

Exhibit 6

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1 MR. BRUCE HORNAL was called, and being
2 duly sworn, was examined and testified, as follows,
3 to-wit:

4
5 DIRECT EXAMINATION

6 BY GEN. THURMAN:

7 Q State your name, please, sir.

8 A Bruce Hornal.

9 Q And where are you employed?

10 THE COURT: Excuse me. Let me let you
11 spell your last name, please.

12 THE WITNESS: H-o-r-n-a-l.

13 THE COURT: Go ahead now, Mr. Thurman.

14 Q (By Gen. Thurman) Where are you
15 employed, please, sir?

16 A Replay Amusement Center.

17 Q And did you know Judy Smith, Judith Lynn
18 Smith?

19 A Yes, I did.

20 Q And how was that you knew Judy Smith?

21 A She was a waitress at a Waffle House on
22 Charlotte Avenue. And I used to be a frequent customer
23 there back in the early part of the 80's.

24 Q Okay. So you knew her somewhere --
25

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sometime back at the Waffle House?

1 A Yes.

2 Q Did you have an occasion to see Ms.
3 Smith on Sunday, October the 1st, 1989?

4 A Yes, I did. I went into the same
5 Waffle House. I got there about a quarter after 2:00,
6 that afternoon. And she was in the restaurant at that
7 time.

8 Q Okay. Is that the first time you've
9 seen her in some months?

10 A In -- in quite a while, yes, it was.

11 Q Okay. Was there anyone with her?

12 A Yes, sir.

13 Q Did you know that individual?

14 A I didn't know him at the time, no.

15 Q Would you look around and see if you see
16 that person in the courtroom?

17 A Yes, sir; he's the gentleman sitting
18 right over there (indicating the defendant).

19 Q Would you describe what clothes he has
20 on today, just for the record?

21 A What kind of clothes he has on right
22 now?

23 Q Yes, sir.

24 A Two-piece suit, blue tie, gray suit,
25 light brown shirt.

1 GEN. THURMAN: If the record would
reflect that he did identify Mr. Smith.

2 THE COURT: All right.

3 Q (By Gen. Thurman) And how long did you
4 stay at the Waffle House?

5 A I left about 20 minutes or a quarter
6 'til 6:00, because I had to be at work at 6 o'clock.

7 Q Were they still present at that time
8 time?

9 A Yes, they were.

10 Q Did you speak to Ms. Smith at all?

11 A No, I didn't.

12 Q Did you observe what Mr. Smith had on
13 that particular day?

14 A Casual dress, button-down shirt, blue
15 jeans.

16 Q How was Mr. Smith acting?

17 A Seemed to be acting casual, didn't seem
18 to be no arguing or anything going on.

19 Q And they were still there when you left?

20 A Yes, they were.

21 GEN. THURMAN: That's all the questions
22 I have.

23 THE COURT: Okay. Mr. Newman.

24 MR. NEWMAN: Your Honor, I'd ask if
25

1 there are anymore Jencks material. I have been
2 furnished some, but I wonder if that's all.

3 THE COURT: Do you have anything else,
4 Mr. Thurman?

5 GEN. THURMAN: No, Your Honor.

6 THE COURT: Okay. Okay.
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1 CROSS-EXAMINATION

2 BY MR. NEWMAN:

3 Q Mr. Hornal, how are you this afternoon?

4 A Just fine.

5 Q Good. I do have a few questions for
6 you. This is the I-40, Charlotte Waffle House; is that
7 correct?

8 A Yes, it is.

9 Q And you go there regularly on just about
10 every Sunday; is that what -- I believe you said
11 before?

12 A Yes, sir.

13 Q And on this occasion, this was the first
14 time in six years that you had seen Ms. Smith; is that
15 correct?

16 A It'd been quite a while; yes, sir.

17 Q Okay. And you went in, and you spoke to
18 her or nodded your head?

19 A Nodded to her.

20 Q Okay. And she acknowledged you and
21 remained seated in the booth; is that correct?

22 A That's correct.

23 Q Okay. And she was sitting in the middle
24 of the booth; isn't that correct, or the mid-section of
25

the booth?

1 A Yes, she was.

2 Q And Mr. Smith was sitting right next to
3 her, on the same side of the booth?

4 A Yes, they were.

5 Q And they appeared to be getting along,
6 you noticed no problems at all; is that correct?

7 A I couldn't hear any of the conversation
8 they were having. I couldn't see them arguing or
9 anything, if that's what you mean.

10 Q And they sat there and they were
11 talking; is that right?

12 A Yes.

13 Q And they were drinking coffee and stayed
14 there the entire time that you were there, as a matter
15 of fact?

16 A Yes.

17 Q And you were there, as I calculate it,
18 somewhere in the neighborhood of two, two and a half
19 hours?

20 A Almost four.

21 Q Almost four hours?

22 A (No response.)

23 Q And they were there for that entire
24 time?

25 A Yes.

1 Q And you did not see them leave, so you
2 don't know what time they left; is that correct?

3 A No, sir.

4 Q I believe during that time that they
5 were drinking coffee and Judy got up and played the
6 jukebox and things like that; is that correct?

7 A I believe she did get up once and play
8 the jukebox.

9 Q Okay. And she did walk back and forth
10 by you on two or more occasions; is that correct?

11 A Well, she never walked by me. I was
12 sitting at the back of the restaurant.

13 Q Okay. Did you walk by them?

14 A Once.

15 Q Okay.

16 MR. NEWMAN: If I can have a moment,
17 Your Honor.

18 (Pause in the proceedings while
19 Mr. Newman confers with Mr. Dean.)

20
21 MR. NEWMAN: Those would be my
22 questions; thank you.

23 THE COURT: Anything further?

24 GEN. THURMAN: No further questions.
25

IN THE CRIMINAL COURT FOR DAVIDSON COUNTY, TENNESSEE

THE TWENTIETH JUDICIAL DISTRICT

FILED

APR 12 AM 11:17

STATE OF TENNESSEE,)
)
 Appellee,)
)
 VS.)
)
 OSCAR FRANKLIN SMITH,)
 Appellant.)

JOE C. TORRENCE, CLERK
[Signature] C.C.

CASE NO. 89-F-1773

FILED
AUG 5 1991
A. B. NEIL, JR., CLERK

TRANSCRIPT OF THE EVIDENCE

Volume XVIII of XXII Volumes

THE HONORABLE J. RANDALL WYATT, JR., PRESIDING JUDGE

APPEARANCES

FOR THE APPELLEE:

MR. THOMAS THURMAN
MS. CHERYL BLACKBURN
ASSISTANT DISTRICT ATTORNEYS GENERAL
102 Metropolitan Courthouse
Nashville, TN 37201

FOR THE APPELLANT:

MR. KARL F. DEAN
PUBLIC DEFENDER
1202 Stahlman Building
Nashville, TN

MR. J. PAUL NEWMAN
MS. MARY PARSONS
ASSISTANT PUBLIC DEFENDERS
1202 Stahlman Building
Nashville, TN 37201

Prepared by: Penny F. Underwood
Official Court Reporter
State of Tennessee
604 Metropolitan Courthouse
Nashville, TN 37201

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THE TWENTIETH JUDICIAL DISTRICT

FILED

91 APR 12 AM 11:17

STATE OF TENNESSEE,)
Appellee,)
VS.)
OSCAR FRANKLIN SMITH,)
Appellant.)

JOE E. TORRENDE, CLERK
J. E. Torrende O.C.

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1 THE COURT: Let both pictures be marked
2 -- are those the only two pictures you have?
3 MS. PARSONS: Yes, sir.
4 THE COURT: Okay. What exhibit is that?
5 THE CLERK: 3.
6 THE COURT: Okay.
7
8 (Defendant's Exhibit No. 3,
9 two (2) photographs, marked
10 and filed for identification
11 only.)
12
13 Q (By Ms. Parsons) Do you remember how
14 long they were in the restaurant that evening?
15 A For a couple of hours, at least.
16 Q And do you remember how -- where they
17 were sitting?
18 A Uh, huh.
19 Q Was that your only table that night?
20 A Yes.
21 Q And do you remember if they were sitting
22 side by side or across from each other?
23 A No, they were sitting side by side.
24 Q And did you observe them in conversation
25 during those two hours?