

INNOCENCE PROJECT



Benjamin N. Cardozo School of Law, Yeshiva University

**EXCERPT FROM THE TESTIMONY
OF THE LEAD OFFICER
DETECTIVE R.B. KELLY**

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IN THE SUPERIOR COURT FOR THE COUNTY
OF COBB, STATE OF GEORGIA
MAY TERM, 1982

STATE OF GEORGIA)
)
vs.) Criminal Indictment Number
)
ROBERT CLARK, JR.,) 82-0481
)
Defendant.)

Tried Before His Honor
Judge Gary B. Andrews
With a Jury
May 24, 25 & 26, 1982

APPEARANCES

For the State: Charles C. Clay, Esquire
Assistant District Attorney
For the Defendant: Nancy Scott Rogers, Esquire
August F. Siemon, Esquire

-- TRANSCRIPT OF THE EVIDENCE --

TESTIMONY OF LEAD
OFFICER, DETECTIVE R.B. KELLY

1 A. On February the 22nd, 1982, at approximately 20:30
2 hours, or 8:30 p.m., Detective Jon Seay and myself went to
3 the Cobb County Jail, and we took pubic hair and head hair
4 from the suspect, Robert Clark, Jr., as evidence to be sent
5 to the Crime Lab.

6 Q. What are these specific envelopes here?

7 A. This first envelope, Item Number 1 here on the second
8 page, is pubic hair taken from Robert Clark, Jr. The front
9 page is head hair, taken from the suspect, Robert Clark, Jr.
10 I myself took those items.

11 Q. Where were they taken to, sir?

12 A. They were taken to the Georgia Bureau of Investigation,
13 the Crime Lab.

14 Q. Okay, sir.

15 MR. CLAY: At this time, Your Honor, I would tender
16 State's Exhibit 26 into evidence.

17 MR. SIEMON: No objection.

18 THE COURT: State's 26 is admitted without objection.

19 MR. CLAY: I believe that is all I have of the witness
20 at this time.

21 THE COURT: Mr. Siemon?

22 CROSS-EXAMINATION

23 BY MR. SIEMON:

24 Q. Detective Kelly, you talked to Robert Clark also
25 on the 22nd of February when you took those hair samples from

1 him, did you not?

2 A. Yes.

3 Q. I will show you this.

4 A. Yes. This appears to be the same.

5 Q. On the 22nd of February, he told you that the state-
6 ment that he had given you in the jail that day wasn't true,
7 didn't he?

8 A. Yes.

9 Q. And he told you on the 22nd that he had gotten the
10 car from a friend of his that he was trying to protect, isn't
11 that true?

12 A. Yes.

13 Q. And the friend's name was Tommy, as you have got
14 down here, or Tony?

15 A. Yes. I recall it as Tommy, but it could have been
16 Tony.

17 Q. Do you recall him telling you the last name was Arnold?

18 A. Yes. I recall that, but I wasn't positive. I couldn't
19 recall it when I wrote the report up, but I believe it was
20 Arnold.

21 Q. Did you make any effort to contact Tony Arnold?

22 A. No.

23 Q. Did you make any effort to track him down?

24 A. Well, once he had told me that he had lied about
25 the previous thing, you know, what's to say he wouldn't lie

1 about this? Why should I check out the next one? I could
2 do that from now on.

3 Q But you made no effort to check it out?

4 A No, I didn't.

5 Q So you don't know what size Tony Arnold is?

6 A No, I don't.

7 Q Have you seen Tony Arnold since then?

8 A No.

9 Q You haven't made any effort to talk to Tony Arnold
10 in the last week?

11 A No, sir.

12 Q Or in the last two days?

13 A No, sir.

14 Q Now, you had talked to [REDACTED] the evening
15 that she was attacked, is that true?

16 A Yes.

17 Q And you were aware that she had given as the physical
18 description of her assailant somebody approximately 5'7", a
19 hundred and twenty pounds?

20 A Yes.

21 Q Would you identify what has been marked State's Exhibit
22 Number 20, please?

23 A This is a photograph of a black male. He is wearing
24 an identification number around his neck, a chain and board,
25 saying "The Atlanta Police Department, Atlanta, Georgia," I