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Maynard Summation Cards

People v. Maynard, 80 Misc. 2d 279 - NY:  
Supreme Court, New York 1974

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1974

**Crist**

Lewis M. Steel '63

876 - CRIST - for people - cross

Q: And during the time you spent working with the detectives in this case you saw other people that you thought were similar in looks to the person that you were involved with on the night of April 3, 1967, isnt that correct?

A: Yes, it is.

886 - CRIST - for peopel- cross

Q: Can you tell me what the white looked like?

A: No, I cant. The only describpton I was able to suppl  
of the white was that he was approximately five foot  
7 ~~xxxxxx~~, five foot 8 in height, and medium to light  
build.

Q: No further description than that?

A: No.

Q: do you remember how old he was?

A: I believed I estimated his age at approximately 17 years old; 17, 18 years of age.

Q: So, he you would definitely think was younger than you; is that right?

A: Yes, I would.

889 - CRIST - for people - cross

Q: Now, you dont know whether anyone beside yourself saw what occured on West Fourth, do you?

A: Not to my knowledge, no.

891 - CRIST - for people - cross

Q: To the rear of you?

A: Within the immediate area of the car, yes.

Q: And you didn't see anyone, did you?

A: No, I didnt/

Q: Now, at any time, Mr. Crist, did you ever describe the person you saw on the night of April 3d as perhaps being as small as five foot 8 inches? \*

A: Yes, I believe I did.

Q: Who did you tell that the person, the black person was involved in the incident with you, was five foot 8 inches tall?

A: I dont recall.

895- CRIST - for people - cross

Q: Now, you say that you thought the white man was about 5-7, is that right?

A: Yes. 5-7, 5-8.



Q: Oh, I didnt understand that. So you are more satisfied with the second sketch than you are with the first

A: Yes, but I wasnt totally satisfied with the second sketch either.

Q: Did you suggest to him further improvements?

A: No, I didnt.

Q: And as I understand your testimony now, you said that you werent sure that the man who is portrayed in the picture is the man involved in the incident on the night of April 3d, because to your eye the picture doesnt bear a true likeness to the man you saw, is that right?

A: In my opinion the photo doesnt offer a mere image of him.

*photo shown at  
Grand jury  
see 747*



A: The reservation of caution that to assure myself, that I am identifying the wrong person -- right person, and not the wrong person, and also, as I said earlier, the possibility of an exact duplicate of him is somewhere in this world.

Q: All right. Now will you describe this Negro man who approached you as you say and engaged you in conversation.

A: Approximately five-ten, five foot eleven, medium build, medium length hair, clean shaven. Hiss dress was neat and clear

...

Q: What did you estimate his age to be?

A: Approximately 18 to 21.

...

Q: Do you recall what this man was wearing?

A: A light colored coat, approximately waist length.

701 - CRIST - for people - direct

Q: Now you indicated that there was a white person t/ was with, ~~or~~ appeared to be with this man, the defendant. Will you describe him, as best you are able to?

A: His height was approximately 5'7", ~~f~~ 5'8". This was all I took notice of.

Q: Well, what did his age appear to you to be?

A: His age, I beleive, was around 17, 18 years old.

Q: Okay. Now you've indicated that you had some beers. Were you intoxicated?

...

A: In my personal opinion, it is a strong possibility, b but I know at that time I was in complete control of my faculties.

Q: Would you indicate on the diagram please, roughly, the point at which you had this argument and confrontation w/ the defendant on April 3, 1967?

A: It would be approximately at the corner of the square labeled, "Purple Onion," and , "playground."

Q: Did there come a time when the defendant and the white person who was there did something?

A: Well, not at the time the sergeant arrived, but immediately after the sergeant arrived they proceeded to walk towards Sixth Avenue and up Sixth Avenue.

Q: ~~xxxxxx~~ All right. What did you do, sir?

A: I turned and looked back and I was going to open the door and I saw the defendant pull what appeared at first to be a pipe or a gun from under -- I take that back, I don't know where it came from, just that when I turned around he had a gun or a pipe, what appeared to be one of the two, at the time in his hands.



Q: I see. And when the car was stopped, in what direction was the defendant facing?

A; The defendant was facing east also.

723 - CRIST = for people - direct

Q: Were you -- how would you describe the way you felt?  
Were you calm or upset? Were you -- what?

A: I'd have to describe it as a state of shock.

727 - CRIST - for people - direct

THE COURT: did you find it on the sidewalk or did you find it in the gutter?

Witness: Found it down into the steps leading into the basement of a building.

The court: Down the steps leading into the basement of a building?

Witness: Yess your Honor.

729-730 - CRIST - for people - direct

Q; In fairmaess to the defendant, was there ever a time between now and April 3, 1967 when you were less than positive?

A: Yes.

Q: Did you advise the authorities of that fact?

A: Yes I did.

Q: All right. Did you tell the grand jury of that fact?

A: Yes.

Q: And you recall when you were asked would you take a look at the photograph grand jury exhibit Number 1, and tell us if you recollect the man in that photograph, and that you gave the following answer, "No, I don't."?

A: Yes.

Q: And thereafter you were questioned, what can you tell us if anything about the man in that photograph, and you answered, he bears a strong resemblance to the colored man, the second one, I met near the corner of Sixth Avenue and Third Street. Do you remember that?

A: Yes, I do.

Q: And then you were asked at the end of the series of questions: Question: You can't be sure if that is the man? And you answered, No. I can't. Is that correct.

A: Yes it is.

Q: And would you tell this jury whether or not in the early morning hours of April 3, 1967, you were intoxicated?

A; As I said in the Grand Jury, I believe I was, but as I've also stated, I believe I was in complete control of my faculties.

755 - CRIST - for people - cross

Q: And would it be fair to say that from the time you went on leave on Friday, March 31, 1967, to the time you left Cornwall, at 7p.m., on April 2, 1967, you have no recollection of what you did?

A; Yes, it would be fair to say.

Q: Well Mr. Crist, you are the witness and I'm tryint to get the testim ny from you, you dont remember how many bars you were in, and you don't remember how many beers you had, is that correct?

A; Yes.



772 - CRIST - for people - cross

Q: You were running in the street?

A; Correct.

Q: Was there traffic in the street?

A; Yes, but it was light.

Q: You caught him from the rear on West Third and you struck him in the rear of the head, is that correct?

A: I'd say in the rear of the neck.

...

Q: He went down to the ground, is that right?

A: Yes.

Q: And ~~xxx~~ then what did you do?

A: I stood over him waiting for him to get back up.

Q: Now, as Officer Dowd came over, he saw Mr. Bernhardt getting up from your blow. What did he do then?

A: He inquired as to what had happened.

Q: Did he learn that you had struck Mr. Bernhardt?

A: Yes, he did.

Q: He didnt attempt to place you under arrest, did he?

A: No, He didnt.

...

Q: Now, would you say you were in a state of high agitation at the point that you struck Mr. Bernhardt?

A: Yes.

798 - CRIST - for people - cross

Q: Where was your first contact?

A: At the, approximately at the point where the playground meets the side wall of the establishment called the Purple Onion.

799 - CRIST - for people - cross

Q: In other words, when you had your confrontation with the second black and the first white at this period, they were facing east on the north side of West Third, is that correct?

A: No, I don't believe they were facing east, they were facing ~~west~~ me, and they had their backs to the street so they would have been facing north on the north side of West Third.

800 - CRIST - people - cross

Q: Which fellow was to the west, the b~~a~~ack or ~~w~~he white?

A: The white man was to the west.

Q: Are you sure of these relationships?

A: Yes, I am.

804 CRIST - for people - cross

Q: At the time this confrontation took place, you thought you were intoxicated, did you not?

A: I said yesterday there was a strong possibility of it. I don't recall exactly whether I was or not.

Q: Did Sergeant Kroll talk to you at that time?

A: Yes, he did.

Q: Did he talk to anyone else?

A: I believe he spoke to the defendant also.

Q: You believe or do you know he spoke to the defendant?

A: I'm sure he spoke to the defendant.



Q: Well, in the statement on ~~the~~ Defendant's Exhibit correct or incorrect?

A: I believe it is incorrect. It was -- may have been as I gave the statement interpreted wrong and typed wrong. But I'm sure Sgt Kroll spoke to the defendant. Words were exchanged between the two.

Q: It's your testimony that the statement on Defendants Exhibit C that I read to you is incorrect?

A: Yes, it is.

Q: And that statement was taken sometimes before April 17, 1967? ~~xxxxxxx~~

A: Yes, it was.

Q: Would your memory be better now than it was then of this incident?

A: I believe so.

814 - CRIST - for people - cross

Q: What was your state of mind before the shooting as you got in the car with Sgt Kroll?

A: I dont recall.

815 - CRIST - for people - cross

Q: And how long does it take to drive from NYC to Norfolk, if you know?

A: Approximately four and a half, five hours.

Q: So that you would have returned late, and you would have been AWOL, if you would have gone back to Norfolk, by ground transportation, isnt that right?

A: That is true.

817 - ~~PEOPLE~~ CRIST - for people - cross

Q: Well, wasn't it your intent to find the black and white man and start a fight?

A: Yes, it was.

818 - CRIST - for people - cross

compose tables

Q: Were you driving quickly, slowly, at a regular pace?

A: I would classify it as a regular pace.

Q: Did you encounter any traffic?

A: As I -- earlier, the traffic was light on Sixth Avenue.

Q: It was light on Sixth Avenue?

A: Yes.

Q: And you turned right on Sixth Avenue?

A: Yes.

Q: Is that correct?

A: Yes.

Q: And that is a one way street going uptown, is that right

A: I believe so.

Q: And it has many lanes, is that right?

A: I believe so, yes.

Q: And the traffic was light, at that point?

A. Yes.

820 - CRIST - for people - cross

Q: How fast were you driving up Avenue of the Americas?

A: I couldnt say. I wasnt within view of the speedometer, there.

Q: Normal speed?

A: Yes.

Q? Would you say?

A: Yes.

Q: Car wasnt being driven out of control at that period of time?

A: No.

Q: Was it?

A: No, it was not.

Q: The wheels werent screeching, were they?

A: I dont believe so, no.

Q: And you turned, you turned right into West Fourth Street  
is that correct?

A: Yes, this is correct.

Q: Did you have to cut off any cars to make that turn?

A: Not to my recollection, no.



Q: You looking at them through your windshield?

A: Yes

...

Q: Now, at that point wouldnt it be fair to say that you saw just a balck and a white, not -- ~~xxx~~ or even two people; not two people that you could  $\Theta$ - which one of whom you could identify?

A: I saw two people which I assumed to be --

...

assumed to be by general size, weight, height, type of clothing, hair style, et cetera.

832 - CRIST - for people - cross

Q: In substance what did he say?

A: In substance that if he came any closer he would shoot.

833 - CRIST - for people - cross

Q: In other words on -- you were in the act of opening  
the door to get out and attack these two people in  
the street, is that right? u

A: Yes I was.

835 \_ CRIST - for people - cross

Q: You didnt attempt to give him first aid, did you?

A: No. At the time I presumed that he was dead.

Q: Are you trained in first aid as a sailore?

A: I've had a course in first aid, yes.

839 - CRIST - for people - cross

*compare Files*

A: I got out of the car and found a bag similar to the brown bag shown.

Q: And where did you find that?

A: I found it on, off the sidewalk in an area near the steps of a building.

839 \_ CRIST - for people - cross

Q: At the scene did you speak to any detectives at this point?

A: I believe so, yes.

Q: Who do you believe you spoke to?

A: I dont recall names or faces of persons I spoke to then

Q: Were you shown any one?

A: I dont believe so, no.

841 - CRIST - for poeple - cross

Q: In other words you have no independent recollection of what any of the officers looked like that you were dealing with the morning of April 3, 1967, is that correct?

A: Correct.

yet he had a chance to  
observe for long periods in station  
house

843 - CRIST - for people - cross

Q: Were you under control of yourself?

A: I dont believe I was acting irrational in the police  
stateion, no.



844 - CRIST - for popel - cross

Q: So you could have been swearing at people, is that right?

A: Yes, this is possible, yes.

849 - CRIST - for people - cross

Q: Do you recall ever having categorized the jacket as an Eisenhower Jacket?

A: I recall describing it as an Eisenhower type jacket, yes.

THE COURT: I've sustained the objection. It has been established, and you can go on from here, that this witness was six foot and a half inch, and he says that the man he was talking to was five foot ten, or eleven, which means that he was the taller of the two. Now that's established. Now go on from there.

Q: And how did you say he ~~was~~ dressed, the black?

A: In a light coat, waist length, and trousers; color type I ddnt take not of.

Q: A light coat?

A: Yes, light color.

Q: Are you quite sure of that?

A: Yes.

Q: Did you see the white or the black person that you confronted on West Third Street carrying anything?

A: At the time I did not.

Q: As a matter of fact, you never saw them carrying anything, did you?

A: I dont recall seeing them carrying anything, no.

852 - CRIST - for people - cross

Q: Now, on the confrontation at West Third, you were standing face to face to both of these people; is that right?

A: Yes, I was.

Q: And you saw no bag at that time?

A: I believe I said earlier my attention was focused on the defendant at that time.

Q: I am not asking you where your attention was focused; I'm asking you what you saw, sir?

A: No, I did not see a bag.



Q: Did you ever remember using the phrase "An average shaped face"?

A: It's possible, yes.

...

Q: ...What do you mean by an average shaped face?

A: It didnt bear any characteristics which would be associated with a--say the Chinese race such as a slight slant to the eyes. There was nothing--nothing definitely different from the majority of the rest of the people in the world that made it stand out in my mind.

Q: In other words, it was like most other black faces; is that what you are trying to say?

A: Yes, like the average looks of a person that you pass in the street.

Q: Like the average black person you pass in the street; isnt that correct?

A: YES.

859 - CRIST - for people - cross

Q: Now, how old did you think the person you say the defendant was?

A: I judged the age to be 18 to 22.

867 - CRIST - for people - cross

Q: But could you have told Lt. Stone seventeen to 20?

A: It's possible. It's within that age limits.



A: The cheekbones were higher than is normally associated with a person, I'd say they were not as high as is generally associated with a person of the Indian race. Such as Apache or Sioux. It wasn't that distinguished.

...

Q: Now, do you remember at the first hearing being asked the following question: Question: Have high cheekbones or low cheekbones -- page 376 -- and you answer I couldn't remember. Do you remember giving that testimony?

A: No, I don't. But now I am focused in my memory back to the course of events, not to the previous hearings, now.

872- CRIST - for people - cross

Q: And well, did you actually see the artist making the sketch?

A: Yes, I did.

Q: And then after he made it did you tell him that that was satisfactory to you?

A: At the point of the first sketch, I believed it was the best possible job both I could do and the artist could do.