

Thereupon the defendant, further to maintain the issues on his part to be maintained, called as a witness MILES DAVID DAVIS, who, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Garmone:

Q Will you state your name to the Court and jury, please?

A Miles David Davis.

Q Where do you live?

A 375 Kenilworth Road, Bay Village, Ohio.

Q Who do you live there with?

A My parents.

Q How old are you?

A 18.

Q Did you attend school?

A Yes.

Q Where at?

A Bay Village High in Bay Village. Weona Academy in Beaverville Dam, Wisconsin, and Griswold Institute in Cleveland.

Q Now, sometime during the summer of 1954 did you have an unusual encounter with a person?

A Yes, sir.

Q And when was that, Mr. Davis?

A The evening of September 13th.

Q Where did that take place?

A In our home.

Q What room in your home?

A Our front bedroom.

Q And who occupies the front bedroom of your home?

A Mother and father.

Q Now, will you describe to the jury in your own words what transpired and at what time of the day or night it was?

MR. MAHON: Objection.

THE COURT: Objection?

MR. MAHON: Yes.

THE COURT: Objection will be sustained.

Q This person that you encountered in your home, was he a --

MR. MAHON: I want to object.

MR. GARMONE: This is a new question.

Will you permit me to complete it?

THE COURT: I know, but we are not going into any persons in his home on that date, on September 13, 1954.

MR. GARMONE: Well, this boy testified at the bail hearing, and your Honor --

MR. MAHON: I don't care whether he did or not.

MR. GARMONE: May I complete my question, Judge, please, and I will abide by your ruling on the question?

THE COURT: All right.

MR. PARRINO: Providing it is not a leading question.

MR. GARMONE: It will not be a leading question. I make an effort not to ask leading questions, and I think you are aware of that.

Q The person that you encountered --

MR. MAHON: Wait a minute, now. There is nothing in here about encountering anyone up to this point.

Q Now, if that is not leading, what is it?
Q Did you encounter anybody in your home on that night?

MR. MAHON: I am objecting to the leading of that question. "Did you?"

Q What is the fact as to whether or not you encountered anyone in your home on that night?

MR. MAHON: Objection.

THE COURT: Objection sustained.

MR. CORRIGAN: Did anything happen in your home?

Q How many people constitute your home, Mr. Davis?

A Three.

Q That is your mother, dad and yourself?

A Yes, sir.

Q On the evening that you speak of who was at home, aside from yourself and your mother?

A Just myself.

Q Was your mother at home?

A No, sir.

Q You were home alone?

A Yes, sir.

Q Now, what happened in your home that evening?

MR. MAHON: Objection.

THE COURT: Objection sustained.

Q Did you see someone in your home on that night?

MR. MAHON: Object, your Honor.

THE COURT: Objection sustained.

Q Was the person that you saw in your home on that evening either your mother or your father?

A No, sir.

MR. MAHON: Now, if your Honor please, -- wait a minute, please -- I want to object, and I think Mr. Garmone should be cautioned about this line of questioning.

THE COURT: Objection will be

sustained.

Mr. Garmone, let's discontinue this inquiry because --

MR. GARMONE: May I ask just one --

THE COURT: The Court will rule generally that is not admissible at all.

MR. GARMONE: May I ask one more --

THE COURT: You may put anything you care to in the record about it.

MR. GARMONE: May I ask one more question, and if you sustain the objection, I will release the witness.

THE COURT: I know, but let's not suggest what you are trying to get in here. It is not correct. You mustn't follow it.

Q Can you give a description of the person?

A What --

MR. MAHON: Object, if the Court please.

THE COURT: Objection will be sustained.

MR. GARMONE: Come over here, Mr. Davis.

(Thereupon the following proceedings were had outside of the hearing of the jury):

Q. Did you encounter a person in your home that night?

A. Yes, sir.

Q. Was it either your mother or your dad?

A. No.

Q. Was it a strange person?

A. Yes.

Q. Are you able to give a description of that man?

A. A slight description.

Q. Give the stenographer the description.

A. Approximately six foot tall, I'd say approximately 180 pounds.

Q. Did you rattle with that person?

A. Yes, sir.

Q. And what, if anything did you take away from him during the rattling period?

A. At that time I didn't know what type of instrument it was, but it turned out to be a monkey-wrench.

Q. Did you turn that instrument over to any members of any police department?

A. Yes, Bay Village police.

Q. Have you seen the instrument since?

A. No, sir.

Q. Have you been contacted with regard to that instrument or that person since you have turned the information over to the Bay Village Police Department?

A. No.

MR. GARMONE: If he would have been permitted to answer the questions, those would have been the questions and the answers.

(Thereupon proceedings were resumed within the hearing of the jury, as follows):

MR. GARMONE: That is all.
Of course, we note our exceptions to the Court's ruling.

THE COURT: Yes. You have no questions?

MR. MAHON: No questions.

(Witness excused.)

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