

September 22, 1981, at approximately 3:15 P.M.
when you entered Apartment 7-K.

THE COURT: A.M.?

MR. KATZER: Excuse me?

THE COURT: A.M.? 3:15 A.M.?

BY MR. KATZER: (cont'd)

Q I'm sorry. 3:15 A.M. when you entered Apartment 7-K,
400 Central Avenue. You indicated that you secured
the occupants of the apartment, is that correct?

A That's correct.

Q What was your purpose in doing that?

A For our own safety; the safety of the officers
involved.

Q You also indicated that the occupants of the
apartment remained in the apartment for approximately
twenty minutes before they were taken away from the
apartment, is that correct?

A Thereabouts.

Q Approximately. What caused them to be removed from
the apartment?

A They were placed under arrest.

Q For what reason?

A Possession of marijuana and possession of

fireworks.

Q And that was as a result of the search that you conducted, is that correct?

A That's correct.

Q Now, who was the speed loader and the ammunition found in relation to when the Defendant Young and the other individuals were removed from the apartment?

A I believe they were still there when I opened the suitcase at the head of Mr. Young's bed.

Q That suitcase had Michael R. Young's name on it, is that correct?

A That's correct.

Q With respect to the papers that you took from the apartment, you mentioned the term address verification?

A Yes.

Q Would you please tell the jurors what address verification is as it relates to the conduct of the search pursuant to a warrant?

MR. OLIVER: Objection.

THE COURT: Overruled.

A When we obtain a search warrant for a certain person and address we execute the warrant at that

address and then obtain some sort of documentation from the house or apartment with the person's name and address on it verifying they, in fact, do live there.

Q Was that the purpose for your taking those papers?

A That's correct, it was.

Q Now, upon arriving at your detective office after executing the search with those papers in hand, what do you do?

A I realized they could not be used for that purpose. When I looked at the top sheet I realized they were not to be held in evidence and I gave them to Lieutenant Murray to be returned.

Q Now, Detective, let's go to the State Quad parking lot. At approximately quarter to eight in the evening of September 21st you saw a certain Mercury, license plate 507-JVD there, is that correct?

A That's correct.

Q Did there come a time when you left the State Quad parking lot?

A Yes, sir.

Q Where did you go after leaving the parking lot?

A To the detective office.

Q What was your purpose in doing that?

A To secure a search warrant for the vehicle itself.

Q Did you, in fact, prepare a search warrant for the vehicle?

A That's correct, I did.

Q And did you have that search warrant application submitted to a Judge?

A That's correct, I did.

MR. OLIVER: Objection, Judge.

Beyond the scope.

THE COURT: No, overruled.

BY MR. KATZER: (cont'd)

Q Did you, in fact, obtain a search warrant for the search of the vehicle?

A I did.

Q What did you do with that search warrant?

A Went to the police garage on Central Avenue where the car was being stored.

Q At that time approximately what time was that?

A Probably 9:15.

Q Had the car been removed from the State Quad parking lot by that time?

A That's correct.

Q Where was it taken to?

A The police garage on Central Avenue.

Q What did you then do?

MR. OLIVER: Judge, I object to this line of questioning as beyond the scope.

MR. KUNSTLER: I join in that, Judge. Nothing was asked --

THE COURT: My recollection is, Mr. Kunstler, that you opened the door on this by some of your questions on cross examination.

MR. KUNSTLER: I asked nothing about a search warrant.

THE COURT: I understand that.

MR. KUNSTLER: Only who was present and were they searching the car. I don't see how that opens the door on what he did later on.

THE COURT: You asked this witness -- you had him at the Quad at 7:45, where did he go after that. Back to the station. For what purpose. The warrant. That's my recollection of the cross examination.

MR. KUNSTLER: I have no recollection

of that. Your Honor will have to let his recollection govern but I don't think that I went into anything about the search of that vehicle other than the gun.

THE COURT: I understand you didn't go into the subsequent search but you opened the door in my judgment to this line of redirect examination.

MR. KUNSTLER: I can only object.

THE COURT: I am going to take a recess at this time.

Ladies and gentlemen of the jury: We will recess now for lunch. Figure one hour. Be back here at a quarter to two.

I want to remind you again: You are not to discuss this case, either among yourselves or with anyone else. Keep an open mind until the matter is finally submitted to you for your determination.

See you back here in one hour.

(A recess was taken for the noon hour, after which the following proceedings were had.)

THE COURT: Let the record indicate

the presence of the defendants, their respective counsel. The People are represented by Mr. Katzer.

Let the record further indicate the presence of the fourteen sworn jurors.

I will remind the witness you are still under oath.

You may continue.

The last objection is overruled.

MR. KATZER: Thank you, Judge.

I would like this marked as People's 17 for identification.

(Five-page document was duly marked People's Exhibit 17 for identification.)

BY MR. KATZER: (cont'd)

Q Detective, having in your hand People's 17 for identification, can you please identify that?

A Yes, sir. It's a search warrant for a 1979 Mercury four-door sedan, grey, 507-JVD. It's an application for the search warrant. There's a return from the search warrant and the copy of a teletype in regards to a stolen vehicle.

Q Was that application signed by yourself?

A That's correct, it was.

Q Was the search warrant signed by an individual?

A Yes, it was.

Q By whom?

A Judge Keegan.

Q Were you present when he signed it?

A Yes.

MR. KATZER: At this time I offer
People's 17.

MR. KUNSTLER: Subject to the
objection made before, Judge, I have no objection
to this per se. You have overruled my other
objection.

THE COURT: As to the general line
of inquiry. As to the exhibit itself, you have no
objection?

MR. KUNSTLER: To the exhibit itself,
I have no objection.

MR. OLIVER: Same objection.

THE COURT: Received without
objection.

(People's Exhibit 17 for
identification was received and marked in evidence.)

BY MR. KATZER: (cont'd)

Q Detective, approximately what time did you obtain the search warrant that is now People's 17 in evidence?

A About 9 P.M.

Q After obtaining that search warrant, what did you do?

A I then went to our police garage on Central Avenue to search the car.

Q The car was then at the police garage having been brought there from the State Quad parking lot, is that correct?

A That's correct.

Q Did you, in fact, execute the search warrant and search the automobile?

A I did.

Q Please tell the Court and jury what you did and what, if anything, you found.

A First we moved the car out of the garage to the outside and then we proceeded to do a thorough search of the car and in the trunk itself we found two homemade what I would call nightsticks --

MR. OLIVER: Objection. Conclusion.

THE COURT: Yes. It's stricken.

What did you find?

THE WITNESS: Two sticks.

Approximately thirty inches long. They were wrapped in black electrical tape.

BY MR. KATZER: (cont'd)

Q What did you do with those items?

A They were seized as evidence.

(Items were duly marked People's Exhibit 18 for identification.

Q Detective, showing you what has been marked as People's 18 for identification, can you identify that?

A Yes, sir, I can.

Q What are they? What is that?

A These are the two sticks I found in the trunk of the vehicle 507-JVD.

Q Are there any identification marks on those that allows you to recognize them?

A Yes, sir.

Q What are they?

A My initials are inscribed on each stick.

Q Are those sticks in the same condition now as they were when you seized them from the Mercury on

September 21, 1981?

A Yes, sir, they are.

MR. KATZER: At this time I offer
People's 18 into evidence.

MR. KUNSTLER: Judge, I would just
renew the objection to the general line. I have no
objection to the exhibits themselves subject to
that.

MR. OLIVER: Same position, Your
Honor.

THE COURT: Received without
objection.

(People's Exhibit 18 for
identification was received and marked in evidence.)

BY MR. KATZER: (cont'd)

Q Detective, after you seized those two nightsticks
what did you do then?

MR. OLIVER: Objection.

Q I'll rephrase it. After you seized the items that
are People's 18 in evidence, what did you then do?

A They were returned to my office where they
were marked as evidence.

Q What time was this, approximately?

A Probably quarter to ten.

Q Then there came a time that other law enforcement agencies, officials, came to the Albany Police Department, is that correct?

A That's correct.

Q You testified in response to questions from Mr. Kunstler and Mr. Oliver that these law enforcement agencies provided certain items of information to members of the Albany Police Department, is that correct?

A That's correct.

Q As a result of that information a search warrant was typed by Assistant District Attorney Joseph Donnelly, is that correct?

A That's correct, it was.

Q You were the sole police officer who signed the application, is that correct?

A That's correct, I was.

Q This information that is contained in the search warrant for the apartment was obtained after you had seized People's 18, is that correct?

A That's correct.

Q And further, after other members of the Albany

Police Department had seized People's 5, is that also correct?

A That is correct.

Q What is the location of 400 Central Avenue with respect to Bleeker Stadium?

MR. OLIVER: Objection.

THE COURT: Overruled.

A It's located on Central Avenue between Partridge and Ontario, one block south of the stadium.

MR. KATZER: Thank you, Detective.

Nothing further.

THE COURT: Mr. Oliver?

RE-CROSS EXAMINATION

BY MR. OLIVER:

Q Detective Tanchak, you indicated that you -- is it your testimony you obtained two search warrants on the night of September 21?

A No. Only one on September 21.

Q Well, on the night of September 21 and September 22 you obtained two search warrants, is that correct?

A That's correct, I did.

Q And at what time did you learn that a vehicle, the

grey Mercury, was registered to Michael Young?

A Approximately 8:15, 8:30. Somewhere around there.

Q So at 8:15 or 8:30 you knew that that vehicle was registered to Michael Young?

A That's correct.

Q So that at 8:15 or 8:30 you knew the vehicle was not stolen, is that correct?

MR. KATZER: Objection.

THE COURT: Overruled.

A It wasn't anymore because it was in our possession.

Q By 8:15 or 8:30 you knew that prior to the time it was in your possession that, in fact, the vehicle had not been stolen, is that correct? Or if it had been stolen it had been returned to Mr. Young?

A On the contrary. I did not know that.

Q You did not know that?

A No, sir, I did not.

Q Well, what time did you learn that?

MR. KATZER: Objection, Your Honor.

THE COURT: Overruled.

A Regarding what?

Q At what time did you learn that the vehicle, the grey Mercury, was on September 21 prior to its seizure, was in Mr. Young's possession?

A Approximately, I would say, 5 A.M. on the morning of the 22nd I found that out.

Q 5 A.M.?

A Somewhere around 5.

Q When you filled out the second affidavit?

A The one for the apartment?

Q When you filled out the affidavit for the search warrant for 400 Central Avenue you stated to Judge Keegan that you expected to find Michael Young in that apartment, did you not?

A Is that what it says, sir? I don't believe that says that he was expected to be found in that apartment.

Q Doesn't that state that members of the Communist Workers Party who accompanied Spearman to Albany had been using the apartment?

A Where you showed it to me? No, I don't see that.

Q You can read the whole affidavit.

A It says here source indicated that John

Spearman -- excuse me -- the source indicated that the apartment specified above was being used by John Spearman. I don't see where it says Michael Young was there.

Q Isn't it a fact the affidavit states the same source indicates that the apartment specified above was being used by John Spearman, both as a residence and as a base to plan their activities in the Albany area relating to the rugby game?

A Correct. It does say that.

Q Doesn't it also say the source indicated that other members of the Communist Workers Party accompanied Spearman to the Albany area and were also armed and intended to engage in violent activities to disrupt the rugby game and to engage in violence against the Albany Police Department, these members were identified as Michael Young and William Robinson?

A Correct. It says they accompanied Spearman but not at the apartment.

Q That was where Spearman was residing and used as an alleged base, that apartment?

A Yes, sir.

Q Doesn't it in fact state that the apartment was

being used by the Communist Workers Party as a base for their planning their activities with regard to the rugby game?

A I don't see where it says a base for the Communist Workers Party but just mentions Mr. Spearman --

THE COURT: In any event it's in evidence and it speaks for itself, doesn't it?

MR. OLIVER: Yes, Judge.

BY MR. OLIVER: (cont'd)

Q You knew that Mr. Young was in Albany, is that correct?

A No, I didn't know that.

Q Sources told you Mr. Young was in Albany?

A Yes.

Q Those sources were Mr. Rose and the F.B.I.?

A Among others.

Q What others?

A Members of the Albany Police Department.

Q They knew that Young was in Albany too?

A That's what they told me.

Q Who were they?

A Lieutenant Murray, Deputy Chief Reed.

Q They told you this apartment was being used by John Spearman as a residence and as a base to plan the activities of the Communist Workers Party in Albany around the rugby game, isn't that correct?

A Yes, sir, that's correct.

Q You knew that Mr. Spearman and Mr. Young were associates, isn't that correct?

A Yes, I did.

Q You knew by that time that the vehicle was registered to Mr. Young, isn't that correct?

A That's correct, I did.

Q Yet you said in this affidavit that the car was stolen, isn't that correct?

A That's correct.

Q Let me ask you this: Is there anything in that affidavit that hints or indicates to the issuing Judge that in fact that car was registered to Michael Young?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. OLIVER: (cont'd)

Q The only thing you told the issuing magistrate was that the car was stolen, is that correct?

A Among other things.

Q You indicated in your testimony on your redirect by Mr. Katzer that you took papers for purposes of identifying the apartment, is that what your testimony was?

A That's what I said.

Q Well, when you went to the apartment, was Vera Michaelson there?

A Originally? That's correct.

Q What other verification did you need?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. OLIVER: (cont'd)

Q Wasn't her name on the door? Wasn't her name on the mailbox?

A I didn't look.

Q You knew she was there?

MR. KATZER: Objection.

Q You saw her there, didn't you? You arrested her, right?

MR. KATZER: Objection.

THE COURT: Overruled.

A That's correct.

Q Well, when you took something for quote verification unquote why didn't you look to see if it had Vera Michaelson's name on it?

MR. KATZER: Objection.

THE COURT: Overruled.

A Because I just assumed it did.

Q You assumed that it did?

A That's correct.

Q Hundreds of pages of material and you assumed it did without looking at it?

A I don't know if there was hundreds of pages.

Q You said there might have been a hundred pages, didn't you?

A I said anywhere from twenty to one hundred, I don't know.

Q You didn't look to see if it had Vera Michaelson's name on it but you took it for purposes of verifying she lived there?

A That's correct.

Q You took the list of all the members of the Albany Coalition Against Apartheid, is that correct?

A No, that's not correct.

Q You don't know what you took?

A That's correct.

Q Where did you take those papers from for verification?

A Where were they in the apartment?

Q Yes.

A I believe they were on the kitchen table.

Q Did you search Miss Michaelson's purse?

A I don't believe I did.

Q Did somebody?

A They might have. I don't know.

Q Isn't there normally a driver's license in a purse?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. OLIVER: (cont'd)

Q Why didn't you look for verification of who lived there in some form of identification papers?

MR. KATZER: Objection.

THE COURT: Sustained.

Q How long did the Albany Police Department have the information about who the members of the Albany Coalition Against Apartheid were?

MR. KATZER: Objection.

THE COURT: Sustained. Ask him how

long he had it.

BY MR. OLIVER: (cont'd)

Q You also indicated that there was a quantity of marijuana taken from the apartment, is that correct?

A That's correct.

Q How much?

A In weight?

Q Yes.

A I don't know.

Q It's a fact that it was less than a quarter of an ounce?

A I don't know.

Q Did you charge Miss Michaelson with an offense as a result of that?

A She was charged, yes, sir.

Q What happened to those charges?

MR. KATZER: Objection.

THE COURT: Sustained.

Q Is it a fact they were dismissed?

MR. KATZER: Objection.

A I have no idea.

Q Weren't you in court on the day they were dismissed?

MR. KATZER: Objection.

THE COURT: Sustained.

Q What offense did you charge her with?

MR. KATZER: Objection.

THE COURT: Did you make the charge?

THE WITNESS: Yes, Your Honor, I did.

A I believe it was unlawful possession of marijuana.

Q In what degree?

A 221.05. The original degree.

Q What kind of offense is that?

A I believe it's a violation.

Q What is the maximum sentence for that?

A I have no idea.

Q Isn't it a fact that it's a hundred dollar fine?

A I have no idea.

MR. OLIVER: I have no other questions.

THE COURT: Mr. Kunstler?

MR. KUNSTLER: Just a few, Judge.

RE CROSS EXAMINATION

BY MR. KUNSTLER:

Q Detective Tanchak, you indicated, I believe, that

the bullets, the rounds and the loader and the -- I'll stick to the bullets and the rounds and the loader -- were found in a suitcase or valise in Apartment 7-K of 400 Central Avenue when you executed the search warrant which we discussed earlier and which you discussed with Mr. Katzer upon redirect. Do you remember that?

A Correct.

Q Where is that suitcase?

A I have no idea.

Q Was that the suitcase you said had Michael Young's initials in gold on it?

A It said Michael R. Young.

Q Michael R. Young, in gold?

A That's correct.

Q How big was it?

A The size of an overnight bag. Probably twenty-four inches long and maybe twelve inches high. Maybe a little bigger.

Q Didn't it cross your mind that might have been evidence in this case?

A No, I did not.

Q Did it cross your mind that a jury might want to

the bullets, the rounds and the loader and the -- I'll stick to the bullets and the rounds and the loader -- were found in a suitcase or valise in Apartment 7-K of 400 Central Avenue when you executed the search warrant which we discussed earlier and which you discussed with Mr. Katzer upon redirect. Do you remember that?

A Correct.

Q Where is that suitcase?

A I have no idea.

Q Was that the suitcase you said had Michael Young's initials in gold on it?

A It said Michael R. Young.

Q Michael R. Young, in gold?

A That's correct.

Q How big was it?

A The size of an overnight bag. Probably twenty-four inches long and maybe twelve inches high. Maybe a little bigger.

Q Didn't it cross your mind that might have been evidence in this case?

A No, I did not.

Q Did it cross your mind that a jury might want to

see the valise out of which you said you took this material?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. KUNSTLER: (cont'd)

Q Are you sure you saw a valise there with Michael R. Young on it?

MR. KATZER: Objection.

THE COURT: Sustained.

Q You have seized evidence before as an officer, haven't you?

A That's correct, I have.

Q And was it you who made the determination to take this material out of the valise and leave the valise behind?

A That's correct. It was me.

Q You knew that the valise contained the name of a person who might be charged with a crime, didn't you?

A That's correct.

Q You didn't think it was worthy of seizing at that time?

MR. KATZER: Objection.

THE COURT: Sustained. In any event you didn't seize the valise, is that correct?

THE WITNESS: No, Your Honor, I didn't.

THE COURT: Very well.

BY MR. KUNSTLER: (cont'd)

Q Sir, at this point we have only your word it was in the valise, isn't that correct?

MR. KATZER: Objection.

THE COURT: Sustained.

Q Now, Detective Tanchak, with reference to the search of the car and the warrant which I think is People's 17 in evidence, do you know how it got from the Quad parking lot to where you executed the search warrant?

A Direct knowledge? No, I don't have that direct knowledge.

Q Was it driven by Mr. Spearman?

A I don't believe so.

Q Where was it taken? Whoever drove it.

A I'm sorry? I didn't hear you.

Q Where did the car go?

A To the police garage; inside the garage.

Q That's where you executed the search warrant known as People's 17?

A On the grounds there; yes, sir.

Q Now, was it your information at that time that a pistol had been found or a revolver in the glove compartment of that car?

A I don't understand what you mean. My information?

Q When you got to the garage you were going to begin your search pursuant to the warrant?

A Correct.

Q Was it your knowledge or did you believe that a revolver had been found by the Albany Police Department in the glove compartment of that car?

A That's correct.

Q Now, did you have the glove compartment dusted for fingerprints?

A No, sir, I did not.

Q Did it cross your mind someone might have put that gun in that glove compartment -- someone you might have charged with a crime or might have been charged with a crime?

A Yes, it crossed my mind.

Q Did you ask that the fingerprint unit dust to see whether any fingerprints were on the glove

compartment?

A No, sir, I did not.

Q Now, with reference to the search warrant you executed the affidavit or the application, the sworn application that Judge Keegan was given that night, is that correct?

A Was this in reference to the car?

Q That's right.

A Yes.

Q That's 17, I believe. In it you said that there was reasonable grounds to believe that certain property, to wit, any weapons such as knives, guns, machine guns, firearm silencers, switchblade knives, gravity knives, rifles, shotguns, cane swords, chuka sticks, electronic dart guns or any other weapon or object which is to include blackjacks, bludgeon, metal knuckles, sandbag, sandclub, slungshot, dirk, razor, stiletto, or any other weapon which when possessed is in violation of the Penal Laws of the State of New York -- this also includes any other contraband -- which, when possessed, is in violation of the Penal Law of the State of New York. Did you put this in yourself?

A That's correct, I did.

Q Did you type this yourself?

A That's correct, I did.

Q Where did you get the information as to those weapons might be in that vehicle?

A I just took a quote out of the Penal Law.

Q You took a quote out of the Penal Law?

A That's correct.

Q You are stating you took a quote out of the Penal Law as indicated to Judge Keegan there is reasonable cause to believe that certain property, and then listing that was in the vehicle?

MR. KATZER: Judge, that was a quote from the warrant itself. The application is where the information is contained.

THE COURT: Pardon?

MR. KUNSTLER: May I say, Judge, that is a totally false statement that the district attorney has just made in front of the jury. I ask that he be admonished. It's in the application.

THE COURT: It's in evidence.

MR. KUNSTLER: Take a look at it,

Mr. Katzer.