

1 Plaintiff: Mr. Hilton
2 Witness: Sarah Sheppard
3 Court:
4 Defense: Ms. Connor
5

6 EXAM
7

8 THE COURT: The record may reflect that the defendant is
9 present, as well as both counsel. Where did we leave off?

10 MR. HILTON: I believe that I was questioning / the witness under
11 redirect, your Honor. I checked my notes, and I have just a few more
12 questions.

13 THE COURT: Very well, then. Let's proceed with that. /

14 MR. HILTON: Thank you.

15 THE COURT: If you will resume the stand, please, ma'am.

16 REDIRECT EXAMINATION

17 BY MR. HILTON: Q. Mrs. Sheppard, I have just a few more
18 questions for you, ma'am.

19 A. All right.

20 Q. Do / you remember approximately what time you arrived at the
21 bank that day?

22 A. Well, I know that it was my third stop of the day, and / so I
23 would estimate about 11:30.

24 Q. Do you recall how many people were present in the bank when
25 you first entered?

1 A. Do you mean / customers or everybody in the bank?
2 Q. Just how many people you saw when you walked in.
3 A. Well, as I said before, I remember maybe six / people in the
4 lobby area.
5 Q. Did you wait in line, or did you approach a teller right away?
6 A. No. I was in line when the / robbers came in.
7 Q. Now, did you actually see these men enter the bank, or what
8 drew your attention to them?
9 A. I was standing in line. / I observed the doorway open.
10 Q. Were you facing the entrance door, or did you turn to view the
11 door?
12 A. No. I was facing in that / direction while I waited in line. It
13 was a short line, but I was positioned that way.
14 Q. Describe what you actually observed when the door / opened.
15 A. I saw the door open, and then approximately four or five
16 gentlemen entered immediately.
17 Q. Were you able to observe all four or five people / at the same
18 time?
19 A. I first saw the man in front. He was wearing a sports jersey,
20 and I noticed that right away.
21 Q. What color / was the shirt? Do you remember?
22 A. I recall that it was black and gray because it was the Raiders.
23 Q. Are you remembering colors that you / observed, or are you
24 remembering the team logo?
25

1 A. No. It was black and gray. It had a football helmet on the
2 front, and I recognized / it was a football jersey.

3 Q. Okay. Before the lunch recess, we were discussing what
4 attracted your attention to these men. Can you remember why you / first
5 believed that something was wrong?

6 A. Well, they all came in together and just fanned out. The one in
7 front told us all to get / down on the carpet and be quiet.

8 Q. Do you recall any other words that he said?

9 A. Not for sure. I heard other phrases being spoken, / but I don't
10 know for sure who was speaking.

11 Q. Did you hear any bank personnel speaking?

12 A. I don't believe so. I heard a man ask / for the manager, and
13 someone identified the manager, but I don't know who was speaking.

14 MR. HILTON: Thank you, your Honor. Nothing further at this
15 time.

16 THE COURT: All / right. Is there going to be recross-
17 examination?

18 MS. CONNOR: Thank you, your Honor.

19 First, I would request to mark a diagram if I may.

20 THE COURT: All right. That / will be defense next in order. The
21 clerk advises me that we are at the letter H for identification.

22 Let's continue.

23 RECCROSS-EXAMINATION

24 BY MS. CONNOR: Q. Mrs. Sheppard, I represent / the
25 defendant in this matter, Mr. Preston. I also have some questions for you.

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A. Okay.

Q. If you don't understand something I ask, just let me / know,
and we will go from there.

A. Okay. Thank you.

Q. Now, you testified that you believe there were four or five
people who entered the / bank at approximately the same time; correct?

A. Yes, ma'am.

Q. You saw a man with a sports jersey on; right?

A. They were all wearing those shirts. /

1 BEGIN TYPING

2
3 BY MS. CONNOR: Q. Was he wearing any kind of mask or
4 anything covering his face?

5 A. Yes, a ski mask.

6 Q. You couldn't fully see his face?

7 A. Correct.

8 Q. Who was / the next person you noticed?

9 A. There was a man closely beside him who was also wearing a
10 jersey, but it was a different logo.

11 Q. What / team was that? Do you remember?

12 A. No. I just believe it was a different sports logo.

13 Q. Now, apparently you told the officers that all the / men were
14 wearing different football shirts; right?

15 A. The officer asked me about what they were wearing, and that's
16 what I recalled. They all had on / jeans and t-shirts.

17 Q. Did all the people have on masks or something covering their
18 faces?

19 A. Yes, I believe so.

20 Q. So you can't identify any one / of them by their facial features;
21 is that correct?

22 A. I didn't see their faces completely all the way, but I did see the
23 defendant's eyes / and his mouth when he was taking my money.

24 Q. We will get to that in a minute. I am just asking you now
25 about what / you observed while they were entering the bank.

1 MR. HILTON: Objection, your Honor. The witness was being
2 responsive to the question. Counsel should allow her to answer / the
3 question.

4 MS. CONNOR: I wasn't cutting the witness off. I was just
5 inquiring --

6 THE COURT: Just a minute. Don't argue in front of the jury.
7 Objection overruled at / this time.

8 Let's have another question.

9 BY MS. CONNOR: Q. After the people had entered the bank
10 and began to spread out in the lobby area, what was the / next thing that
11 you thought was unusual?

12 A. Initially when they entered, it was very clear that it was a
13 robbery. They said to get down / on the ground and be quiet. Most
14 customers don't do that.

15 Q. Okay. Did you respond in any way to the request to get down
16 on / the carpet?

17 A. Absolutely. I got down on my hands and knees.

18 Q. What happened thereafter, Mrs. Sheppard?

19 A. The robber walked past me and instructed me to / extend all
20 the way flat on the ground.

21 Q. Okay. What did he instruct you to -- strike that.

22 First of all, who is it that you / are testifying about?

23 A. One of the robbers.

24 Q. Do you know which person you are actually describing?
25

1 A. He was wearing the jeans and the jersey that / had the picture
2 of the football on the front.

3 Q. What exactly did he communicate to you?

4 A. Actually, he didn't say anything to me. He just / pushed down
5 on my shoulders to get down.

6 Q. I thought you testified that he instructed you to extend all the
7 way down.

8 A. He did, by / touching my shoulders.

9 Q. There were no words spoken directly to initiate that action;
10 correct?

11 A. That's right. Nothing verbal.

12 Q. What happened subsequent to that?

13 A. Well, at / approximately --

14 THE COURT: Excuse me. You need to keep your voice up so
15 everybody can hear you, ma'am. Do you understand?

16 THE WITNESS: Yes, sir. Sorry, but I am / getting over a cold.

17 THE COURT: That's perfectly okay. Just try to project as loudly
18 as you can.

19 THE WITNESS: All right.

20 MR. HILTON: Do you need some water or something / to drink?

21 THE WITNESS: No, thank you. I'll just try to be louder answering
22 questions.

23 MR. HILTON: Let the judge know if you need a recess.

24 BY MS. CONNOR: Q. You testified previously / that the bank
25 manager was brought out to the lobby area; is that correct?

1 A. Yes. He quickly came into the lobby and started going over /
2 to the safe.

3 Q. Was he alone at that time, or was he accompanied by
4 somebody?

5 A. He definitely had one of the robbers with him, the / one that
6 had the rifle and the bright green mask.

7 Q. Did you hear any conversation between them as they were
8 traveling past you?

9 A. No. I / just heard footsteps as they were approaching closer to
10 me.

11 Q. Did you look over to observe who was moving in your
12 direction?

13 A. I didn't want / to stick my head up to look around. It was
14 obvious who was approaching.

15 Q. How could you determine that?

16 A. I heard them ask for the / manager, and then they were
17 walking quickly around me. So it definitely was the robber.

18 Q. However, you aren't positive who it was; correct?

19 A. No. It / was the manager and the defendant with the green
20 mask.

21 Q. Did you see the mask at that moment?

22 MR. HILTON: Objection. Asked and answered.

23 THE COURT: Okay. I don't / believe that it is clear. So
24 overruled. You may answer the question.

25

1 THE WITNESS: I saw the defendant with the gun and the mask as
2 they passed / me. I remember the green mask was really a vibrant color.
3 That surprised me.

4 BY MS. CONNOR: Q. Are you testifying under oath today that
5 the individual in the / green mask was my client?

6 A. I believe it was him because of his eyes and his mouth.

7 Q. Are you testifying that the individual who escorted / the
8 manager to the vault is the same man who took money from your wallet as
9 well?

10 A. Yes, I am. He took the manager to / the vault and then came
11 back to the people in the lobby on the floor.

12 Q. You are positive it was the identical person?

13 A. Yes, ma'am. / I definitely remember his eyes.

14 Q. But you never saw the gentleman with the manager up close to
15 observe his eyes; correct?

16 MR. HILTON: Objection. Asked and answered. /

17 THE COURT: Overruled. You may answer.

18 THE WITNESS: What was the question again?

19 BY MS. CONNOR: Q. You testified about the manager being
20 escorted to the vault by somebody in a green mask; / is that true?

21 A. Yes. He was.

22 Q. And you didn't see that person's face at that time, did you?

23 A. No, I did not.

24 Q. So how are / you sure it was the same gentleman who you say
25 took money from your person just minutes later?

1 A. I remember the mask. It was the / same person.

2 Q. So you are remembering the mask and not the eyes; right?

3 A. I guess so.

4 MS. CONNOR: Nothing further at this time.

5 THE COURT: May the witness be / excused?

6 MS. CONNOR: Ask that the witness be on call, your Honor.

7 THE COURT: All right. You have the witness under subpoena,
8 Mr. Hilton?

9 MR. HILTON: Yes, your Honor. I just / have some brief redirect if
10 I may do that.

11 THE COURT: All right. Proceed.

12 FURTHER REDIRECT EXAMINATION

13 BY MR. HILTON: Q. Mrs. Sheppard, defense counsel asked
14 you about being able to identify the robbers / by facial features. I believe
15 you mentioned in previous testimony about the bright green mask; is that
16 true?

17 A. Yes. I reported to the police officer / about it and told the
18 other judge about it, also.

19 Q. Let me show you an exhibit that is marked for identification as
20 15. Do you / recognize what that is?

21 A. Yes. That's the green mask.

22 Q. Is that the mask that you observed one of the defendants to be
23 wearing on the / day of the robbery?

24 A. Yes, it is.

25 Q. How is it that you recognize it?

1 A. Well, it is really a loud color.

2 Q. I believe you said / that you were surprised by the color of the
3 mask. What did you mean by that?

4 A. On television programs that suspects usually wear black or /
5 some darker color. This particular color really stands out. That's all.

6 Q. To clarify, is it the color you recognize, or is it actually this
7 mask / that you observed during the bank robbery?

8 A. No. That's the mask. You can see the little patch that is
9 attached on the side is partially / coming off. I saw that before he started
10 taking my wallet.

11 Q. There appears to be some question about how many different
12 green masks there were / in the bank that day.

13 MS. CONNOR: Objection as phrased, your Honor. That's a
14 question for the jury to decide.

15 THE COURT: Objection sustained. Counsel, rephrase your
16 question.

17 BY MR. HILTON: Q. How / many green masks did you notice
18 in the bank that particular day?

19 A. Just the one the defendant was wearing.

20 Q. Do you recognize the gentleman seated / at the table with the
21 defense counsel? Have you ever seen him before?

22 A. I believe that is the man in the green mask at the / bank.

23 Q. All right. I wanted to clear up something that Ms. Connor
24 brought out on cross-examination. She asked you questions about the
25 height of the / suspects in the bank. Do you recall that line of questions?

1 A. Yes, I do.

2 Q. Do you recall being interviewed by the police regarding that
3 same / subject?

4 A. Yes. I was interviewed by Detective Miller.

5 Q. Was that while you were at the bank?

6 A. I believe so. Maybe Detective Miller was the one / at the police
7 department. I'm not positive if it was him or perhaps Officer Smith who I
8 spoke to at the scene.

9 Q. Would it help / you to recall if I showed you a photocopy of
10 your interview?

11 A. I guess.

12 MR. HILTON: Your Honor, I would like permission to approach the
13 witness and / see if this refreshes her memory.

14 THE COURT: That's fine.

15 MS. CONNOR: If Mr. Hilton wants to stipulate that it was Officer
16 Smith who took the initial statements from / the witnesses, that's fine with
17 the defense.

18 THE COURT: Would you prefer to stipulate to that, and then you
19 don't need to approach?

20 MR. HILTON: Well, I wanted to / question the witness regarding a
21 couple statements that she made in her interview.

22 THE COURT: All right. Go ahead.

23 MS. CONNOR: Which interview is Mr. Hilton going to be / using?

24 THE COURT: I'm sure Mr. Hilton will tell us as soon as he gets a
25 chance. Let's wait for the next question.

1 BY MR. HILTON: Q. Mrs. Sheppard, this is / a copy of your
2 interview with Detective Miller. Were you aware that you were being taped
3 during that interview?

4 A. Detective Miller told me, and I / saw the machine there.

5 Q. Okay. If you would kindly look over this page and read it to
6 yourself. Just let me know when you have / finished.

7 MS. CONNOR: To which page are you referring?

8 MR. HILTON: I have placed page 35 before the witness.

9 MS. CONNOR: Thank you. That's fine.

10 THE COURT: Counsel, which interview is this a / transcript from?
11 I don't believe we have made that clear for the record.

12 MR. HILTON: I'm sorry. This is the interview between Detective
13 Miller and the witness / held on June 13th, 1999, at the police station.

14 THE COURT: Thank you. Proceed with your questions.

15 BY MR. HILTON: Q. Have you had a chance to review that
16 page, / Mrs. Sheppard?

17 A. Yes, I have.

18 Q. Does that refresh your memory that on that date you were
19 interviewed by Detective Miller regarding this robbery?

20 A. Yes, it / does.

21 Q. Now, do you remember being asked questions about the height
22 of the suspects who entered the bank that particular morning?

23 A. Yes, I do.

24 Q. Do / you recall mentioning to the detective that the man in the
25 green mask was the tallest of all the suspects?

1 A. I did say that, yes. /

2 Q. Was that statement made by you correct to the best of your
3 knowledge?

4 A. Correct. I told the officer that, when I was laying on the /
5 ground, that it was hard to tell how tall somebody was, but when I saw
6 them in person --

7 MS. CONNOR: Objection. Nonresponsive after "yes".

8 THE COURT: Sustained.

9 MS. CONNOR: Move to / strike the answer.

10 THE COURT: It is stricken. Next question.

11 BY MR. HILTON: Q. Did you attend a lineup back in July of
12 1999 regarding this case?

13 A. Yes, I did. /

14 Q. Do you recall if you were able to identify anyone at that time?

15 A. No, I wasn't.

16 Q. Did you make any statements to the detectives at / that time?

17 A. Yes, I said --

18 MS. CONNOR: Objection. Hearsay.

19 THE COURT: Overruled. The answer is in. Next question,
20 please.

21 BY MR. HILTON: Q. Do you remember stating that someone
22 in the lineup looked / familiar to you?

23 A. Yes. He looked very similar.

24 Q. And who were you talking about when you made that
25 statement?

1 A. It was the defendant standing in / space number three. He
2 looked like the build of the suspect wearing the green mask.

3 Q. You mean they were built the same?

4 A. They definitely are. /

5 Q. Okay. I'm going to show you this photograph which is an
6 exhibit in this proceeding. Do you recognize what this depicts?

7 A. Yes. It is a / photograph of inside the bank.

8 Q. Do you recognize this as a still photo taken from the video
9 camera in the bank?

10 MS. CONNOR: Objection. No foundation.

11 THE COURT: Sustained. /

12 BY MR. HILTON: Q. Do you recognize what is depicted in
13 this photograph?

14 A. Yes, sir.

15 Q. Do you recognize yourself in this photograph?

16 A. Yes. That's me in the lobby right / there.

17 Q. Do you see the man you have identified today as the defendant
18 here today?

19 A. Yes. I believe that's him standing next to the other / robber.

20 Q. Do you see that he is wearing a mask in this picture?

21 A. Yes, he is. It is the same green mask he was wearing. /
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