

A Such as the back seat?

Q Back seat.

A Yes, sir. I believe I did.

Q And outside of what you've described, did you find anything else in the car?

A I believe there was a briefcase.

Q Did you open the briefcase?

A No, sir. I don't think or no, I didn't open the briefcase and I don't know if it was opened but the Detectives were here at that time.

Q All right. And you have no idea yourself, as you sit there, what the briefcase contained.

A No, sir.

Q If anything.

A No, sir.

Q The defendant's driver's license indicated that he had a Kansas address, didn't it, if you recall?

A I believe so, sir.

Q O.K. It even gave an address, didn't it?

A Yes, sir.

Q O.K. And that was in Lawrence, Kansas.

A I don't recall.

Q You can refresh your recollection if you want.

A Oh, o.k. Yes, sir.

Q O.K. Now, after the arrest and between then and now, did you have occasion to discuss this matter, for example, with Mr. Katzer?

A Yes, sir.

Q And do you know on how many occasions you did that?

A Two, three.

Q Did you do it today?

A Yes, sir.

Q And when?

A Sometime this morning, I think it was.

Q Was it before Court this morning, before 9:30?

A I believe so.

Q And when you discussed this matter this morning, were any other officers with you when you had this discussion?

A Yes, sir.

Q Who were they?

A I think there was Officer Igoe and that SUNY officer.

Q Officer Lascoe.

A Lascoe.

Q O.K. And was that the first time that you three had been together with Mr. Katzer?

A No, no, sir.

Q When was the other occasion or occasions?

A I don't know the exact dates.

Q How many times, then?

A Two or three times.

Q And the three of you were together with Mr. Katzer.

A Correct.

Q Now, when you were together with Mr. Katzer, did any discussion ensue between you and him and the other officers about the fact that Officer Lascoe had stated in his report that the Lieutenant found the gun and found it under the seat?

MR. KATZER: Objection.

THE COURT: Overruled.

THE WITNESS: The only discussions, each time he discussed it with us, the other two officers had to leave the room.

BY MR. KUNSTLER:

Q They had to leave the room. You were never altogether talking to Mr. Katzer.

A We would discuss one at a time.

Q One at a time. And when you discussed with Mr.

Katzer, didn't Mr. Katzer say to you that Mr. Lascoe had reported a different version of the events than you did?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. KUNSTLER:

Q Did Mr. Katzer tell you that Officer Lascoe had stated in his report that the Lieutenant found the gun and found it under the front seat on the passenger's side? Did he ever mention that to you?

A I don't recall.

Q You don't recall.

A No. I don't think so.

Q So I take it you are testifying that you can't recall whether Mr. Katzer ever told you anything about Mr. Lascoe's report. Would that be your testimony?

MR. KATZER: Objection.

THE COURT: Sustained. Sustained.

BY MR. KUNSTLER:

Q About where the gun was found and who found it.

THE COURT: Sustained. Sustained.

Rephrase the question.

BY MR. KUNSTLER:

Q All right. Is it your testimony that at no time did Mr. Katzer ever tell you that Officer Lascoe had attributed the finding of the gun to the Lieutenant and that it had been found on the floor of the car under the passenger's seat?

A The only thing that I can recall discussing with the Assistant DA here is my statements, and that was it that I recall.

Q So your answer would be no to that question.

A Correct.

Q O.K. Now, at any time other than with Mr. Katzer, did you have any conversation with Mr. Lascoe and Officer Igoe together when he wasn't present? I'm talking he meaning Brother Katzer.

THE COURT: Relative to this matter.

BY MR. KUNSTLER:

Q Relative to this matter.

A We were told not to discuss it among ourselves, if I remember correctly.

Q So the answer is you didn't.

A Not that I recall.

Q You never had a discussion.

A No, sir.

Q O.K. Now, can you tell me how long it was after you arrived at the Pinebush Substation that you put your initials on the gun and on the rounds, the five rounds?

A How long I was at the station before I initialled them?

Q Yes, before you did that.

A Ten minutes, fifteen. I couldn't give you a time, sir. I don't recall.

Q Now, did you write out any handwritten notes about what you have told us in a notebook?

A No. I don't carry a notebook.

Q And do you know how long after you got to the Pinebush that you completed the arrest report that you've identified and which I think is our Exhibit C for identification and which is a carbon copy, a photostatic copy which is in front of you?

A This was also done with a booking officer, Officer Olthoss that did the typing.

Q Did you dictate it to him?

A Yes, sir.

Q And the information he took off the driver's license.

A And also the information that he took off the driver's license.

Q All right. And how long after you got to Pinebush did you dictate it to him, the portion that came from you?

A Five minutes, ten minutes; after we took Mr. Spearman out of the patrol wagon.

Q And with reference to the gun and the rounds, what did you do with them after you marked them?

A They were placed in an evidence bag.

Q And have you seen them from that day to today?

A I had seen them, I think a couple of times, since then, sir.

Q Now, at any time that you were present with Mr. Spearman that night or withdrawn. What time did you leave the presence of Mr. Spearman for the first time that evening after -- at Pinebush?

A What do you mean by what time?

Q Let me withdraw it. It's awkward. As I understand your testimony, he was in your immediate proximity until unit 53 arrived on the scene; is that correct,

at your parking lot?

A Oh, yes. He was in unit 15.

Q Now, I am talking about unit 53.

A He was placed in unit 53.

Q You didn't ride in unit 53.

A No, sir. I took unit 15 and followed the wagon to Pinebush Substation.

Q And when he got to Pinebush Substation, what happened?

A He was taken out and placed in the Booking Room.

Q Who did that?

A Myself and I think the wagon driver.

Q And when for the first time after you arrived at Pinebush did you lose sight of him?

A I don't recall losing sight of Mr. Spearman until I placed him in the cell.

Q And what time of night would that be?

A I don't recall. I don't know, 20 minutes after we finished or, you know, when we finished the booking. He was placed right into his cell.

Q Well, can you indicate approximately? Did the booking take an hour or what?

A Approximately probably an hour and a half, an hour

forty-five minutes; I don't recall.

Q And at any time after you arrived there, did Mr. Spearman make a telephone call, to your knowledge, while he was in your presence?

A Not while he was in mine, sir. He wouldn't talk to anybody.

Q He didn't even ask to call anyone?

A He did not say a word except, "Am I under arrest," down at the parking lot and that was his only words.

Q O.K.

A That I can recall in my presence.

MR. KUNSTLER: All right. Thank you.

I have no further questions.

THE COURT: You may examine.

CROSS-EXAMINATION

BY MR. OLIVER:

Q Officer DePaulo, I would like to ask you if while you were at the Pinebush Station you received a phone call from Officer Lascoe.

A I received a phone call?

Q Did you?

A No, sir. No. I haven't received a phone call from

anybody.

Q So at any time while you were at the Pinebush Station after you arrested Mr. Spearman, did you receive a phone call from any SUNY police?

A Not that I recall. No, sir.

Q I want to show you People's Exhibit 7 and I want to ask you how many grains are there in these shells, each one of them?

MR. KATZER: Objection.

THE COURT: Sustained.

MR. OLIVER: It's been testified to.

THE COURT: How many what?

MR. OLIVER: Grains.

THE COURT: Grains.

MR. OLIVER: Grains.

THE COURT: Sustained.

BY MR. OLIVER:

Q Let me ask you this: do you know how many grains are in each of these shells?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. OLIVER:

Q To your knowledge, did any other officer, while you

were at the Pinebush Police Station with Mr. Spearman, receive a phone call from Officer Lascoe?

A I don't have any idea.

Q Can you tell us how much time it was that passed between the time that you say you found the gun and the time that you arrived at the Pinebush Police Station?

A Possibly a half an hour, 45 minutes. Again, I can't give you a time period.

Q What would be your best estimate of the time between when you found the gun and the time you arrived at the Pinebush Police Station?

MR. KATZER: Objection.

THE COURT: No. Overruled. What's your best estimate?

THE WITNESS: Half an hour, 45 minutes approximately.

BY MR. OLIVER:

Q During this period of time, were various calls being made over the police radio concerning this arrest to and from the dispatcher and so forth?

A I don't recall. Once you are involved in an arrest,

sir, your car is eliminated from receiving any calls.

Q Well, did you call the paddy wagon?

A I don't recall whether I was the officer who asked for unit 53 or whether it was Officer Igoe.

Q And that call would go over the police radio, would it not?

A Yes, sir.

Q O.K. And to your knowledge, are calls of that nature made over the police radio, is a record of them made in the police department? Are they recorded by the police department?

MR. KATZER: Objection.

THE COURT: Sustained. Sustained.

BY MR. OLIVER:

Q Now, before you searched the vehicle, you indicated that you had a discussion with Sergeant Kosakowski; is that correct?

A Before I searched the vehicle?

Q Yes. You spoke with --

A No. I don't recall talking to Lieutenant Kosakowski at all before I started the search of the vehicle, no, sir.

Q Did you wait till Lieutenant Kosakowski arrived before you searched?

A I wasn't waiting for anybody.

Q So you didn't wait until he arrived before you started searching the vehicle.

A Not that I recall.

Q And did you call Lieutenant Kosakowski to get permission or clearance to search the vehicle?

A Sir, I wasn't under --

MR. KATZER: Objection.

THE COURT: Overruled.

THE WITNESS: I wasn't under any orders to wait for anybody. It was my arrest and I felt that I should search the vehicle.

BY MR. OLIVER:

Q O.K. Was Detective Murray there at the time you searched the vehicle?

A While I was -- I don't know what anybody was doing while I was searching the vehicle but Lieutenant Murray was there when I got out of the vehicle.

Q Was Detective Murphy there?

A Again, I don't recall, sir. There was numerous people there.

Q Was Detective Tanchak there?

A Again, I don't recall.

Q Did you see all these people at the scene there
in the parking lot?

MR. KATZER: Objection.

THE COURT: Sustained as to form.

BY MR. OLIVER:

Q In the parking lot at that time.

THE COURT: What people?

BY MR. OLIVER:

Q Did you see Detective Tanchak?

MR. KATZER: Objection.

THE COURT: Do you recall what
police officers you saw after you got out of the
car in the parking lot that evening?

THE WITNESS: I recall seeing
Lieutenant Murray and Lieutenant Kosakowski.
I also recall a lot of uniforms and a lot of
people in civilian clothes. I didn't observe
their faces. I don't know who they were.

BY MR. OLIVER:

Q Do you know Detective Tanchak?

A Yes, sir.

Q Did you see him there?

A I don't recall seeing Officer or Detective Tanchak there at that time but there was a lot of officers there.

Q How many officers were searching the vehicle?

A There was myself and Lieutenant Kosakowski got involved that I could recall.

Q May there have been other officers searching the vehicle?

A At the time I was searching the vehicle there was myself and then later on Lieutenant Kosakowski. I don't recall anybody else searching the vehicle while I was there but it's possible. I don't recall.

Q When you entered the vehicle, were all the doors closed or were they open?

A What I could recall, they were all closed, sir.

Q When you first entered the vehicle, was the glove compartment opened or closed?

A I don't recall when I first opened or when I first got into the vehicle.

Q The glove compartment could have been opened before you entered the vehicle.

A It's possible. I don't recall.

Q Now, when Mr. Spearman was taken out of the vehicle, was the engine running?

A The lights were on, sir. I don't recall whether the motor was running but the lights were on and the keys were in the ignition. I don't recall listening for the engine.

Q Let's see. On December 30, do you recall being asked the following questions, giving the following answers, page 34 and 35:

"Q When he left his vehicle, was the vehicle then empty?

A Meaning -- I don't understand the question.

Q Any other passengers?

A No, sir.

Q O.K. And was the motor running or off to his vehicle?

A To the best of my recollection, the vehicle was still running because the headlights were still on, as I recall.

... Could be."

A Very possibly, sir.

THE COURT: Were you asked those questions? Did you make those answers at that time?

THE WITNESS: Yes, sir.

BY MR. OLIVER:

Q At any time when you stopped Mr. Spearman, did you direct him to turn the engine off?

A No, sir.

Q You didn't.

A No, sir.

Q At any time did you direct him not to move?

A No, sir.

Q You didn't. Now, after the search of the vehicle that you, Lieutenant Kosakowski and possibly some others conducted --

MR. KATZER: Objection.

THE COURT: I haven't heard the question yet.

BY MR. OLIVER:

Q After that search, was there any other search of the vehicle in the parking lot to your knowledge?

A I couldn't tell you, sir. I wasn't there.

Q O.K. Now, you indicated that you recovered a briefcase; is that correct?

A I didn't say I recovered a briefcase. I said I think -- I said there was a briefcase in the vehicle.

Q And where was that located?

A It was on one of the seats. I don't recall if it was on the front or the back seat.

Q Did you locate that or did some other officers locate it?

A Again, I don't recall. I didn't touch it. I don't believe I touched it, the briefcase.

Q You didn't touch the briefcase.

A Not that I recall, no, sir.

THE COURT: Did you take it into your possession?

THE WITNESS: No, sir.

BY MR. OLIVER:

Q Some other officers took, located that?

A Again, I don't recall, you know, who put their hands on it, if anyone.

Q Did Lieutenant Kosakowski take it?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. OLIVER:

Q Did you see Lieutenant Kosakowski with that briefcase in his hand?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. OLIVER:

Q Who did you see with that briefcase?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. OLIVER:

Q Did you see any police officers with that briefcase?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. OLIVER:

Q Where was the briefcase when you first saw it?

MR. KATZER: Objection.

THE COURT: No, overruled.

THE WITNESS: It was on one of the seats, sir. I really don't recall whether it was the front or the back seat but it was on one of the seats.

BY MR. OLIVER:

Q O.K. Where was the briefcase the next time you saw it?

MR. KATZER: Objection.

THE COURT: Sustained.

MR. OLIVER: Permit that, Judge?

THE COURT: I don't see any materiality.

MR. OLIVER: I want to find out who was in the car, Judge.

THE COURT: Pardon?

MR. OLIVER: I want to find out who was in the car.

THE COURT: Who was in what car?

MR. OLIVER: Who got the briefcase; who else was in the car.

THE COURT: As I understand it, you saw a briefcase in the vehicle while you were doing your search. You didn't take it into your possession at any time that evening; is that correct?

THE WITNESS: I did not touch the briefcase at all, your Honor.

MR. OLIVER: I'm asking him who he

saw with the briefcase in his hand.

THE COURT: When?

MR. OLIVER: The next time he saw it after he saw it.

THE COURT: Well, if he saw it 14 days later, how is it material?

MR. OLIVER: Well, all right. O.K.

Q Within a half hour of the time that Mr. Spearman was arrested, did you see any police officer with that briefcase in his possession?

A I did not see that briefcase in anyone's hand. The last time I seen -- the first time I seen that briefcase was lying on a seat of the vehicle and then I was called; 53 was there. I transported the prisoner and whoever was there watching that vehicle -- I went to Pinebush Substation with my prisoner.

Q So you didn't see the briefcase in any officer's possession at the scene that night.

MR. KATZER: Objection.

THE COURT: Answer the question.

Did you see anybody with the briefcase in their possession at the parking lot area that evening?

THE WITNESS: Not in anyone's possession, no, sir.

THE COURT: It was lying on the seat.

THE WITNESS: It was on the seat.

THE COURT: That's the time you saw it. O.K.

BY MR. OLIVER:

Q And how big was this briefcase?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. OLIVER:

Q To your knowledge, did anyone search the briefcase to see if it contained another weapon?

MR. KATZER: Objection.

THE COURT: Sustained.

MR. OLIVER: Well, Judge, can we have the size of the briefcase in the record?

THE COURT: Please. That means move into another area of cross-examination.

BY MR. OLIVER:

Q Now, when you searched the vehicle, sir, did you find any literature regarding the rugby game?

A No, sir, I did not.

MR. OLIVER: May I have a moment to consult with my colleague?

(Discussion held off the record.)

MR. OLIVER: I have no further questions.

THE COURT: Anything further of this witness, Mr. Katzer?

MR. KATZER: No, Judge.

THE COURT: Mr. Kunstler?

MR. KUNSTLER: I just have one question, Judge.

RE-CROSS-EXAMINATION

BY MR. KUNSTLER:

MR. KUNSTLER: May I have this marked D for identification?

(A report was marked Defendant Spearman's Exhibit D for identification.)

Q Now, my colleague asked you some questions about relative to taking Mr. Spearman to the Pinebush. Do you remember that, the general subject of taking Mr. Spearman?

A Transporting him to Pinebush?

Q Right.

A Yes, sir.

Q When you got to Pinebush, did you fill out a complaint Information with reference to him and I'll show you what's marked D, D for identification?

A I don't recall, sir, whether it was done that night or the next day in Police Court.

Q Well, that's sworn to you by you, isn't it?

A Yes, sir. It has my signature on it.

Q Also states sworn to, does it not?

A Yes, sir.

Q And what color did you say the Mercury was?

A It was a gray or a silver.

Q You did look at your affidavit.

A Color green.

MR. KUNSTLER: Green. No further questions.

THE COURT: Anything further, Mr. Oliver?

MR. OLIVER: Can I have just a moment to consult with my colleague?

THE COURT: No. Do you have any further questions based on his cross-examination?

MR. OLIVER: No. No, I don't.

THE COURT: Anything further, Mr. Katzer?

MR. KATZER: No, Judge. Thank you.

THE COURT: That's all. Thank you.

All right. Take a short recess.

(Recess taken.)

(After the recess, the following transpired:)

THE COURT: Mr. Kunstler, Mr. Oliver, Mr. Katzer, do you want to approach the bench, please?

(Discussion held at the bench off the record.)

THE COURT: Bring the jury down, please.

(The jury was brought down.)

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 14 sworn jurors.

Call your next witness, please.

MR. KATZER: Thank you, Judge. The People call Mr. G. Jack Reynders.

GILBERT JACK REYNDERS,
having first been duly sworn, was examined and testified
as follows:

DIRECT EXAMINATION

BY MR. KATZER:

Q For the record, Mr. Reynders, please state your
name.

A Gilbert J. Reynders.

Q And what is your occupation?

A Catering manager, Best Western Thruway House,
Washington Avenue.

Q And that's located across from SUNY, Albany; is
that correct?

A Yes, it is.

Q Were you so employed in September of 1981?

A I was.

Q During the year 1981, did you have occasion to
book certain rooms at your hotel for the Springboks
rugby team from South Africa?

A Yes, sir.

Q Specifically, when did the Springboks rugby team
stay at your hotel?

A They checked in on Sunday evening, September 20 and

checked out the afternoon of Tuesday, September 22.

Q So they would be there the evening of September 21, 1981; is that correct?

A Yes, sir.

MR. KATZER: Thank you, Mr. Reynders.

That's all.

THE COURT: Mr. Kunstler, any questions?

MR. KUNSTLER: Just a word or two, Judge.

CROSS-EXAMINATION

BY MR. KUNSTLER:

Q Mr. Reynders, my name is William Kunstler. I'm an attorney for Mr. Spearman, who's over here. You and I have never talked, have we?

A No, sir.

Q Now, while they were, the Springboks were at the motel, were there any demonstrations around the motel?

MR. KATZER: Objection.

THE WITNESS: No, sir.

THE COURT: Overruled.

BY MR. KUNSTLER:

Q Did you see people there who were protesting in any way?

A No, sir.

Q And you say they checked out on the afternoon of the 22nd.

A Yes, sir.

Q And how many were there? How many Springboks were there?

A Thirty-two; the team, assistants, doctors, et cetera; a total of thirty-two people.

Q And at any time while they were in the hotel, did you have any conversation with law enforcement people, State Police or anybody about them in any way, shape or form?

A No, sir.

MR. KUNSTLER: O.K. I have nothing further.

Thank you, Mr. Reynders.

THE COURT: Do you have any questions of this witness, Mr. Oliver?

MR. OLIVER: No, your Honor.

THE COURT: Anything further?

MR. KATZER: No.

THE COURT: That's all. Thank you.

MR. KATZER: Thank you, Mr. Reynders.

THE COURT: Call your next witness,
please.

MR. KATZER: The People call
Eugene Kendrick.

EUGENE KENDRICK,
having first been duly sworn, was examined and testified
as follows:

DIRECT EXAMINATION

BY MR. KATZER:

Q For the record, Mr. Kendrick, state your name.

A Eugene Kendrick.

Q And what is your occupation?

A News photographer.

Q And by whom are you employed as a news photographer?

A WNYT, TV.

Q That's known as Channel 13.

A Channel 13. That's correct.

Q Were you so employed as a news photographer for
Channel 13 on September 21, 1981?

A Yes, I was.

Q What was your assignment in the mid-afternoon of that day? Do you recall?

A The Federal Courthouse.

Q And what were you covering at that particular time?

A The Court ruling on the proposed rugby match.

Q Now, Mr. Kendrick, are you here pursuant to a subpoena duces tecum?

A Yes, I am.

Q And were you requested to bring with you an individual videotape of a certain interview with the defendant Michael Young which occurred on September 21, 1981, and which is recorded on tape number 649 Channel 13 and located on that tape at slug number 159?

A Yes.

Q Do you have that tape with you?

A (Indicating.)

MR. KATZER: I would like this marked as People's 8 for identification.

(A videotape was marked People's Exhibit 8 for identification.)

BY MR. KATZER:

Q Now, Mr. Kendrick, did you, in fact, photograph