

Thereupon the State of Ohio, further to maintain the issues on its part to be maintained, called as a witness JOHN TRONTI, who, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Mahon:

Q Will you tell us your name, please?

A John Tronti.

Q Where do you live, sir?

A 8904 Fuller.

Q And what do you work at?

A I work at Holy Name Parish, custodian.

Q That is the church and school there?

A Combination, yes, combined.

Q That is out in Newburgh section?

A That is on Broadway.

Q I want to call your attention, sir, to the night of July the 3rd and the early morning of July the 4th. Will you tell us where you were?

A I was on the pier at Huntington Beach fishing, and we got there about ten minutes to 12, and --

Q Were you there with someone else?

A Yes, my father-in-law and brother.

Q Your father-in-law and your brother?

A And my brother, yes, sir.

Q And you arrived there about ten minutes to 12?

A Around that vicinity, yes.

Q And had you been there before?

4 A No. That was my first time at Huntington.

Q That was the first time you had ever been there?

A Yes, sir.

Q Now, did you go out on the pier?

A Yes, sir, we did. We went almost right to the T.

Q To the T?

A Yes, sir.

Q What is the T?

A Well, that is the part you go up the pier and the T comes across it.

Q You mean out on the end of the pier, out in the water, there is a stretch of pier that runs at right angles with the pier you go out on? Is that what you mean?

A Yes.

Q It forms a T?

A Yes, sir.

Q I see. Was there anyone else there on the pier when you men arrived?

A No, sir, there wasn't.

Q How long did you remain there fishing?

A Well, we were there about 20 minutes, and three fellows

came up to us and asked us if there was a wiener roast --

MR. GARMONE: Object to any conversation.

THE COURT: Yes.

MR. MAHON: Well, this has been gone into before, if your Honor please.

THE COURT: Oh, yes. This is the same -- yes, that's right.

Q You say three fellows came up?

A There was three fellows came up, and they asked us if there was a wiener roast anywhere around there, and we told them we didn't know, but that we didn't think so.

Q And how old were these fellows that came up?

A Well, they were teenagers, sir. They must have been 18. I believe they were school kids yet.

Q And that was about what time that they came there?

A About 20 minutes after we were there, somewhere in that vicinity. Around 20 minutes to a half hour. I'd say around 12:20, 12:25, somewhere in there.

Q And did they come out onto the pier?

A Yes, sir, they did.

Q How far out to the pier were you at that time?

A We were a little better than halfway out.

Q How long is the pier from the shore out?

A Oh, I'd say about 75 feet we were out, from the beach,

that is.

Q How?

A From the beach.

Q From the beach?

A Yes.

Q And after this conversation what did those young men do?

A They left the pier. We only had a few minutes speaking with them, and then they left the pier.

Q Did you see where they went?

A Yes. They went left.

Q They went left. You mean when they left the pier they turned left?

A Yes, they did.

Q Did you see --

A They went out of Huntington Park up the steps.

Q Did you see them going up the steps?

A Yes, sir.

Q There was three of them, you say?

A Three teenagers, yes.

Q What was the condition of the lake at the time that you were there as to its being calm or rough?

A No. It was so bad we left at 1:30 or twenty-five to 2, around in that vicinity. It was too rough to fish, so we left at 1:30. We left anywhere from 1:30 to twenty to 2. Somewhere in there.

Q And when you left how did you leave?

A The same way we come in, sir. We came in from Huntington Park, and went out that way.

Q And you went up the steps there?

A Yes, sir.

Q When you left there you have to walk off the pier onto the beach there, is that right?

A Oh, yes. Yes, sir. You get off the pier onto the beach and --

Q How far are the steps from the pier?

A Well, I'd only have to guess on that.

Q Well, give us your best approximation now.

A Three or four hundred feet, five hundred the most.

Q Did you walk -- is that to the east or the west?

A That is west, I believe. The wind was coming in northwest, I believe.

Q No. I am talking about the steps. Are they east or west from the pier?

A West, I believe.

Q Well, how did you turn as you walked in from the pier?

A You mean as we come in?

Q Yes.

A We turned left and then right onto the pier.

Q Well, I mean when you left the pier, when you were leaving the pier, you were walking toward the shore then, weren't

you?

A Yes.

Q That would be -- you were walking south, is that right?

The lake is to the north, isn't it?

A Yes, I believe it was. Yes.

Q And you were walking south and leaving the pier?

A Yes.

Q And after you stepped off the pier which direction did you turn?

A We turned right to go up the steps after we were on the beach. After we got off the pier we turned left to go to the steps, and then went up the steps and went home.

Q You turned left as you got off and then went up the steps?

A Right.

Q Now, as you got off the pier, did you observe the water as to how far it was coming up on the beach?

A Yes. It must have been 30 or 40 feet coming up on the beach. That's how bad it was.

Q 30 or 40 what, you say?

A Feet.

Q Coming up on the beach?

A Yes. Well, it was so bad that there was dead fish on the beach.

Q Well, what do you mean by 30 or 40 feet?

- A Well, from the edge of the beach, from the water -- the water edge, it was coming up.
- Q You mean it was rolling up that high?
- A Yes, oh, yes.
- Q And could you walk along the beach?
- A No. We had to talk on the furthest edge -- the top of the edge, you know, where the hill comes down, and the bottom of the beach meets, that's where we had to walk to get to the pier.
- Q The water was coming pert near up to that hill there as it goes up, is that it?
- A Yes.

MR. MAHON:

You may inquire.

CROSS EXAMINATION OF JOHN TRONTI

By Mr. Garmone:

- Q What time did you leave the beach?
- A We left about twenty-five to 2, somewhere around there.
- Q When you left you walked in an easterly direction. That would be toward downtown, is that right?
- 5 A Yes.
- Q That is where the steps are located that lead up into Huntington Park?
- A Huntington Park.
- Q And then you went about your business?

A Yes, we went home.

Q Now, at no time did you walk west of the pier, did you?

A No. We didn't go right at all.

Q So you don't know what the condition of the beach was over in that direction, do you?

A Well, --

Q Of your own knowledge?

A Well, no, but when we went to the end, we was flashing the light all around, and we seen that the beach was covered.

Q Well, how far did your light flash?

A Oh, just a few feet.

Q A few feet?

A Yes.

Q So a beach that would be located some two hundred or three hundred feet from the pier, you wouldn't be in a position to know what the condition of that beach was, would you?

A Oh, no, we couldn't see that far with our flashlight.

MR. GARMONE: That is all.

MR. MAHON: That is all.

(Witness excused.)

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