

1 recess. All rise, please. You're free to  
2 go. We'll take probably 15 minutes or so.

3 (A recess was taken.)

4 **THE COURT:** Ladies and gentlemen, I  
5 think there are two short witnesses that are  
6 available to us that we anticipate to be very  
7 short or rather short. So I think we'll go  
8 ahead and hear those since we started late,  
9 hear those witnesses, and maybe take a little  
10 later lunch if that's all right with you.

11 With that being said, Mr. Lance you may  
12 proceed with your evidence.

13 **MR. LANCE:** Defense calls Don Rand.

14 **THE COURT:** Sir, if you would come  
15 forward.

16 **DON RAND,** having been duly sworn by the Court,  
17 testified:

18 **DIRECT EXAMINATION**

19 **BY MR. LANCE:**

20 Q. For the record, please state your name.

21 A. **Don Rand.**

22 Q. And where are you currently working, Mr. Rand?

23 A. **Warehouse One.**

24 Q. Where is that at?

25 A. **7800 East 12th Street, Kansas City, Missouri.**

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1 Q. Did you work at that same job back in  
2 October 1997?

3 A. **No, I did not.**

4 Q. Can you tell the jury where you were working back  
5 in October of 1997?

6 A. **Truman Road Amoco, corner of 435 and Truman Road.**

7 Q. And when you worked there back in 1997, what was  
8 your job or job title?

9 A. **Mechanic.**

10 Q. All right. Do you understand we're going to ask  
11 you questions about the evening of  
12 October 22nd 1997?

13 A. **Yes.**

14 Q. Do you recall if you were working that specific  
15 evening?

16 A. **Yes, I was.**

17 Q. Can you recall what shift you worked?

18 A. **2 to 10 every night.**

19 Q. 2 to 10?

20 A. **(The witness nodded.)**

21 Q. On the evening of Wednesday, October 22nd, did  
22 you notice anything unusual happening with any  
23 vehicles or pedestrians in the area of your job?

24 A. **I recall a young lady that either just gotten out  
25 of a car or was in some type of an argument with**

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1 **somebody in a car at the light of Truman Road and**  
2 **435 eastbound and from that point on she**  
3 **proceeded to walk away from the car before the**  
4 **light had even changed.**

5 Q. All right. And you're inside the Amoco  
6 station --

7 A. **Yes, I was.**

8 Q. -- working, but you saw this happening. This may  
9 be a very tough question. Do you know how many  
10 feet away from you the stoplight is where she got  
11 out of the car?

12 A. **100 feet maybe. Maybe a little more.**

13 Q. Was this during the daylight or dusk or after  
14 dark?

15 A. **Oh, it was dusk or just a little bit after dark.**

16 Q. All right. Since it was a little after dark,  
17 were you able to get a really good look at the  
18 young lady?

19 A. **Not until she got up close to the station.**

20 Q. Okay. Let me ask you that. After she got out of  
21 the car, which direction did she walk?

22 A. **East.**

23 Q. Which would have been in the direction of your  
24 gas station?

25 A. **Yes.**

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1 Q. So you got a better look at her at that point?

2 A. **Yes, I did.**

3 Q. I believe there is a pay phone in that area?

4 A. **Yes, there is.**

5 Q. Do you remember whether or not she stopped to use  
6 the pay phone?

7 A. **No, she did not.**

8 Q. She just kept walking east?

9 A. **Kept walking east up the hill.**

10 Q. East up the hill towards Independence?

11 A. **Yes.**

12 Q. Right on Truman Road?

13 A. **Right on Truman Road.**

14 Q. Did you speak to the young lady at all?

15 A. **No, I did not.**

16 Q. Can you give the jury -- I know it's been a long  
17 time but can you give the jury a general  
18 description of the young lady?

19 A. **Probably about 5'6", 5'7" maybe, 130 pounds  
20 maybe, dark hair. Not really dark, but brown  
21 hair.**

22 Q. Anything else you remember about her?

23 A. **She was fairly good looking.**

24 Q. Do you remember feeling at the time she was  
25 attractive?

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1 A. Yes.

2 Q. Mr. Rand, do you know the defendant, Mr. Byron

3 Case?

4 A. No.

5 Q. Any reason to come in here and help him out

6 today?

7 A. **Never seen him before in my life.**

8 Q. That same week in October, did the police contact

9 you?

10 A. **Yes, they did.**

11 Q. Can you remember in proximity to that evening,

12 can you remember when the police contacted you?

13 A. **It was either the next day or the day after that.**

14 **It was like a day or so right after it happened.**

15 Q. Do you remember the name of the officer who

16 contacted you.

17 A. **No, I do not.**

18 Q. That's okay if it's been too long. Did the

19 officers show you a photograph of the young lady

20 they were questioning you about?

21 A. **Yes, they did.**

22 Q. Can you remember whether or not -- first of all,

23 how many photos did they show you?

24 A. **Two, I believe.**

25 Q. Can you remember if you recognized anyone in the

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1 photos?

2 A. **One of the photos they showed me looked like the**

3 **girl that had walked by.**

4 Q. The previous evening?

5 A. **Correct.**

6 Q. And did the detective make any comments -- do you

7 have any reinforcement in your mind if that was

8 the correct girl or not or do you know?

9 A. **I don't know for sure.**

10 Q. Detective didn't offer that?

11 A. **No, he didn't.**

12 Q. At any rate, you told him you had seen this girl

13 get out of the car and walk east?

14 A. **Yes, I did.**

15 Q. In the location where she got out of the vehicle,

16 is there a stop sign or stoplight?

17 A. **Stoplight.**

18 Q. You seem to recall that this happened after dusk,

19 that it was dark outside?

20 A. **Yes.**

21 Q. Is there anything about the evening that helps

22 you remember it was dark?

23 A. **As far as cars were driving with their headlights**

24 **on.**

25 Q. That's perfect. That's all I wanted to

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1 establish. Did you see the young lady actually

2 get out of the car?

3 A. **To my recollection I cannot remember.**

4 Q. Did you --

5 A. **I think I might have, but I can't be 100 percent**

6 **certain.**

7 Q. Did you see her speak or do anything near the

8 car?

9 A. **Looked like she was arguing with somebody in the**

10 **car. Because when she turned and walked away**

11 **from the car, she was walking at a faster pace**

12 **than what she had just walked.**

13 Q. When the young lady was walking at a faster pace

14 than normal, what does that indicate to you?

15 A. **She is angry, upset.**

16 Q. Walking quickly?

17 A. **Yes.**

18 Q. As she went east up the hill?

19 A. **Yes.**

20 Q. The last time you saw her, was she still walking

21 on the shoulder of Truman Road?

22 A. **Yes, she was. I watched her go all the way up to**

23 **about Erotic City and about there is where I lose**

24 **sight of people.**

25 Q. At that time you had no knowledge this was going

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1 to be something important to remember?

2 A. **No.**

3 Q. During the time that you saw the young lady, did

4 you see her leave Truman Road to go off on any

5 side streets or anything like that?

6 A. **No, I did not.**

7 MR. LANCE: No further questions.

8 THE COURT: Cross examination.

9 MS. CRAYON: Yes.

10 CROSS EXAMINATION

11 BY MS. CRAYON:

12 Q. Hi, Mr. Rand. I'm Theresa Crayon. You and I

13 spoke on the phone very briefly I think last

14 week, right?

15 A. **Yes, we did.**

16 Q. How many businesses -- I know Amoco is right

17 there on the corner, right?

18 A. **Yes, it is.**

19 Q. And how many businesses or do you know --

20 A. **Amoco, Conoco, Erotic City, a liquor store and**

21 **then there was another gas station at that time,**

22 **but it has since disappeared.**

23 Q. And you can't see anything beyond Erotic City; is

24 that what you're saying?

25 A. **Correct.**

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- 1 Q. And I'm sorry. I started to count. Three  
2 businesses beyond Amoco?
- 3 A. **Yes.**
- 4 Q. And given the nature of those businesses, would  
5 they have all been open at the time that you saw  
6 this young lady?
- 7 A. **Yes.**
- 8 Q. And there is a pay phone at Amoco, right?
- 9 A. **Yes, there is. There is one at Conoco also.**
- 10 Q. So those are at least two that you know of?
- 11 A. **Three right there. There is two at the Amoco.**
- 12 Q. And the Amoco station is one of those stations  
13 that you've got a garage where you were the  
14 mechanic, right?
- 15 A. **Correct.**
- 16 Q. There is also some cashier who takes the money  
17 and has candy and things like that inside there?
- 18 A. **Yes.**
- 19 Q. There is a place somebody can go in there and sit  
20 and wait for someone if they wanted to, right?
- 21 A. **Yes.**
- 22 Q. And you have people show up there to ask to use  
23 the phone very often? Would that have been  
24 unusual for someone to come in and ask to use the  
25 phone?

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- 1 A. **No, not really.**
- 2 Q. Okay. So, in fact, when you and I talked about  
3 this situation, you had mentioned that this isn't  
4 the only time that you would have seen a woman  
5 come up from that intersection, right?
- 6 A. **Correct.**
- 7 Q. So that's happened before. This was a pretty  
8 sensational situation at the time that this  
9 happened, wasn't it? I mean, since it happened  
10 close in the area, were a lot of people talking  
11 about it?
- 12 A. **Not really. I didn't know anything about it  
13 until the detectives showed up and asked me  
14 questions about it.**
- 15 Q. And then there was newspaper reports. It was in  
16 the newspaper, on the TV. You don't know  
17 anything about those?
- 18 A. **No.**
- 19 Q. And when you talked to the detectives the day or  
20 two after, you told them that -- and you said --  
21 let me back up. I'm sorry. They showed you two  
22 pictures, right?
- 23 A. **Yes.**
- 24 Q. One was a boy, one was a girl; is that right?
- 25 A. **Yes.**

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- 1 Q. And the girl was the one that you said you  
2 recognized?
- 3 A. **Yes.**
- 4 Q. And when you talked to the detectives, you told  
5 them that you remembered seeing the girl walking  
6 east across the drive at about you said 8:30; is  
7 that right?
- 8 A. **Could be about that time, yes.**
- 9 Q. Pretty dark around 8:30 though, right?
- 10 A. **Yes. But the Amoco is well lit.**
- 11 Q. Okay. And the Amoco itself was well lit, but up  
12 along right in there in that strip, pretty dark  
13 at 8:30, isn't it? I know there is businesses.
- 14 A. **Only until you get past the businesses. Once you  
15 get past the businesses, then it's dark, but  
16 right in front of the businesses, it's well lit.**
- 17 Q. But at 8:30 at night at that time of the year, it  
18 would have been pretty dark outside?
- 19 A. **Yes.**
- 20 Q. And you told the detectives that you looked up,  
21 and you saw her walking and thought she was  
22 attractive, right?
- 23 A. **Yes.**
- 24 Q. And you told them that you couldn't tell if she  
25 was emotional or upset at all, right?

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- 1 A. **Correct. I believe.**
- 2 Q. So back when this happened, like a day or two  
3 afterwards when they were asking you about it and  
4 telling you they were investigating a homicide,  
5 you said, "We couldn't really tell that she was  
6 upset or emotional at all"? Is that what you  
7 told think you told --
- 8 A. **That's what I told the detective, yeah.**
- 9 Q. But today you're saying that you thought she was  
10 upset because she was walking at an angry -- or you  
11 thought she was angry or upset because she was  
12 walking at a fast pace?
- 13 A. **Yes.**
- 14 Q. And you think you might have seen her get out of  
15 a car at the stoplight?
- 16 A. **Correct. I'm not 100 percent on that.**
- 17 Q. You're not 100 percent certain. In fact, you  
18 didn't tell the police that that day, right?
- 19 A. **Right.**
- 20 Q. And are you saying you think she might have been  
21 having a fight or an argument with somebody in  
22 the car; that was your testimony, right?
- 23 A. **Right.**
- 24 Q. But back a day or two after this you really  
25 didn't recall that?

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1 **A. No.**  
2 Q. Other than having what you have just talked about  
3 that you saw and what you heard, you don't recall  
4 a lot of activity about this case?  
5 **A. No.**  
6 Q. Do you recall a young woman coming to the gas  
7 station looking for Lincoln Cemetery and talking  
8 to her about it? It was a friend of the  
9 victim's? Do you remember that?  
10 **A. No. I may not have been on duty when she showed**  
11 **up.**  
12 Q. Okay. So, if she said that she had talked to  
13 you, and you don't recall that --  
14 **A. No. You get so many people asking directions in**  
15 **there.**  
16 Q. Sure I understand. Do a lot of people --  
17 **A. They usually go to the cashier first before**  
18 **they'll come to the garage.**  
19 Q. Okay. But do you get a lot of people coming by  
20 asking about where Lincoln Cemetery is?  
21 **A. A few. Not many.**  
22 Q. And since you had found out that you had seen  
23 this girl and it was probably -- and she had been  
24 found murdered nearby, that sticks out in your  
25 mind, right?

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1 **A. Yes.**  
2 Q. And you would agree with me that, from where you  
3 are at the Amoco gas station, that you really  
4 can't see very -- you can't see the entrance into  
5 Lincoln Cemetery, right?  
6 **A. You can see the back entrance.**  
7 Q. Okay.  
8 **A. That's on the other side of the highway, on the**  
9 **other side of Truman Road, there is a road that**  
10 **winds up and goes up to the old Sysco building.**  
11 **There is another old road that goes in the back**  
12 **way to that cemetery.**  
13 Q. Okay. This is State's Exhibit No. 3 that's  
14 already been entered into evidence and, if the  
15 Amoco station is down here, what entrance are you  
16 talking about?  
17 **A. Right here.**  
18 Q. Okay. So you believe that, from Amoco, you can  
19 see this entrance you think?  
20 **A. Yes. I know I can.**  
21 Q. And you can see up to that entrance and you can  
22 see during the day?  
23 **A. Or night.**  
24 Q. You can at night too?  
25 **A. Yeah. We watch the sheriffs sit there all the**

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1 time.  
2 Q. Right. But if someone was walking, would you be  
3 able to see them entering in up there?  
4 **A. No, no.**  
5 Q. So, if somebody had said that -- a person at the  
6 Amoco had said they could see the person going up  
7 that strip there, that curvy road, that wouldn't  
8 be right, would it?  
9 **A. No.**  
10 Q. And you have described this girl as about 5'6" or  
11 5'7" about 130 pounds, you think, as best you can  
12 remember?  
13 **A. Right.**  
14 **MS. CRAYON:** I don't think I have  
15 anything further. Thank you, Mr. Rand.  
16 **THE COURT:** Mr. Lance.  
17 **MR. LANCE:** Nothing further.  
18 **THE COURT:** Thank you, sir. Appreciate  
19 your testimony.  
20 (The witness was excused.)  
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