this time or why he had to go, if it was a personal matter. I think that this jury in the court here is being held up because of this testimony and I don't think it is just and fair or proper. I have no alternative but to grant the adjournment until tomorrow morning. But, as long as he knew he was going to be a witness in this case and I'm mindful of the fact that some times these cases hold over from week to week and they are not called. But, the court is a little disappointed that he is not here. At any rate, we are going to adjourn until tomorrow morning at 10 A. M. and I would like to have the

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witness located and have him at this court tomorrow morning at 10 o'clock.

DOBOZIN: Yes, your Honor.

COURT: The court again instructs the jury not to discuss the case among yourselves or with anyone, or to form any opinions in connection with this case until it is finally submitted to you. If anyone should talk to you about the case or discuss it in your hearing you are to report it to the court. The court regrets that we have to adjourn until tomorrow morning to continue this case. The court stands in recess until tomorrow morning at 10 o'clock.

Whereupon court was adjourned for the day at 12:06 P. M.

Proceedings of May 27, 1969 commencing at 10:08 A. M.

Jury Poll - All Present.

Alternate Jurors - Present.

Defendant and Counsel - Present.

DOBOZIN: PEOPLE are going to recall Ronald

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Smith for one question. He is still under oath.

R O N A L D S M I T H, having been previously duly called and sworn as a witness by and on behalf of the PEOPLE was examined as testified as follows:

Re-direct examination by Mr. Doboizin

DOBOZIN: Q. Officer Smith on July 17, 1967, the morning of July 17, 1967, what, if anything, did you do in reference to the evidence of the July 14, 1967 and July 15, 1967?

A. I called the police chemist to come to our office and opened up the evidence locker with his key. Upon opening the evidence locker he left. I took the evidence out of the locker, completed some paper work I had to do on the evidence and then turned it over to the police chemist.

DOBOZIN: No further questions.

MC KINNEY: No questions.

COURT: No questions.

Testimony of J O S E P H W. V A U G H N, 2329 Elmwood Avenue, Kenmore, New York, having been called as a witness on behalf of the PEOPLE was examined and testified as follows:

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Direct examination by Mr. Dobozi

- DOBOZIN: Q. Where are you employed?
- A. Buffalo Police Department.
- Q. In what capacity?
- A. As police chemist.
- Q. And how long have you been so employed?
- A. Almost three years.
- Q. Sir, have you received any specialized training in reference to your employment?
- A. I have a Bachelor of Science degree in chemistry, Florida Southern College.
- Q. And have you worked in the field of chemistry after graduation?
- A. Yes sir! I have.
- Q. Where did you work?
- A. Florida State Department of Agriculture and for the Agrico Chemical Company.
- MC KINNEY: Your Honor the defendant willingly consents to the qualifications of Mr. Vaughn as a chemist.
- COURT: All right. His qualifications are stipulated.
- DOBOZIN: Q. Okay, how many tests for heroin have you conducted

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approximately?

A. I would say approximately 18,000.

Q. I show you PEOPLE's exhibit #1 marked for identification and ask you if you recognize the contents therein?

A. Yes! I do.

Q. And do you recall when you first saw the contents of PEOPLE's Exhibit #1?

A. I first saw it on July 17, 1967 at 10:05 A. M.

Q. Where did you see it and what happened?

A. I received it from Det. Sgt. Alvin Gristmacher when he turned it over to me.

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

A. It was in approximately its present condition now. I'm not certain but I do believe that the tape was intact at the time with a piece of scotch tape around it.

Q. Was there anything else inside it?

A. There was another glassine envelope inside it. And inside that envelope was some white powder.

Q. Would that be a double glassine envelope with the white powder inside it?

A. Yes! It is.

Q. And when you saw it--Strike that--What, if anything, did you do with PEOPLE's Exhibit #1 marked for identi-

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- fication?
- A. I proceeded to run a test for heroin on the contents of the white powder.
- Q. And what test or tests did you run?
- A. I did a sodium acetate, micro chemical test and also a marquis reagent test.
- Q. And what did the sodium acetate, micro chemical test reveal?
- A. This reveal if you get the correct crystals it is identifying heroin--if you get the correct crystals.
- Q. And what about the marquis reagent?
- A. This revealed opium and alkaloid.
- Q. And what were the results of the sodium acetate test?
- A. It was positive.
- Q. And what was your result of the marquis reagent test?
- A. It was also positive.
- Q. Based upon your education and experience did you form ^{any} conclusion as to what was present in the PEOPLE's Exhibit #1?
- A. Yes! I did.
- Q. And what was that?
- A. That it contained heroin and quinine.
- Q. Did you do any tests for quinine?
- A. This is run the same time as the micro chemical and the sodium acetate

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Q. And what is heroin?

A. It's a diacetyl morphine. It's derivative of morphine.

Q. Is it opium alkaloid?

A. Yes! It is.

Q. Now I show you PEOPLE's exhibit # 7 marked for identification and ask you if you recognize the contents of PEOPLE's Exhibit #7?

A. Yes! I do.

Q. And when did you first see PEOPLE's Exhibit #7?

MC KINNEY:

Excuse me! Your Honor at this time I would like to object to any testimony by this witness with respect to PEOPLE's Exhibit #7 marked for identification on the grounds that it is irrelevant and immaterial and incompetent and has no bearing upon the guilt or innocence of the defendant herein, does not bear upon any charge with which she is charged in the indictment and therefore can only have the effect of being extremely prejudicial to her rights in that it will decline the issues and unduly prejudice the minds of the jury.

COURT:

In view of the court's previous ruling about the admissibility of this evidence

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the court will instruct the jury at the proper time what effect this has on the entire matter before the court as relates to previous testimony. In that connection I'll overrule the objection and give you an exception.

MC KINNEY: Thank you.

DOBOZIN: Q. I think the question was when did you see PEOPLE's Exhibit #7 marked for identification?

A. I first saw it on July 17, 1967 at 9:50 A.M.

Q. Where did you see it?

A. It was turned over to me by Det. Sgt. Ron Smith.

Q. And what did you do with it after receiving it?

A. I ran this in to analysis. The marquis and sodium acetate test on the ten glassine envelopes on the inside, the ones that had the white powder in them. Whereupon the envelope was marked PEOPLE's Exhibit #9 for identification.

DOBOZIN: Q. I show you PEOPLE's Exhibit #9 for identification

and ask you if you recognize that?

MC KINNEY: Will the record please show that after having been asked the question as to whether or not he recognized what has been offered as PEOPLE's Exhibit #9 marked for identification, the witness has referred to a folder of some kind before replying, without indicating whether or not he required the refreshing of his recollection, without having responded to the question of whether or not he recognized what he was just handed.

COURT: The record may so show.

DOBOZIN: Q. Do you recognize PEOPLE's Exhibit #9 marked for identification?

A. Yes! I do.

Q. And what is it?

A. It's a file containing the white powder. And on the outside of it is a piece of tape which I put there and it has in large numbers 4887 and also 1.25 grams.

Q. Did you put those numbers on there?

A. Yes! I did.

Q. What did those numbers refer to?

A. 4887 is the laboratory number of this case and 1.25

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grams is the weight of the contents of these ten envelopes.

MC KINNEY: Your Honor at this time I respectfully object to this testimony, respectfully move for it to be stricken on the grounds that whatever it is that Mr. Vaughn is referring to in PEOPLE's Exhibit #9 marked for identification is irrelevant, incompetent, and immaterial, has no connection, no bearing upon the guilt or innocence of this defendant, and there is no relevance to either of the two charges contained in the indictment. Any further testimony with respect to this specific exhibit again would only have the effect of prejudicing the rights of the defendant and inducing the minds of the jury, and is totally unnecessary and totally irrelevant to the case.

COURT: What do you say Mr. Dobozi?

DOBOZIN: Your Honor, in order for the testimony to logically follow, that which is in the glassine envelope has to be produced in court because that's what the testimony which I submit

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which Mr. Vaughn will be testifying about. If I bring in the envelope without that which was present at the time in the glassine envelope it's like if you are going to load a cart, you take the horse, and you don't have the cart. I submit to the court that PEOPLE's Exhibit #9 and PEOPLE's Exhibit #7 are one and the same and they go together. You can't logically subtract one from the other quart.

DOBOZIN: Q. What is this Mr. Vaughn the file containing white powder?

WITNESS: A. Yes! Yes sir! I analysed these ten envelopes, I dumped the powder into that file for weight purposes.

COURT: For weight! And it has an identification number, laboratory number?

WITNESS: Yes! 4887.

COURT: And it has a weight?

WITNESS: Yes! It does 1.25 grams.

COURT: Overrule your objection!

MC KINNEY: May I further state for the record that the irrelevancy and immateriality of this exhibit is most dramatically demonstrated by the fact that it is cumulative that the

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weight of the substance has nothing whatsoever and the quantity or weight has nothing to do with this case. There is no charge of possession of an illegal drug. Therefore, quantity or weight has no relevance or bearing whatsoever. This testimony is cumulative and is obviously for the purpose of trying to cloud the minds of the jury on the true facts in this case. And I respectfully, again, object and ask the court to instruct the jury that the weight and the quantity has no bearing on either of the charges in this case.

COURT: The court believes that to be true. I think the only relevancy is whether or not the test proved to be positive. That is all we are concerned with. Mr. Dobozi it logically follows that they put it in the file and for what purpose he put it in the file.

DOBOZIN:Q. Now, Mr. Vaughn you the conducted the same test on PEOPLE's Exhibit #7 as you did #9. Actually, the contents of PEOPLE's Exhibit #7, which will be PEOPLE's Exhibit #9,

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Is that correct?

A. That is correct.

Q. The same test that you conducted on PEOPLE's Exhibit #3?

A. Yes!

Q. I just want to make sure that I got the right numbers. Excuse me! PEOPLE's Exhibit #1. The same test that you conducted on this. Is that correct?

A. Yes!

Q. And what was the results of those tests?

A. Each of ten glassine envelopes that contained the white powder--

MC KINNEY: I object again! This is cumulative. It is only for the purposes of attempting to make something to appear that is not and does not in fact exist. Whether he examined eight or ten the defendant is ready to proceed, whatever he examined must have had some heroin in it.

DOBOZIN: That's very nice of you Mr. McKinney to concede for his client such a thing but it is my understanding that he can't do such and I have to prove the facts of the case.

COURT: I'll allow him to testify as to the results he found in the tests.

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DOBOZIN: Q. What were the results of those tests?

A. Each of the ten glassine envelopes that contained the white powder contained heroin and quinine.

DOBOZIN: Your Honor, at this time I am going to offer PEOPLE's Exhibit #2, #3, #1, #7, and #9.

MC KINNEY: Your Honor, may we have the offer separately and individually so that I may make the appropriate objection to each of the exhibits that is being offered.

COURT: Yes!

MC KINNEY: Your Honor, may I further request that my objection and arguments in support of my objections to the offer of proof be made in the absence of the jury so that whatever ruling the court makes will not be interpreted as a factual finding.

COURT: Your request is granted. We will excuse the jury now and under the admonition that you are not to discuss the case among yourselves or with anyone. If anyone should attempt to discuss this case with you or talk about it in your hearing it is your duty to report it to this court. Nor are you to form any opinion in connection

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with this case until it is finally submitted to you. The jury is excused. Whereupon the jury retired to the deliberation room at 10:45 A.M.

COURT: All right. Take one at a time. PEOPLE's Exhibit #1 for identification-an envelope containing a glassine bag.

DOBOZIN: Well, I made the offer, PEOPLE's Exhibit #1 for identification.

MC KINNEY: Your Honor, with respect to PEOPLE's Exhibit #1 for identification and the offer that is made for its introduction, at this time I object on the following grounds: (1)there is absolutely nothing in the record that has been presented to the court so far that in anyway, shape or form connects the envelope to the defendant, Geraldine Robinson, excepting the testimony of the two witnesses who testified with respect to this envelope, Steverson and ^{Arto}Arthur Williams. Neither of them testified that any time was this envelope in the possession of Geraldine Robinson. Neither did either

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witnesses testify that Geraldine Robinson ever saw the envelope. We should like to point out to the court the size of the envelope makes it rather difficult to see unless one is paying very close attention to it. I would like to object further on the grounds that testimony of Sgt. Gristmacher is that he opened this envelope some time either during the evening or morning of July 14th or July 15th. And then he retained it so as to simulate the original condition so that when the envelope was passed on to whomever received it next it was not in the same condition that it had been received. The testimony of Mr. Vaughn either has been or would have to be that he did not know whether or not this envelope was in the same condition as which it was received. And, therefore, the testimony of Sgt. Gristmacher was that it was out of his personal possession for a period of two or three days. He has claimed, of course, that no one else had access to the evidence locker. That is highly conclusive, and I respectfully

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submit that the mere fact that what is now being offered as evidence against this defendant was opened and was tampered with because the quality of what was allegedly inside was admitted taken out of it and some kind of a test was allegedly made upon it. Therefore, this piece of evidence is not in the same condition that it was when it was seized. There is discontinuance, there is a lag of continuity of possession and, therefore, cannot be used against the defendant. Especially, in view of the fact that there is no testimony even to connect her to it other than her mere presence at a time when it was apparently and extensively handed from one other party to Mr. Williams. I, therefore, respectfully submit that it is totally incompetent for admissibility at this time. And I will also point out, your Honor, that with respect to certain marks of identification, these marks of identification had been put on them after it had been opened by the witnesses, that the marks of identification for purposes of comparison with previous notes

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the notes that were made simultaneously with the seizing and possession of this by the police officers had been destroyed and that everything connected with this piece of evidence is so tainted and so lacking in competency that this ought not be admitted. May I further pointed out, I'm sorry, not with respect to this particular piece of evidence, I therefore respectfully object to its introduction and urge that it be excluded.

COURT: I will overrule your objection to the admission to this PEOPLE's Exhibit #1 and to grant you an exception Mr. McKinney.

DOBOZIN: Your Honor the PEOPLE will offer PEOPLE's Exhibits #7 & 9 for identification.

MC KINNEY: Your Honor, with respect to PEOPLE's Exhibit #7 for identification I respectfully urge that the evidence be excluded and I object to its introduction on the grounds that: (1) there is absolutely no testimony connecting these envelopes with the defendant, Geraldine Robinson, for the reason the indictment specifically charges with the defendant with aiding

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and abetting, and a single sale of a single packette of narcotics, and the additional charge of resisting arrest. To permit the introduction into evidence of these ten bags which is extensively the product of the search of the premises will have no other effect but than to unduly prejudice the minds of the jury. It is totally incompetent as evidence against this defendant. To whatever remote relevance it may have your Honor I respectfully submit that it is so completely outweighed that by the prejudicial nature of this evidence with respects to the rights of this defendant as to make that relevant reduced to total insignificance. I further indicate to the court that not only had those envelopes not been connected to the specific possession of the defendant there has not even been any testimony connecting her to the nearby vicinity of the spot of the file cabinet where these envelopes were extensively seized. It is further objected to on the grounds that offering this evidence against the defendant comes to counsel as a surprise. Regardless to how long I may have been involved in this case and regardless to what previous testimony I may have had available to make there was no reason for counsel to believe that evidence of possession of a large quantity of narcotics, which has not

been charged against the defendant in the indictment, would be offered for proof at this time. Therefore, I have been effectively deprived of the appropriate trial motion to exclude. I should point out in this connection it is incidentally well withdrawn. I believe, your Honor, that effect of the testimony with respect to these envelopes, PEOPLE's Exhibit #7 for identification, and its introduction into evidence is so highly prejudicial as to probably require, in my estimation sir, the withdrawal of the jurors and the declaration of a mistrial. The circumstances and the procedural rights of the defendant will have been so violated that no instruction of this court, no matter how hard this court may attempt to do so, will have the effect of eradicating the prejudicial effects of the

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introduction of this evidence. I respectfully urge that it not be admitted. With respect to being offered at this time I make the same objection with respect to PEOPLE's Exhibit # 9. The testimony with respect to this has to do with weight and quantity. Your Honor, this is merely cumulative. It tends to demonstrate that the purpose of the prosecution in offering it is to try and to prejudice the minds of the jury with respect to this defendant. There is no connection between the defendant and this file and whatever it contains. There is no connection between the defendant and these envelopes and whatever they may have contained. I respectfully urge that the same argument that I set forth with respect to PEOPLE's Exhibit #7 for identification would also obtain along with PEOPLE's Exhibit #9 for identification.

COURT: Well, does the first count of the indictment the defendant is being charged with aiding and abetting one other person on or about the 14th of July, feloniously bothered exchanged with sale and give

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to offer. There has been some testimony that there was apparently or allegedly some money exchanged on the premises of 1412 Jefferson as a result of which one of the parties apparently went to another room, obtained a small glassine envelope allegedly and gave it to an informant. The court has previously indicated that it would allow this testimony or this evidence only insofar as it gives cadence to the fact that perhaps one of parties apparently went back and was able to obtain a glassine envelope from the rear room. The court is mindful of the fact that the defendant is not charged with possession. The court will instruct the jury at that time that this is to have no bearing. Your argument about prejudicial fact I'll take, but I am only allowing this testimony insofar as it gives cadence to the original story. If it is believed by the jury as to the possibility of a party apparently being able to go into the rear room and return with a small glassine envelope on that bearing alone. I'm mindful that the

CADENCE

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defendant is not charged with possession. In connection with the PEOPLE's attempt to introduce PEOPLE's Exhibit #9 into evidence, the court only accepts this insofar as it proves whether these ten bags did actually return a positive test and that the weight and quantity has no bearing on it and it is not to be admitted. With those exceptions, the court permits the introduction of PEOPLE's Exhibits #7 & #9. I'll grant you an exception whereupon PEOPLE's Exhibits #1, #7 & #9 were received into evidence.

DOBOZIN: The PEOPLE will offer PEOPLE's Exhibits #2 & #3 for identification.

MC KINNEY: Your Honor, the defendant objects to the introduction of PEOPLE's Exhibit #2 for identification again on the grounds that there is no testimony connecting this alleged exhibit with the defendant. PEOPLE's Exhibit #2 is a \$10.00 bill.

COURT: I understand this to be five \$1.00

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bills.

MC KINNEY: Well, according to this, your Honor, perhaps the exhibit has been put in the wrong envelope. I have just picked up PEOPLE's Exhibit #8. PEOPLE's Exhibit #2 for identification stamped May 19, 1969 and it contains a \$10.00 bill.

COURT: The court has Exhibit #2 for identification in the envelope containing five \$1.00 bills, and the exhibit #3 the envelope containing the \$10.00 bill. And now if that is an error I would like to know.

DOBOZIN: It appears that five \$1.00 are in PEOPLE's Exhibit #3 and the \$10.00 bill is in PEOPLE's Exhibit #2. I don't know. I would have to go back on the record.

COURT: All right. I'll correct my notes.

MC KINNEY: My notes indicate the same that your note indicates that PEOPLE's Exhibit #2 are the five \$1.00 bills.

DOBOZIN: Well it is possible that they were put into the wrong envelope. The court stenographer will be able to correct that. I am offering those two exhibits.

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COURT: Then Exhibit #3 contains the \$10.00 bill
and #2 contains the five \$1.00 bills. Is
that correct!

MC KINNEY: Shall we switch them around?

COURT: It doesn't make any difference. I would like
to keep my records straight that #2 are the
five \$1.00 bills and #3 is the \$10.00 bill.
All right!

MC KINNEY: Your Honor, my attack upon the introduction of
PEOPLE's Exhibit #3 is twofold. The testimony
with respect as to how this was obtained is a
little bit confusing. In fact, your Honor,
the five \$1.00 bills are offered as the proceeds
of the search with the pocketbook allegedly
belonging to the defendant, Geraldine Robinson,
by the federal agent, Jensen. I respectfully
move to exclude on the grounds that as to
Officer Jensen it was an illegal search and
seizure by reason of the fact that Officer
Jensen had no search warrant of the federal
court which has jurisdiction over his activity.
Nor, did he have a warrant of arrest for the
defendant, Geraldine.

Robinson. For the further reason that if, and in fact, he seized the five \$1.00 bills from the possession or from the pocketbook belonging to Mrs. Robinson and now has in fact turned it over to the state authorities should be prevented in the case of U.S. vs. Raye or Raye vs. the U. S. in 1956 case.

DOBOZIN: Could I have the citation?

MC KINNEY: I'll give it to you. It's 1956 U.S. Supreme Court PEOPLE vs. RAYE which specifically states that the products or the proceeds or the fruits of the search are^{il} legally made by federal officer cannot be turned over to a state officer and then through the state authorities introduced into evidence by reason of the fact the state authorities are either precluded from introducing such evidence because they have rules against such illegal search and seizure or under their rules they have a search warrant and they are perfectly within their rights to introduce it. In other words if the officers who conducted the search under the rules of the federal

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court and federal jurisdiction has conducted an illegal search this court should file its introduction through someone else. By reason of the fact that it was the fruits of an illegal search or illegal seizure. Again I would like to point out that the introduction of these bills through Officer Jensen comes as a surprise and the defendant has been effectively deprived of the opportunity to make the necessary pretrial motion. However, it is true that the testimony is very clear as to who did conduct the search. There seems to be a conflict in the PEOPLES testimony, the set of facts that the search was made by one of the state officers, whose name escapes me at the moment. I respectfully move for the exclusion on the grounds that the bills in fact were not taken from the possession of the defendant. The testimony is that it was taken from the pocketbook which was underneath the counter and that is the only connection with that pocketbook has been introduced, the only connection between the pocketbook and the defendant

is apparently there were other things in the pocketbook which bore her name. I respectfully submit that this does not constitute legal proof of connection between that pocketbook and this defendant and, therefore, anything that is found in that pocketbook unless it can be identified independently as being the property of the defendant is not admissible. The last testimony is very clear. Whatever other testimony there was the pocketbook was not taken from the physical possession of Mrs. Robinson. It was taken from underneath the counter and its proceeds were emptied upon the counter and things were seized therefrom. I respectfully submit there is not that necessary contiguity of possession that would warrant the introduction of these bills into evidence as having been in the possession of Mrs. Robinson. I further object on the grounds that the contiguity of identification of the bills has not been adequately established for purposes of introduction. The testimony of each of the witnesses was when finally

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the question was posed to them that they could not say with absolute certainty that these were the bills that had been given or ^{Acto} Arthur Williams had been given in turn to Mrs. Robinson and in turn had been seized from something in her possession. Your Honor, the proof is so lacking in that contiguity that the law requires that it should not be admitted into evidence. So my basic grounds for objection to #1 that it may have been, depending on which witness's testimony you believe, the product of an illegal search and seizure by Agent Jensen and if you believe the other testimony that it was seized by one of the state officers then perhaps it was an illegal search and seizure being incidental to the illegal arrest, that believing an illegal crime was committed but there is nothing to show that the \$5.00 that was seized belonged to the defendant. May I point out that so many things can happen to an article and there has been no proof of this, there is no proof at all to show

that the pocketbook had been in the possession of the defendant on that night, and absolutely nothing in the testimony to show that that pocketbook had been in this defendant's possession. Now, certainly this defendant can not be held at this stage responsible for the introduction as proof for something allegedly that may have been in this pocketbook if that pocketbook was as available to other people as it was to her. And that pocketbook has not been shown to belong to this defendant. There was no testimony to show that this pocketbook did belong to this defendant other than a vague reference relating to other things in there which bore her name. Nothing has been produced in the way of an name affixing the proceeds of that pocketbook to the defendant. Your Honor, it is properly clear that the prosecution has totally failed to connect the evidence that is now being offered and therefore it should be excluded. With respect to PEOPLES Exhibit #3 for identification your Honor PEOPLES Exhibit #3 for identification is a

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\$10.00 bill. There is no connection between this \$10.00 bill and the defendant. It was not even alleged to have been seized from the pocketbook which they believe to be hers. It was not seized from her person, it was not seized from her pocketbook. As a matter of fact, I believe it was specifically stated that it was seized from another party who was not a party to this particular crime or to this particular case that is on trial. I respectfully move to exclude PEOPLES Exhibit #3 for that reason and for some of the same arguments that were set forth with respect to PEOPLES Exhibit #2. I further state again that there is a total lack of that contiguity of the tracing of this \$10.00 bill to clearly establish the necessary evidence for purposes of introduction. May I point out, your Honor, again that even the piece of paper that allegedly was used to record the serial numbers which each of the witnesses who have testified with respect

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to this bill used has been destroyed. So that there is not in existance today, nor has there been introduced or offered, any evidence of the recording of the serial numbers or anything else or of anything that took place at the time. I respectfully move that this creates a situation where the evidence is totally unreliable and should not be introduced at this time.

DOBOZIN:

Your Honor the charges against this woman are that she participated in a sale, aided and abetted with Martin Sostre. The \$10.00 bill was found on Martin Sostre. The five \$1.00 bills which were testified to was given, all of the money was given to Mrs. Robinson and she counted it. This was testified to by Arto Williams, was testified to by Officer Steverson within 12 to 13, approximately 12 minutes of the time of the sale. The officers go into the premises and they find the five \$1.00 bills and the pocketbook. Now there is no other woman in the premises. The pocket-

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book is found. I am not sure just where it was found, but it is not found on the public domain as such. It is found in an area which would be used by employees. In addition it contains papers or other matters which have Mrs. Robinson's name upon them. This in and of itself is circumstantial evidence of the fact that it belongs to Mrs. Robinson. In addition, we have the fact that she received the fifteen dollars. Ten is found on Mr. Sostre and five is found on Mrs. Robinson. I submit to the court that it is not only proper but it is an important part of the case. As far as the search is concerned, your Honor, there was a search warrant and there was probable cause which was related by the testimony both of Officer Jensen. I don't think the PEOPLE vs. RAYE this 1956 case in any way, has any effect on this particular case before the judge. As I understand that line of case is, and I am not particularly familiar with this case, dealing with a situation where a person is conducting an illegal

search. Maybe the search warrant is illegal, invalid, or he does not have probable cause. Now prior to a case after this 1956 case the constitutional rights were extended but applied to both. In other words you could have if it was an illegal search in a federal court it was an illegal search in a state court and consequentially if you have a federal agent conducting an illegal search under his warrant or because he didn't have probable cause he couldn't give it to a state officer who could then pursue it. Because it wasn't bound by the constitutional rights which were only limited one time to the federal agent or federal authorities. Now it is applicable to all, but the situation you have here is in no way in comparison to that. Here you have a valid search warrant and you have probable cause, although the officer did not have a federal warrant. I submit to the court that in no way limits his jurisdiction if he has a valid search warrant.

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In addition, he has probable cause. So I submit to the court that this is argument and really has no standing other than that. I submit to the court that there is a chain of evidence intact. We showed that the money indentified both by serial number and by the phosphorescent writing, the ultra violet or powder which reflects ultraviolet light, that is identified in the search that it is identified here in the courtroom. And during the case of this trial the serial numbers are identified, your Honor, and of course you have the officer conducting an search of the informant prior to the passing of the money, and the money is found on the two people who are aiding and abetting each other in the transfer of this glassine envelope. I submit to the court that it has shown what happened to the money from the beginning to the very end. If there was any lapse in time there was a ten to twelve minute, these are my figures naturally, but it is a matter of fact when

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the money is not on any of the people, such as an informant of the officers but it is in the store and is found at the end of that ten and twelve on both Mrs. Robinson and Mr. Sostre.

MC KINNEY: And this question of there having been something in the bag which identified it as belonging to Mrs. Robinson. There was nothing introduced, there was no specific reference any document or any paper which connected the contents of that bag to Mrs. Robinson. The only testimony "we could tell from other things in the pocketbook that it must have belonged to Mrs. Robinson". This is too crucial a matter to rely upon some vague reference to other things that seem to belong to Mrs. Robinson. The PEOPLE have failed to show anything which makes it clearly connected to Mrs. Robinson. Even by the slightest question about she being the only female in the place. There was no testimony with respect as to whether or not there were any females in the place from the time of the alleged sale and the time of the alleged

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raid. I also point out your Honor there is no testimony with respect to whether there is any female in the place for the entire day, which would be certainly relevant, and this is a public place, public telephone and public book store, people coming in and out, buying and selling books and records. Therefore, the connection is totally lacking in that kind of credibility which would make the introduction of this evidence proper.

COURT: The court will permit into evidence PEOPLES Exhibit #3 which contained the \$10.00 bill and reserve the decision for the moment on the admissibility of PEOPLES Exhibit #2.

MC KINNEY: Respectfully except.

Whereupon PEOPLES Exhibit #3 was received into evidence.

DOBOZIN: I have no further questions of this witness at this time.

COURT: Are you prepared to cross examine now?

MC KINNEY: Of Mr. Vaughn, yes! I have just a few questions.

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COURT: The court then will get the jury down.

MC KINNEY: Excuse me your Honor. You asked me if I am prepared to cross examine the witness at this time. Well, I assume that--Will you be resting at that time?

DOBOZIN: In terms of *vide justice?* if we should have the jury come down I might consider putting on a short witness.

MC KINNEY: If that be the case!

DOBOZIN: I may--I may not.

MC KINNEY: I'll indicate to the court I'll have very few questions of the witness. And, therefore, I will ask the court to determine whether the jury should be brought down.

COURT: Well, I think we ought to let this witness finish.

Whereupon, the jury returned to the courtroom at 11:15 A.M.

Jury Poll - All Present.

Alternate Jurors - Present.

Defendant and Counsel - Present.

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Cross Examination by Mr. McKinney

MC KINNEY: Q. Mr. Vaughn in referring to PEOPLES Exhibit #1 in evidence I respectfully ask you to examine its contents very carefully.

MC KINNEY: Your Honor may I again ask the record to reflect that Mr. Vaughn is referring to some paper in his lap and all I've asked him to do is examine the glassine envelope.

COURT: Mr. Vaughn can you determine what the envelope, PEOPLES Exhibit #1, contains without going to your notes?

WITNESS: Is this envelopes considered Exhibit #1 or --

COURT: The envelope containing the glassine envelope. Do you know what the large white envelope contains?

WITNESS: It contains a double glassine envelope and the inside envelope contains a white powder.

MC KINNEY: Q. I'm asking you, sir, to please examine that glassine envelope that was inside that white envelope. Now, as you examine it, sir, is it in precisely the same condition as when you received it from Sgt. Gristmacher?

A. I don't recollect whether the scotch tape was intact or if

whether it was as it is now. This I don't recollect.

Q. Well, you know its not in the same condition as it was when you received it because you have taken certain of its contents out. Have you not? Didn't you have to open up that envelope?

A. Yes! I did take some of its contents.

Q. So do you know that it is not in precisely the same condition as when you received it from Sgt. Gristmacher?

A. That is correct.

Q. Do you know, sir, at the time that you received it from Sgt. Gristmacher whether it was sealed with scotch tape?

A. This I don't recollect.

Q. So you have no recollection of whether or not that envelope may have been opened or tampered with in any way prior to the time that you received it. Do you sir?

A. No! I don't.

Q. And as a matter of fact you cannot say with reasonable certainty, more or less absolute certainty, that the envelope you have examined now, the contents that you have performed the tests upon, is the envelope that was taken from the possession of one Martin Sostre. Can you sir?

A. No! I can't.

Q. When you received this envelope, referring to the glassine envelope from Sgt. Gristmacher, did he hand it to you personally?

A. Yes! He did.

Q. Did he make any representation to you with respect to condition of that envelope? Just yes or no if you recall!

A. Was it by representation?

Q. Did he tell you--withdrawn. Did Sgt. Gristmacher tell you he was giving you the envelope as he had gotten it from somebody else?

A. This I don't recollect.

Q. You have no recollection?

A. No! I don't.

Q. Did you make any notes at the time that Sgt. Gristmacher gave you the envelope?

A. No! I didn't. All I did was give him a receipt for the evidence.

Q. I see! You made no notes whatsoever as to whatever he may have said to you at the time that he gave it to you?

A. No! I did not.

Q. Do you recall approximately what time it was on the 7th of July that you received the evidence?

A. 10:05 A.M.

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Q. Incidentally, is it Sgt. Vaughn?

A. No! It isn't.

Q. I'm sorry! Mr. Vaughn!

A. That's correct.

Q. Mr. Vaughn are you the only chemist who works at the police headquarters?

A. Yes! I am.

Q. Did you work on Saturday, July 15th?

A. No! I did not.

Q. Did you work on Sunday, July 16th?

A. No! I did not.

Q. Do you ever work on Saturday or Sunday?

A. No! I do not.

Q. Is there anyone else in your office or laboratory on Saturdays or Sundays when you are not there?

A. No! There isn't.

Q. So sir your testimony basically is that the envelope that Sgt. Gristmacher--withdrawn. Sir, is there anyway that you can look at this envelope and tell us exactly how you know that this is the envelope that Sgt. Gristmacher gave to you?

A. It has an Exhibit#3 which I put on it myself.

Q. And when did you put that on the envelope?

A. At the time that I received the envelope.

Q. From Sgt. Gristmacher?

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A. That's correct.

Q. So, sir, basically your testimony is that this is the envelope that was given to you by Sgt. Gristmacher?

A. That is correct.

Q. You can identify it by reason of the fact that you placed your initials on it and that you then tested its contents and you found it to contain a narcotics substance. Is that correct?

A. I placed Exhibit #3 on it not my initials.

Q. I'm sorry. Well some mark that you can identify it by?

A. That is correct.

Q. You would have no idea based on your own knowledge or observation where Sgt. Gristmacher got the envelope. Do you sir?

A. No! I do not.

MC KINNEY:

No further questions. I'm sorry! Wait a second now, sir. Sir, with respect to PEOPLES Exhibit #7 in evidence I ask you to examine the contents of that white envelope and the to examine the several bags that appear, glassine envelopes that appear therein. As you are examining them, sir, may I ask you if your initials or any other mark of identification that you affixed upon those

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envelopes appear thereon?

A. On the one envelope I believe they were submitted to me as a unit. Ten envelopes as a unit. And on the outside envelope I wrote Exhibit #5.

Q. Now sir, excuse me! Is there anyway that you can say with absolute certainty, based on your own powers of observation, each and everyone of those envelopes is an envelope given to you by Sgt. Gristmacher? I'm sorry! By Sgt. Rock?

DOBOZIN: You mean Sgt. Smith.

MC KINNEY: I'm sorry! I mean Ronald Smith?

A. I can identify one of them as being turned over to me by Ronald Smith.

Q. How about the others?

A. The only identification I have of the other envelopes is the initials that were put on by the police officers---I assume by the police.

Q. Were those initials placed on there in your presence?

A. No! They weren't.

Q. So, sir, the only envelope in this exhibit that you can identify as absolutely having been given to you by Sgt. Smith is the envelope. Is that correct?

A. That's right. The only one I wrote on. Yes!

Q. The only one by reason of the fact that

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you wrote on it that you can identify as the one given to you. Is that correct, sir?

A. On that day I received ten envelopes, ten double glassine envelopes from Sgt. Smith. On the outside one I wrote Exhibit #5, the date 7-15-67, and R.G.S. on them.

Q. Are you referring to some notes?

A. I checked the other--

Q. Are you referring to some notes?

A. Yes! I am.

Q. Are you having difficulty recalling the facts?

A. Yes! I am.

Q. And will you indicate--The court will direct that you can refer to your notes to the extent that you can recall without referring to your notes. Can you independently identify each and every one of the envelopes contained in PEOPLES Exhibit #7 in evidence as being absolutely the envelopes which were given to you by Sgt. Smith? Yes or no?

A. No!

Q. How many of the envelopes contained in the larger envelope can you absolutely identify as one given to you by Sgt. Smith?

A. Just the one that I put the 5 on.

Q. Now, sir, at the time that Sgt. Smith gave you the

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envelopes did you make any notes?

A. No!

Q. Did he say anything to you that you recall with respect to that envelope?

A. No! He did not.

Q. So, sir, you do not know as a matter of fact, based on your own observation and your own senses, where that one or ten envelopes came from. Do you sir?

A. No! I do not.

MC KINNEY: No further questions. At this time, your Honor, I respectfully renew my motion to exclude the PEOPLES Exhibit #7 for identification as Exhibit #7 in evidence on the grounds that by the testimony of Mr. Vaughn himself he cannot identify nine out of the ten envelopes that are contained therein. And, therefore, they are totally incompetent and irrelevant and shouldn't be permitted into evidence.

DOBOZIN: May I ask --

COURT: Did you want to make any --

DOBOZIN: I think I will lay a foundation.

COURT; All right.

DOBOZIN: Q. Now, Mr. Vaughn at the time that you received the ten glassine envelopes

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MC KINNEY: Excuse me your Honor! I have exercised the right to object and renew motion and I respectfully ask the court to rule or ask Mr. Doboizin to argue in opposition and not permit him to elicit any new testimony.

COURT: The argument ought to be in opposition.

DOBOZIN: He previously stated that he can identify both by the initials on the outside bag, which I said before being interrupted by Mr. McKinney, that appear on all the bags and that he compared them and he was about to say, which was the question that I was going to ask, at the time, that he received them that he received a package of ten.

MC KINNEY: Now Mr. Doboizin is testifying!

COURT: Now the argument has to be directed as to what Mr. McKinney's remarks were Mr. Doboizin.

DOBOZIN: He also said that he received a package, your Honor, of ten glassine envelopes which he counted and on the top one on the outside he wrote Exhibit #5, and on that basis he was able to identify it. I submit to the court that it is in evidence

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already and it is properly in evidence and I think that I properly can ask further questions of the witness since Mr. McKinney is evidently through with his cross examination.

COURT:

Well, the court will rule in the same matter as it did before and give you an exception Mr. McKinney on admissibility of PEOPLES Exhibit #7 into evidence.

Re-direct examination by Mr. Dobozi

Q. Now, Mr. Vaughn at the time that you received PEOPLES Exhibit #7, the ten glassine envelopes, did you examine the ten glassine envelopes, each one?

A. No! I just wrote Exhibit #5 on top of the outside.

Q. Did there come a time that you did examine the ten glassine envelopes?

A. Yes! I did.

Q. And what, if anything, did you notice as to each individual envelope?

A. Each one of them has two sets of initials plus the date written on it.

Q. Are the two sets of initials plus the date on PEOPLES Exhibit #7 as appears here in front of you today?

A. Yes! They are.

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Q. And did you receive a form with PEOPLES Exhibit #7 requesting an analysis?

A. Yes! I did.

Q. And did that form contain identifying marks as to the initials and the date?

A. Yes! It did.

Q. And did that--

MC KINNEY: I respectfully move to strike the testimony. The form speaks for itself that Mr. Dobozi wishes to offer.

COURT: Yes, it speaks for itself.

DOBOZIN: Q. Was that form submitted to you?

A. Yes! It was.

Q. And is it part of your papers?

A. Yes! It is.

Q. Part of the papers of your laboratory kept in the regular course of business?

A. Yes! It is.

Q. But did you bring it here today?

A. Yes! I did.

Q. Would you give it to me please?

Whereupon PEOPLES Exhibit #10, report, was marked for identification.

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DOBOZIN: Q. I show you PEOPLES Exhibit #10 marked for identification. And was this one of the parts of your laboratory papers?

A. Yes sir! It is.

Q. You were referring to that during the course of time that you were testifying?

A. Yes! I was.

Q. And what are the names that appear on that laboratory form?

A. The identifying mark.

Q. The identifying mark?

A. T.A.C. - R.G.S. and 7-15-67.

Q. They had the date also?

A. Yes!

DOBOZIN: No further questions.

Re-cross examination by Mr. McKinney

Q. Mr. Vaughn even after having referred to your notes and after further examining the contents of

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PEOPLES Exhibit #7 for identification in evidence it is still true, is it not sir, that you have no independent means of saying with absolute certainty that nine of those envelopes are the envelopes that were actually given to you on July 17th. Can you?

A. That is correct.

MC KINNEY: Q. No further questions.

Further re-direct examination by Mr. Doboizin

DOBOZIN: Q. But you did identify them later and the identifying marks and the form which you received and the identifying marks on the envelope matched. Is that correct?

A. Yes!

Q. And that was to the best of your ability and recollection kept in the regular course of business. Is that correct?

A. That's correct.

Q. And it was rederived from Officer Smith! Is that correct?

A. That's correct.

Further re-cross examination by Mr. McKinney

MC KINNEY: Q. Excuse me, sir. Are you saying that the notes that you refer to are notes that you filled out by Officer Smith?

A. We have what we call a P77 Request for Laboratory

Examinations. The investigating officer fills in all of it down to this space "For Laboratory Use Only", this is where I sign the receipt for him and give him a copy. I kept the original.

Q. So, sir, there is nothing in this sheet that you referred to which represents an entry on your part other than an acknowledgment of its receipt from Sgt. Smith. Isn't that correct?

A. That's correct.

Q. And this was made out by Sgt. Smith?

A. That's correct.

Q. So you have nothing of your own to refresh your recollection with respect to what occurred at that time. Isn't that true?

A. Would you clarify that?

Q. You have nothing which you yourself entered into the record in the regular course of business which assists you in establishing the identity of nine of ten of those envelopes. Do you sir?

A. That's correct.

Q. And when you refresh your recollection for purposes of matching you're relying upon the representation made by someone else. Is that correct, sir?

A. That's correct.

MC KINNEY: No further questions.

Further re-direct examination by Mr. Doboizin

DOBOZIN: Q. How many tests do you conduct in the course of two years on heroin?

A. I would estimate around 15,000 to 18,000.

Q. And you keep notes of each of those tests?

A. As to each individual test?

Q. Yes?

A. I keep them cases. If a case has 100 tests then there are 100 tests. In this case I don't save each of those 100 tests. I don't write down Test #1 was positive or Test #2 was positive all I'll say is the whole thing or if there were a couple that weren't positive I indicate those as being negative.

DOBOZIN: No further questions.

MC KINNEY: No questions.

COURT: You're excused Mr. Vaughn.

DOBOZIN: The PEOPLE rest your Honor.

COURT: Take a short recess. I admonish you not to discuss the case amongst yourselves members of the jury or with anyone or to form any opinions in connection with this case until it is finally submitted to you. If anyone should attempt to talk to you about the case or discuss it in your hearing it is your duty to report it to the court.

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The jury may now be excused.

Whereupon the jury left the courtroom at 11:37 A.M.

COURT: Do you want to make your motions?

MC KINNEY: Your Honor, with respect to indictment 33,508A in 1967 on behalf of the defendant, Geraldine Robinson, I respectfully move to dismiss the first count of that indictment as it applies to her in that it charges her with violation of Section 2175-1 of the Penal Law of the grounds that the PEOPLE have failed to make out a prima facie case as a matter of law. Your Honor, the testimony is clear, it is absent of any connection of even the mere presence of the defendant at the time when heroin was allegedly passed. An absolute mandatory requirement in any crime is knowledge, a willful act with knowledge. Your Honor, nothing has been introduced in this case so far excepting all the testimony as being true which of course the defendant does

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not do. But assuming for purposes of argument all of the testimony with respect to what transpired at 1412 Jefferson Avenue on that day was true, there is no showing, there has been no attempt at showing, any knowledge on the part of the defendant which is required in order to find an act of criminality. Certain there is no proof of heroin in her possession. There is no proof of any word said to her, that she understood any words on her part which indicate a knowledge of what might have been transpired. I respectfully submit to the court that PEOPLE have failed to prove a prima facie case with respect to Count #1 of the indictment, with respect to Count #3 of the indictment, I respectfully move that the court dismiss the count, the charge on the grounds, again, that the PEOPLE have failed to make out a prima facie case. Again in order to make out a prima facie case with respect to resisting the arrest, certain elements are mandatory: (1) you must prove the

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person was under arrest. You cannot resist an arrest unless you're under arrest or told that you're placed under arrest. There is no evidence here sufficient to make out a prima facie case with respect to an arrest having been made or her having been arrested. Secondly, your Honor, the testimony is clear that the gentlemen who entered the premises at that time were not dressed in any manner, shape, or form or cloaked with any evidence of their authority as police officers. Even excepting, sir, if you do that one of the police officers had a police badge in his hand as he ran in certainly was not stationary enough and the mere saying that I'm a police officer does not constitute advising one of good authority. Anyone can walk into any premises and say I'm an police officer. It doesn't mean that they are a police officer. There has to be a showing of knowledge on the part of this defendant that these were police officers, that they were attempting to make an arrest, that she was under arrest, and that she then resisted.

The most that can be said here, your Honor, based on the testimony of the PEOPLE'S witnesses is that she made an attempt to go and give assistance to someone, and in fact she was prevented from doing so by Agent Jensen and she was made to sit down. There was no showing of her being under arrest, no showing that she physically resisted an arrest in the sense of the word and the law requires such. I respectfully submit that the PEOPLE have failed to make out a prima facie case with respect to the charge of resisting arrest. And, therefore, that count along with the first count ought to be dismissed and the jury instructed to acquit the defendant.

COURT:

Mr. Dobozi

DOBOZIN:

First of all, in reference to the question of knowledge there was more than mere presence here as the proof has shown. There was participation and the act of participation in the sale by Mrs. Robinson. Participation inasmuch as she received the money and inasmuch as related that it is all here. I submit to the court that

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she was present during the course of the conversation from the fact that she knew how much money was to be expected without the mention of how much money was needed or what it was for. I submit to the court in relation to the fact that she had knowledge that she was dealing with one bag of heroin. This is circumstantial evidence, your Honor, and further circumstantial evidence that the five marked \$1.00 bills, that's actual evidence and that's physical evidence, that she had five marked \$1.00 bills in her pocketbook and he had \$10.00 in his pocket or wallet. This in and of itself, your Honor, shows participation or the act of participation in the sale. And the fact that she knows how much a bag of heroin costs without, except for the conversation as related between Arto Williams and Martin Sostre, and with those means in reference between Arto Williams and Martin Sostre she knew what those conversations meant because she knew what the price of one bag was. There has been no testimony here that he was selling records, that he was selling

books or anything of that nature to Arto Williams. So, I submit to the court that it is obvious both on the facts and circumstantial evidence that she knew what was being sold. She knew the price of it, she assisted in the participation of the sale of this and that indicates, your Honor, that there was more than mere presence at the time of the crime. Now, as far as resisting the arrest is concerned, I submit to the court that Bruce Jensen unequivocally stated that he took the defendant, Geraldine Robinson, sat her down and said you're under arrest and then he went back and started to participate in the aiding of his fellow officers to subdue Martin Sostre. At that time she again left where she was and proceeded to where Agent Jensen was attempted to get involved to extricate Martin Sostre from the arrest which was being made. I submit to the court that in addition to having knowledge or showing knowledge that these were police officers I believe that it was testified to, I believe that it was testified to on at least on two

occasions it was hollered out by Officer Smith at the time of which he had his badge out and showing it on a number of occasions--excuse me. The testimony also relates that there was another officer and I believe it referred to Officer Rock, who was either first or second to the premises, who it was related by other officers that he related we're police. I submit to the court that all of these things point out there is sufficient evidence here that a jury should decide such things as intent and the overall fact situation. There is sufficient evidence to show a violation of 1751 of the Penal Law, 1825 of the Penal Law.

COURT: The court feels that there is at least sufficient prima facie evidence to go to a jury. I will deny both of your motions to dismiss Mr. McKinney and grant you an exception in each case.

MC KINNEY: Respectfully except. At this time I should like to renew a motion made prior to the swearing in of the jury. I should like to ask the court to respectfully request that

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a juror be withdrawn. I'll reserve the motion.
I'm sorry.

DOBOZIN: Pardon?

MC KINNEY: I'm reserving the motion that I intended to make.

COURT: What do you intend now Mr. McKinney?

MC KINNEY: Your Honor I will respectfully request that we
recess until 2:00 P.M., at which time the defense
will proceed with the defense case.

COURT: All right. The court stands at recess at least
until 2:00 P.M. this afternoon.
Whereupon, the court recessed at 11:45 A.M.