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DPP v EVELYN CANNON

TEACHING NOTES

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DPP v Evelyn Cannon

DEFENCE CASE THEORY

The Defence theory is based on what Ms Cannon said to the police, that is, “You’ve got the wrong woman.”

On that basis, the argument about O’Rourke’s evidence is that he in fact saw two women but did not realise this.

A close examination of his evidence shows that his detailed description of the woman who walked out of Luigi’s towards the telephone box is:

- Black overcoat
- Short, blonde tipped hair
- Ankle boots
- Black stockings

(No glasses, large hooped earrings and large tapestry bag.)

That is consistent with Evelyn Cannon, who admits that she walked out of Luigi’s at that time and walked towards the telephone box, but did not go into it.

O’Rourke’s description of the woman he sees in the telephone box is with a large tapestry bag.

His description of the woman as she walks out of the telephone box and past him is:

- short blond spiked hair
- red rimmed glasses
- large hooped earrings

His belief that he saw only Evelyn Cannon, (which is wrong), is reinforced when he sees Evelyn Cannon at Luigi’s and thinks she has changed her hairstyle.

Evelyn Cannon says she has not worn her hair spiked since her return from Bali, nor did she have hooped earrings or glasses, (except for reading).

The Defence theory therefore, is that there was a “switch” behind the telephone box when Evelyn Cannon walked past, but the other woman walked into the telephone box.

O’Rourke missed that moment because:

- the telephone box and the light in it were a partial obstruction
- the area behind the telephone box was relatively dark
- there may have been a passing vehicle which obstructed his view for a moment

Peter Porter’s evidence is weak. He is shown only one photograph and that is of Evelyn Cannon as she looked before she went to Bali. He also says that the woman in the photograph “looks like..” the woman who hired the locker.

Cross examination of O’Rourke should therefore make him a good observer of the woman who walks out of Luigi’s and of the woman who walks out of the telephone box, thus highlighting the differences between them in appearance.

The height difference in his descriptions may not be of such significance because they are only estimates from a distance and the woman in the phone box may have been on a raised platform.

PROSECUTION CASE THEORY

The Prosecution theory is based on the proposition that O’Rourke, who is a trained observer, did not lose sight of Evelyn Cannon as she came out of Luigi’s, walked into the phone box and walked out.

The differences in the descriptions are accounted for by the fact that he noticed different features at different stages of her progress and could have missed things early, which he noticed later when she was closer to him.

The Prosecution theory is also based on the incredible number of unlikely coincidences if there were in fact two women. They include:

- another woman with black overcoat at the phone box who goes in
- at the same time as Evelyn Cannon goes past
- The description of the woman coming out of the phone box, (if she is supposed to be a different woman), matches the description of Evelyn Cannon as she was before she went to Bali (short blond spiked hair and hooped earrings)
- Evelyn Cannon's knowledge of and relationship with Shenko
- Shenko's arrival a short time after Evelyn Cannon leaves Luigi's
- Porter's description of the woman looking like Evelyn Cannon did
- The reference by Porter to a "Russian friend"
- Shenko is Russian
- Fiorelli's account that Evelyn Cannon knows and mentions Shenko as Russian
- Evelyn Cannon's knowledge that Shenko was arrested the previous night outside the bar.

The prosecution therefore relies on the combination of those factors, the identification by O'Rourke and the evidence of Porter, (even without there being any value in the photo identification).

Should the defence raise the theory that Shenko and another woman set this up so as to implicate Evelyn Cannon, how did Shenko know what Evelyn Cannon wore and what her hairstyle was before she went to Bali, (he has been seeing her at Luigi's only since September).