

1 after he took his shower he started to get ready for work and
2 he went outside. He wanted to go outside, but he didn't want to
3 get dirty, so he went in, in his room, got a shirt, a long
4 sleeved shirt so he wouldn't get his arms dirty, to reach up
5 under the truck to let the oil drain out of the truck, then he
6 come in, hung the shirt on a doorknob, the hallway doorknob.

7 Q Okay, now let me show you the shirt. The back of
8 this exhibit is marked Commonwealth's Exhibit #10 for purposes
9 of identification.

10
11 (Commonwealth's Exhibit #10 was marked for identifica-
12 tion at this time.)

13
14 MR. SCOTT: Your Honor, I'm going to object to the
15 further line of questioning until the relevancy is shown and I
16 object to this item being shown in the presence of the jury.

17 THE COURT: All right, we'll take that up out of the
18 presence of the jury. The jury will disregard this exhibit until
19 you're further instructed. If you all will wait in the jury room
20 until we call you, ladies and gentlemen.

21
22 (The jury retired to the jury room at this time.)

23
24 MR. SCOTT: Your Honor, I respectfully submit that the
25 proper foundation has not been laid.

1 THE COURT: Mr. Bennett, we have a problem connecting
2 this up.

3 Q I haven't offered it into evidence, Your Honor.

4 THE COURT: All right, but it's been exhibited in
5 front of the jury, Mr. Bennett. It's the same thing as offering
6 it, unless it's going to make it, because the jury has got to
7 either be ready to receive it or reject it, because it's out
8 there in front of them. Now my question is, can you make it
9 with that exhibit? And if so, what's the relevancy of it?

10 Q The relevancy is this, Your Honor, that she went
11 through ... the dresser that was in the apartment in which
12 [REDACTED] [REDACTED] [REDACTED] was killed was removed and brought to her
13 house and she went through the clothes, as she has testified,
14 that was in ... that were in that dresser, sorting, separating
15 the deceased's clothes from her son's clothes. She went through
16 all of those and found one shirt that was too small for her son.
17 Her son will testify in just a moment that it's not his shirt.
18 It's not her husband's shirt. It's no one else's shirt in the
19 household. When the officer testifies, Special Agent Wilmore,
20 he will testify that this shirt was displayed to the defendant
21 in this case and the defendant identified this shirt as being
22 his shirt and the shirt that he left in the bedroom after he
23 killed the deceased.

24 THE COURT: All right now, the question is what this
25 witness is going to do as to connecting up this particular shirt

1 as to where she got it. Now everything else is irrelevant.

2 Who said what or ...

3 Q Well, she ...

4 THE COURT: ... who was supposedly ... who has a
5 certain size. The question is, is this the shirt that's going
6 to be linked up sometime later in the case and can she identify
7 where she got it from, isn't it?

8 Q Yes, sir, that's what I was getting ready to ask
9 her.

10 THE COURT: All right now, the witness has been bring-
11 ing in a lot of things about what her husband did and who said
12 what, which is completely irrelevant to the particular item
13 and what you've indicated is the shirt itself is a significant
14 fact.

15 Q Yes, sir.

16 THE COURT: You've got to link up the chain of evidence
17 here. It's simply that. Now, Mr. Scott, what's the objection
18 on that basis?

19 MR. SCOTT: Your Honor, the objection is that we're
20 starting at the wrong end. We have, apparently, the dresser
21 being brought to the home by somebody, that the dresser remained
22 there and was ... the contents thereof were sorted, washed, used
23 by other people. We don't know when the dresser was brought
24 there. Therefore, we don't know the dominion and control over
25 the contents of the dresser for whatever period of time we're

1 talking about. We know that the item was used in connection
2 with somebody changing some oil, so therefore I assume that its
3 appearance was altered. We know it has been washed, but we're
4 starting at the wrong end of the chain.

5 THE COURT: My ruling is that the objection is over-
6 ruled for now. The exhibit may be marked. It's not yet linked
7 up in the case and cannot be presented to the jury, but has to
8 be presented to the witness for her to identify it and to that
9 extent I'll allow ...

10 Q Yes, sir.

11 THE COURT: ... it on the representation, Mr. Bennett,
12 that you can connect it up further down the case ...

13 Q Yes, sir.

14 THE COURT: ... as to what relevance it has to the
15 defendant's own statements.

16 Q Yes, sir.

17 THE COURT: On that basis Mr. Scott's objection is
18 overruled, but it is not yet admitted into evidence and you're
19 simply going to identify with this witness where this shirt was
20 obtained from.

21 MR. SCOTT: Your Honor, I request that the Common-
22 wealth Attorney be instructed not to show this to the jury then.

23 THE COURT: To that extent, Mr. Scott, he will be, but
24 not preventing him from showing it to the witness.

25 MR. SCOTT: Yes, sir, I ...

1 THE COURT: Now at the same time there's a certain
2 amount of disclosure that has to be presented.

3 MR. SCOTT: Yes, sir.

4 THE COURT: Now, furthermore, in relation to the
5 ruling, the chain of custody is not absolutely essential when
6 an item has a particular identify. Now this may or may not be
7 a unique item, depending on whether or not it can be connected
8 up, but since it appears to be an item which is something that
9 has particular identification, then the absolute requirement of
10 chain of custody is not necessarily present, but somebody has
11 got to show where this shirt came from and to that extent I take
12 it this witness is being called.

13 Q Yes, sir.

14 THE COURT: And that's the only relevance of it, what
15 somebody did with it ... the question is where she got it from
16 and who she turned it over to, Mr. Bennett.

17 Q Yes, sir.

18 THE COURT: It came from the dresser, she washed it
19 and she apparently turned it over to somebody else. Now all of
20 the rest of it is completely irrelevant as to what was done with
21 it.

22 Q Yes, sir.

23 THE COURT: Unless there is something less than unique-
24 ness about this. But otherwise, you've got a choice of linking
25 up every item or everything that occurred with this shirt or

1 simply showing where it came from and linking it up later as to
2 having a unique identification which the defendant, you say,
3 according to the evidence you'll later present, could recognize.
4 Now if you accomplish that, of course, then it's simply a question
5 of where it was at a given time.

6 Q Yes, sir.

7 THE COURT: Now up to now there's a certain amount of
8 hearsay. The dresser came from [REDACTED]. Now she's apparently
9 able to identify the dresser. She hasn't said when it came from
10 there, but that she took the shirt out, put it ...

11 A I know all of that.

12 THE COURT: ... in the bedroom after it was washed
13 and her husband used it and then hung it on the doorway. Now
14 do you want to go ahead with the rest of it while the jury is
15 out and see if we can link it up and then you'll have to repeat
16 it, of course.

17 Q Mrs. Williams, how do you know that the dresser
18 that this was removed from came from [REDACTED] apartment?

19 A It belonged to my son and his wife, [REDACTED].

20 Q Had you ever seen that dresser before in their
21 bedroom?

22 A Yes, yes.

23 Q And it was the very same one that you saw in their
24 bedroom?

25 A Yes.

1 Q Okay, and that was brought to your house?

2 A Yes.

3 Q And who opened the drawers and removed the items
4 from the drawers?

5 A I was doing it and I found this shirt in the
6 drawer, but at that time we had no ... it just laid in the bed-
7 room until Hart called.

8 THE COURT: When was the dresser brought to your home,
9 Mrs. Williams?

10 A The week after [REDACTED] funeral, the week after
11 [REDACTED] funeral.

12 THE COURT: All right, and it was placed in your home.
13 All right, any other questions, Mr. Bennett, before we permit
14 cross examination on this point?

15 Q No, sir.

16 THE COURT: Mr. Scott, do you wish to cross examine
17 on the matter of the identification of the dresser and the fact
18 that this shirt was taken from the dresser?

19 MR. SCOTT: Yes, Your Honor.

20
21 Questions By: Mr. Scott

22 Q Mrs. Williams, you said the dresser was brought
23 there the week after your daughter-in-law's funeral? How long
24 a period of time elapsed before you took the contents out and
25 washed them?

1 A Just the same day.

2 Q Okay, and how long a period of time elapsed before
3 the day you said that your husband took the shirt and used it and
4 changed the oil?

5 A Nobody touched it. It just stayed in the bedroom
6 on a stack.

7 Q Right.

8 A My husband took that one shirt ... it was summertime.

9 Q All right.

10 THE COURT: Well, the question is, how long, Mrs.
11 Williams?

12 Q How long?

13 THE COURT: That's all, how long was it?

14 A Until Hart called me and asked my son if there was
15 anything that didn't belong to him.

16 THE COURT: The question is, how long?

17 A A couple of weeks.

18 THE COURT: All right, now that's the question and
19 answer, a couple of weeks. Now the rest of it, Mrs. Williams,
20 is irrelevant. Don't tell us the other details unless you're
21 asked to. Can you remember that? All right, Mr. Scott, any
22 other questions?

23 Q And then you turned the shirt over to Investigator
24 Hart?

25 A Hart and Buraker come picked it up.

1 Q Okay, and that was approximately three to four
2 weeks after the dresser was brought to your home?

3 A Yes.

4 Q No further questions.

5 THE COURT: All right, my ruling is that Mrs. Williams
6 may testify on these matter, before the jury, that she has just
7 alluded to, leaving out any extraneous references as to who said
8 what, but keeping in mind that the dresser has to be identified,
9 the date it was brought there and the time sequence with regard
10 to Mr. Scott's cross examination. These matters are relevant
11 and the Court will permit it. All right, Mr. Scott, your objec-
12 tion is noted without having to be reasserted and we'll continue
13 and your cross examination is without prejudice to your objections.
14 All right, call the jury. We'll proceed with the questions and
15 answers before the jury.

16

17 (The jury returned to the jury box at this time.)

18

19 THE COURT: All right, you may proceed with your
20 questions, Mr. Bennett.

21

22 Continue on Direct by: Mr. Bennett

23

24

25

Q Mrs. Williams, you say that ... now let me show you
this item marked Commonwealth's Exhibit #10, for purposes of
identification, a shirt in a bag. You stated that you removed

1 this shirt from a dresser drawer?

2 A It looks like the one.

3 Q Okay, now ...

4 A The one I had had the little tag in the back. It
5 had numbers on it.

6 Q Okay, let me ask you to take a look at the shirt
7 and make sure it's the same one.

8 A Is it okay to take a hold of it?

9 Q Yes, it is, ma'am.

10 A That's the shirt, but it had tags and it wasn't
11 tore up.

12 Q Okay.

13 A It had ... here, see, it had the tag there and it
14 had numbers on it.

15 Q All right, but that is the same shirt?

16 A Yes, that's the same shirt...

17 Q Okay, now ...

18 A ... that Hart and Buraker took from me.

19 Q ... you turned the shirt over to who?

20 A Hart and Buraker come out and picked it up.

21 Q Kenny Buraker from the Town Police Department?

22 A Yes.

23 Q Now, you say you took this shirt out of the dresser?

24 A Yes.

25 Q Who did that dresser belong to?

1 A It belonged to [REDACTED] and Clifford.

2 Q And where did that dresser come from?

3 A It come from [REDACTED] and Clifford's apartment. He
4 moved in with us and I had the three children. I kept them.

5 Q All right.

6 A I was their mommy for a year, you know.

7 Q Now, excuse me ...

8 A I'm sorry.

9 Q Now, did you personally observe this same dresser
10 in [REDACTED] and your son's bedroom?

11 A Yes.

12 Q And that's the same apartment in which she was
13 killed?

14 A Yes, because she had written on the mirror.

15 THE COURT: Now just answer the questions, Mrs.
16 Williams. Can you identify ...

17 A On the mirror ... she showed me ...

18 THE COURT: Mrs. Williams, just answer the questions
19 that Mr. Bennett asks. The question is, whether or not you could
20 identify it. Yes or no?

21 A It was...

22 THE COURT: All right.

23 A ... [REDACTED] and Clifford's dresser...

24 THE COURT: Next question, Mr. Bennett.

25 A ... and it come from the Village Apartments.