

1 COUNSEL FOR THE PEOPLE: Mr. Evers

2 THE WITNESS: Timothy Ellison

3 COUNSEL FOR THE DEFENSE: Ms. Adams

4 THE COURT

5

6 **WARMUP**

7

EXAMINATION

8 Q BY MR. EVERS: Could you state your full name and
9 spell your last name for the court reporter.

10 A Timothy Ellison, E-l-l-i-s-o-n.

11 Q Okay. And how old are you today?

12 A Nineteen.

13 Q I want to draw your attention to January 19 of this
14 year. Were you eighteen at that time? /

15 A Yeah.

16 Q Okay. And what city did you reside in at that time?

17 A Appleton.

18 THE COURT: Could you please move your chair closer
19 to the microphone so that we can hear you better.

20 MS. ADAMS: Your Honor, before we get started today,
21 could I step outside for a moment to make a phone call?

22 THE COURT: Can // you possibly do that later? If we
23 get started now, we can break in about an hour.

24 MS. ADAMS: That is good enough. I can wait for the
25 break.

1 THE COURT: Mr. Evers, you may resume your
2 questioning.

3 Q BY MR. EVERS: Okay. And did you reside in a house?

4 A Yes.

5 Q Okay. And who did you reside there /// with?

6 A My mother.

7 Q All right. Did you live there with anybody else?

8 A No. Just my mother and my little sisters.

9 Q How many sisters do you have?

10 A I have two.

11 Q Okay. Besides your mother and your two sisters, was
12 there anyone else that lived at the house with you?

13 A No.

14 Q Okay. *(1) and back on that date when you resided at
15 that house, how old were your sisters?

16 MS. ADAMS: Objection, Your Honor. The age of his
17 sisters is irrelevant to this case.

18 THE COURT: Counsel, can you tell us how the age of
19 his sisters is relevant to this?

20 MS. ADAMS: I believe it helps set the / stage for
21 the nature of the household and his desire to protect his
22 mother and sisters.

23 THE COURT: The objection is overruled.

24 You may answer.

25 THE WITNESS: Seven and twelve.

1 Q BY MR. EVERS: Okay. Now, on that particular day,
2 what had you been doing?

3 A Helping my father at his warehouse.

4 Q And what time did you begin, if // you remember?

5 A He picked me up at ten in the morning, and I got home
6 at five thirty maybe. Somewhere around there.

7 Q Okay. And what did you do for your father?

8 A Sweeping up around the warehouse, picking up tools.
9 That sort of stuff.

10 Q Okay. And on that evening, on the /// 19th, when you
11 got home -- strike that.

12 MS. ADAMS: Your Honor, may I step outside for a
13 moment and confer with counsel?

14 THE COURT: Counsel, I would prefer that you wait
15 until the morning break. If you feel it is necessary, we
16 can do so now, but my preference is we continue on
17 with *(2) these proceedings at this time.

18 MS. ADAMS: I believe it can wait, Your Honor. Thank
19 you.

20 THE WITNESS: I have forgotten if there was a
21 question pending.

22 THE COURT: No, there is not. We have not gotten
23 very far. These proceedings are not moving along very
24 well.

25 Go ahead, Mr. Evers.

1 Q BY MR. EVERS: How did you get back / to your house
2 that evening?

3 A My father dropped me off.

4 Q Okay. And when you arrived back at your residence,
5 what did you intend to do immediately?

6 A Well, I was going to detail both my car and my
7 mother's car.

8 Q Does your house have a standard driveway that leads
9 to your // residence?

10 A Yes.

11 Q Did it have a two-car garage?

12 A Yes.

13 Q Is this a one- or two-story home?

14 A One.

15 Q Was it a single-family residence or part of a duplex?

16 A It was like a little community place.

17 MS. ADAMS: Objection. Vague. I'm sorry, Your
18 Honor, I am not sure what "a little /// community place"
19 means.

20 THE COURT: Counsel, can you get that cleared up for
21 us, please?

22 MR. EVERS: Yes, Your Honor. I'll see if I can be
23 more specific.

24 MS. ADAMS: It would be helpful for me to get a
25 visual picture of the neighborhood.

1 Q BY MR. EVERS: Okay. Was there another home attached
2 to your home?

3 A There was not. *(3)

4 **END OF WARMUP**

5

6 **(Pause)**

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EXAM

Q BY MR. EVERS: Okay. Now, you said you were going to wash two cars and detail two cars; is that correct?

MS. ADAMS: Objection. Relevance. Is it really relevant how many cars he was going to wash and detail?

THE COURT: I think these questions will be setting the stage for his intended line of questions. The / objection is overruled. You may answer the question.

THE WITNESS: Yes, two cars. Mine and my mother's.

Q BY MR. EVERS: Where were these cars located?

A One was on the sidewalk, and one was sitting in the driveway.

Q Okay. When you indicate on the sidewalk, do you mean to say parked on the street outside of // the driveway?

A Correct.

Q Okay. And who did these cars belong to?

A My mother and me.

Q What model was your car?

A A nineteen ninety-six Integra.

Q And was that sitting in the driveway?

A Yes. Mine was in the driveway.

Q And your mother's car was sitting on the sidewalk?

A Yeah.

MS. ADAMS: Objection. Vague. ///

Your Honor, can we get the witness to clarify that? He

1 continues indicating the car was on the sidewalk. Is
2 that what he means?

3 THE COURT: Counsel, can you get more specific here?

4 MR. EVERS: Yes, Your Honor. I will see what I can
5 do to clear that up. Thank you.

6 MS. ADAMS: Thank you, Counsel. *(1)

7 Q BY MR. EVERS: What model car did your mother have?

8 A It was a Honda or a Toyota. I do not remember
9 exactly.

10 Q Was your mother's car on the sidewalk or the street?

11 A My mother's was on the street.

12 Q When your father dropped you off at your residence,
13 did you intend to go inside / the residence or remain
14 outside?

15 A I needed to go inside and open the garage so I could
16 use the driveway to wash my car and detail it.

17 MS. ADAMS: Your Honor, could I ask if anyone else
18 had use of this driveway, like if it was connected to the
19 driveway of a // neighbor?

20 THE COURT: You can do it on your cross-examination.

21 MS. ADAMS: Yes, Your Honor.

22 MR. EVERS: If you really need to know that, I will
23 ask the question for you.

24 MS. ADAMS: That would be helpful in getting a
25 picture of the neighborhood.

1 Q BY MR. EVERS: Is the driveway a shared driveway with
2 any of the neighbors?

3 A No. Our /// neighbor has a driveway on the opposite
4 side of their house. There is grass separating our
5 driveway from their driveway.

6 Q So the driveway belongs to your residence?

7 A Yes, we are the only ones that use the driveway.

8 THE COURT: Is there another way you can enter your
9 garage from the front?

10 THE WITNESS: No. *(2)

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12 **(NO pause, continue)**

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START TYPING

Q BY MR. EVERS: Besides the rolling door and the kitchen door, were there any other entryways to the garage?

A There was on the outside. It was locked and could not be opened without a key.

THE COURT: So there was no other door to enter the garage from the front of the residence?

THE WITNESS: That is / correct.

MS. ADAMS: I was wondering about that myself. Thank you, Your Honor.

Q BY MR. EVERS: When you went inside your house for the purpose of opening the garage, did you see anybody inside your house while you were in there?

A My mother and my little sister.

Q What is your mother's name?

A Lisa.

Q What is // her last name?

A Ellison.

Q And did you discuss anything with your mother while inside the kitchen on your way to the garage?

A She asked me if I was going to be there for dinner.

Q Okay. What was your mother doing when you got home?

A She was just moving about in /// the kitchen, cooking, washing dishes, and that kind of stuff.

1 Q After you talked to your mother, what did you do?

2 A I just continued walking to the garage, put the car
3 in the driveway, and started washing it.

4 Q All right. I take it from the Court's earlier
5 question that your garage *(3) is connected to the
6 kitchen.

7 A Yes. I went out the kitchen door and went directly
8 into the garage.

9 Q At this time, was the front garage door open or
10 closed?

11 A I had opened it to wash my car, so it was open.

12 THE COURT: Counsel, I believe we have a pretty clear
13 picture / of the garage now.

14 MS. ADAMS: I agree with Your Honor. I can picture
15 the neighborhood and the garage pretty clearly now.

16 Thank you, Counsel.

17 THE COURT: If you could focus on the events of what
18 happened that day. We need to move forward, Counsel.

19 MR. EVERS: Yes, Your Honor. I was getting there.
20 Counsel's objections // are not helping matters.

21 Q Okay. You said you began cleaning the car in the
22 driveway; is that correct?

23 A Yeah.

24 Q Which car were you cleaning at this point?

25 A Mine was the one that was parked inside the garage.

1 MS. ADAMS: Counsel, the witness is saying the car
2 was parked inside the garage. I /// was picturing the
3 car being in the driveway.

4 MR. EVERS: I believe he was washing the car in the
5 driveway on the outside of the garage.

6 THE COURT: I was wondering that myself. Can you
7 clear that up for us, please, Counsel?

8 MR. EVERS: Yes, Your Honor, I will do that.

9 Q All right. And where exactly *(4) was your car when
10 you were washing it?

11 A I was in the driveway just outside the garage. So I
12 left the kitchen, continued outside through the garage,
13 and ended up in the driveway.

14 Q When you were outside washing your car, was there
15 anybody else out there with you?

16 A No.

17 Q Okay. / And then at some point, did someone approach
18 you?

19 A Yes.

20 Q Okay. How long had you been outside when someone
21 approached you?

22 A Twenty minutes.

23 Q All right. Where were you when he approached you?

24 A I was drying the car with a towel. I was leaning
25 over, so I did not realize anybody // had walked over to

1 me. I was leaning over, drying the car with a towel. I
2 was only paying attention to the car.

3 Q So when you stood up, he startled you because he was
4 standing so close to you?

5 A Exactly.

6 Q So you are saying you had no idea this person /// had
7 walked up to you; is that correct?

8 A Correct.

9 Q And the person that approached you, do you recognize
10 that person in the courtroom today?

11 A I do.

12 Q For the record, can you indicate that person and
13 describe what they are wearing?

14 A Sitting right there with the yellow shirt.

15 MR. EVERS: May the record *(5) reflect the witness
16 has identified the defendant?

17 THE COURT: It will so reflect.

18 MR. EVERS: Thank you, Your Honor.

19 THE COURT: I would like to add that the defendant is
20 indeed wearing a yellow shirt.

21 Q BY MR. EVERS: What did you do when you first saw
22 this unknown person, the defendant, next to you?

23 A Nothing. I just stood there. /

24 Q Okay. How close was he to you when you first saw
25 him?

1 A Very.

2 MS. ADAMS: Objection. The answer is vague.

3 THE COURT: Can you give us an estimate of how close
4 he was to you?

5 THE WITNESS: I am not very good at judging
6 distances.

7 THE COURT: Can you try to give us an estimation by
8 comparing it // to something in the courtroom here today?

9 Q BY MR. EVERS: And this would just be an
10 approximation. It does not have to be exact or anything.

11 THE COURT: That is correct. We will not hold you to
12 an exact distance.

13 MS. ADAMS: I am really bad at measurements, too. If
14 you are not certain, just indicate that /// you are not
15 certain.

16 THE COURT: Correct. Because it is not helpful if
17 you are guessing.

18 Q BY MR. EVERS: Well, is it possible he was more than
19 two feet away?

20 A I believe it would be more accurate to estimate he
21 was maybe three or four feet away from me.

22 Q Okay. And did he say something *(6) first, or did
23 you say something?

24 A He asked if I was planning on going anywhere.

25 Q How did you respond?

1 A I said I was not planning on going anywhere.

2 Q And you said you did not know the defendant?

3 A I did not.

4 Q Had you ever seen him prior to this encounter?

5 A Never. /

6 Q After that exchange of words, what happened?

7 A I was just finishing up washing the car. I locked
8 everything up. I was going to go back inside.

9 Q Why were you planning on going inside at that moment?

10 A I was afraid because I did not recognize him, and he
11 threatened that he // was going to hit me.

12 THE COURT: May I inquire further of your client,
13 Counsel?

14 At what point did you become afraid of the defendant?

15 THE WITNESS: When I saw his body in a position that
16 someone would do who was intending to fight somebody. I
17 was afraid that he was going to hit /// me.

18 Q BY MR. EVERS: Why do you think he wanted to hit you?

19 MS. ADAMS: Objection, Your Honor. That calls for
20 speculation.

21 THE COURT: Counsel, the witness can testify to his
22 view of this person and why he was afraid of this person.

23 MS. ADAMS: Okay.

24 THE COURT: You may answer the question.

25 THE WITNESS: Because maybe he wanted to scare me

1 into *(7) giving him a ride somewhere.

2 Q BY MR. EVERS: Do you recall if he displayed one or
3 both fists?

4 A I remember maybe both.

5 THE COURT: Again, this is where we remind you that
6 if you do not remember, please tell us you do not
7 remember. Okay?

8 MS. ADAMS: Additionally, if you do not know an
9 answer to a / question, it is perfectly okay to say you
10 do not know.

11 THE COURT: That is correct. We simply want your
12 answer if you know. It really does not assist us if you
13 are speculating. No one wants you to guess. Okay?

14 THE WITNESS: Understood.

15 Q BY MR. EVERS: You said when this happened, he was
16 approximately a three- // foot distance away from you?

17 A Correct.

18 Q And how did you respond after hearing him demand a
19 ride while having his hand clenched in a fist?

20 A I did not say anything. I just remained there, and
21 he just continued speaking to me.

22 Q Okay.

23 MS. ADAMS: I am sorry. Your voice dropped. He
24 continued /// what?

25 THE WITNESS: He continued speaking to me.

1 THE COURT: You need to use the microphone. Your
2 voice is dropping at the end of your answers.

3 THE WITNESS: I am sorry.

4 THE COURT: It is okay. You are doing fine. Just
5 keep your voice up because it is important that we hear
6 your answers especially the court reporter. *(8)

7 Q BY MR. EVERS: When he was speaking to you, do you
8 remember what he was saying?

9 A He was demanding a ride. I indicated that I was not
10 allowed to drive.

11 He indicated that I needed to drive him or he was
12 going to drive away without me.

13 Q Okay. How did you respond to / that?

14 A Well, I said, "Okay."

15 Q So then you decided to give him a ride?

16 A Correct. I walked behind my car because I was
17 getting ready to lock it. He said, "You better give me a
18 ride now."

19 Q So were you standing adjacent to the defendant during
20 this entire exchange?

21 A Correct. // I was intending to lock the other side,
22 and that is when this happened.

23 MS. ADAMS: Objection. Vague. When what happened?

24 THE COURT: Counsel, can we get more specific?

25 Q BY MR. EVERS: What are you indicating by "this

1 happened"?

2 A When I was finished washing my car, my intent was to
3 put it away and then get my /// mother's car to wash it.
4 Then he appeared out of nowhere.

5 THE COURT: You were going from the driver's side to
6 the passenger's side when he arrived?

7 THE WITNESS: Correct.

8 THE COURT: Did you indicate he grabbed you by the
9 shoulder before he ever said anything to you?

10 THE WITNESS: Exactly. That is what frightened me.

11 Q BY MR. EVERS: How many *(9) occasions did he grab
12 your shoulder?

13 A Just once. Then he instructed me where he wanted to
14 be taken.

15 Q Okay. Where were your keys?

16 A In my pocket.

17 Q Did you consider going into your residence before
18 giving the defendant a ride?

19 A No. Because my whole house was open. He could have
20 just / run inside my house, and my mother and my little
21 sisters were inside there.

22 Q All right. Did you inform anybody you were
23 departing?

24 A No. I did not go inside because I was afraid he
25 would follow me.

1 Q Were you afraid if he entered the residence, he could
2 harm your mother // or your sisters?

3 A Yes. I thought there was a good possibility.

4 Q Would your mother have permitted you to leave before
5 dinner if you had asked her?

6 MS. ADAMS: Objection. Speculation.

7 THE COURT: I think he may know his mother's answer
8 to this.

9 MS. ADAMS: But it still would be speculation.

10 THE COURT: You may answer if you know. /// If you
11 would be speculating, then you do not need to answer.

12 THE WITNESS: She definitely would not have wanted me
13 to leave with a stranger in my car.

14 Q BY MR. EVERS: Do you recall approximately what time
15 it was when the defendant contacted you in the driveway?

16 A Well, I got home at about five *(10) thirty. I was
17 outside for about twenty minutes, so it was a little
18 before six o'clock.

19 Q Okay. Did you have a cell phone?

20 A Yeah.

21 Q Okay. Did you use it during this encounter with the
22 defendant?

23 A I had no opportunity to use it.

24 Q So you got into your car; correct?

25 A Well, / he got in first, and I had no other option

1 but to drive him somewhere.

2 Q Did he say anything or make any movements toward you
3 at all?

4 MS. ADAMS: Objection, Your Honor. Compound. Can we
5 get him to break it down into two questions?

6 THE COURT: Counsel is correct, Mr. Evers. It is
7 compound. // Can you ask one question at a time?

8 MR. EVERS: Certainly, Your Honor.

9 Q Once you were in the car, did he say anything?

10 A He just indicated where he wanted to go.

11 Q Did you say to him that you did not want to be
12 driving him anywhere?

13 A I indicated to him before getting /// in the car that
14 I could not drive.

15 Q Why did you indicate you could not drive?

16 A I was thinking maybe he would just keep walking and
17 leave me alone.

18 Q Okay. Were you afraid of the defendant after he had
19 contacted you and threatened you?

20 A Absolutely.

21 Q And why were you afraid *(11) of him?

22 MS. ADAMS: Objection. Asked and answered. I
23 believe we have already covered why he was afraid of the
24 defendant.

25 THE COURT: Counsel is right, Mr. Evers. He

1 indicated a couple of reasons why he was afraid of the
2 defendant.

3 MR. EVERS: Okay. I will move to a new subject.

4 Q Okay. You got in the / automobile and started
5 driving; is that right?

6 A Correct.

7 Q When you were driving, was he telling you exactly
8 where he wanted you to go?

9 A He was just mumbling stuff that I could not
10 understand. And he was just laughing. He was creepy.

11 Q During the time you were around him, at any //
12 point did you detect any odor of alcohol on him?

13 A Yeah.

14 MS. ADAMS: Objection. I would ask for an offer of
15 proof how this witness would recognize if it was alcohol
16 that he smelled.

17 THE COURT: Maybe we can find out his experience
18 being around alcohol, and then I will rule if he can ///
19 answer these questions.

20 MS. ADAMS: That works, Your Honor.

21 Q BY MR. EVERS: Okay. Do you know what alcohol smells
22 like?

23 A Yes, on many occasions.

24 Q Have you ever been around beer?

25 A Yes, many times.

1 Q How about other liquor or alcohol?

2 A Yes, I have.

3 Q Do you know what liquor smells like after someone has
4 been drinking it?

5 A Yes, sir. *(12)

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