

1 THE COURT: Fine.

2 MR. SCHEININ: Thank you, Detective.

3 THE COURT: Any other questions?

4 MS. BROBST: No, nothing further from the State, Your
5 Honor.

6 (WHEREUPON, the witness was excused.)

7 MR. LAZZARO: The State would next call William
8 Heilman, Your Honor.

9 William Heilman,
10 was called as a witness on behalf of the State, and after first
11 having been sworn, was examined and testified as follows:

12 THE CLERK: State your name and address for the record.

13 THE WITNESS: William Heilman, the third. H E I L M A
14 N. I'm a special agent employed by the Federal Bureau of
15 Investigation currently assigned to the FBI Laboratory,
16 Washington, D C.

17 DIRECT EXAMINATION.

18 MR. LAZZARO:

19 Q Agent Heilman, what is your expertise at the FBI
20 Laboratory in Washington D C?

21 A I'm an examiner of questioned documents.

22 Q Okay. Does that include comparing and identifying
23 footprints?

24 A Yes, sir it does.

25 Q Okay. Would you please tell the Court and the members

1 of the jury, what if any special training you have received in
2 regard to that specialty?

3 A In regard to questioned documents or shoeprints?

4 Q Shoeprints?

5 A Regarding shoeprint examinations, I have been assigned
6 to work with an experienced examiner for approximately two years
7 and have personally examined approximately 50 cases in that
8 time. I also attended an one week specialized conference held
9 at Quantico, Virginia regarding shoeprint identification as well
10 as reading various scientific literature and books on the
11 subject.

12 Q Okay. Have you qualified previously as an expert in
13 shoeprint identification in any of the courts of the United
14 States?

15 A I have not testified as a shoeprint expert.

16 Q You have or have not?

17 A I have not.

18 Q Okay. And what if any treatises have you read in
19 regard to this specialty?

20 A I have read three books on the subject. Claude Cook,
21 John Abbott, and Maureen Casey.

22 Q And you have examined or compared how many footprints?

23 A I have examined approximately 50 cases involving
24 hundreds of individual comparisons.

25 Q Okay. Prior to that you worked with whom?

1 A I have worked with other experts in the FBI, Mr.
2 William Bosiack. Gary Kasnasky, Mr. David Attenberger, Mr. Ken
3 Dixon, Mr. Bob Hallet.

4 Q Could you please tell His Honor and the members of the
5 jury what is involved in the comparison and identification of
6 footprints? Mechanically what is involved, what you have to
7 look for, what you have to do?

8 A Well, a shoeprint examination is a side by side
9 comparison of a questioned and known impression. In this
10 particular instance, I was examining a two-dimensional
11 impression, a photograph, and I conducted an overlay technique.

12 MR. SCHEININ: Objection.

13 MR. LAZZARO:

14 Q We don't want to get into this case yet Agent Heilman.
15 Just want you to explain what expertise is needed to compare and
16 identify footprints?

17 A Well, the areas of comparison involve an examination of
18 the questioned and known impressions for such things as size,
19 design areas, general wear characteristics as well as the unique
20 identifying marks which are left by the shoe as a result of use
21 and abuse on the sole area of the shoe.

22 Q Witness with you on qualifications.

23 CROSS-EXAMINATION.

24 MR. SCHEININ:

25 Q Other than the three books that you read what other

1 training have you had for shoe identification?

2 A I attended an one week seminar given at Quantico,
3 Virginia, which included all or a number of examiner's from
4 across the country regarding specifically shoe print and tire
5 tread identifications.

6 Q How many people were present at that seminar?

7 A Approximately 30.

8 Q What other training?

9 A As I mentioned earlier, that we work basically in an
10 apprentice type situation in which you work with other
11 examiner's.

12 Q Have you ever failed to qualify in any court of law?

13 A No.

14 Q This is the first time they have ever brought you in
15 any court?

16 A No. I have generally testified in the area of
17 handwriting or hand printing or typewritten other document-type
18 examinations.

19 Q When did you make the change from handwriting to
20 footprint?

21 A I didn't make the change. That's in conjunction with
22 my other duties. This just happened to be the first court case
23 in which I have been called.

24 Q Are you familiar with plaster impressions of
25 footprints?

1 A Yes.

2 Q And what kind of training do you have in plaster
3 impressions of footprints?

4 A My training involves the comparison rather than the
5 taking of impressions.

6 Q Do you have any training on whether or not the
7 impression is taken correctly, so that you can make that
8 comparison?

9 A I don't really examine the impression to determine
10 whether it was correctly or incorrectly taken. I examine it for
11 detail, observable detail.

12 Q Isn't it true that if an impression of a footprint is
13 taken incorrectly, then certain highlights of that footprint
14 would be enhanced and therefore, give you a wrong comparison;
15 isn't that correct?

16 A Well, if the impression is taken incorrectly, yes, it
17 may obscure detail.

18 Q And my question is: How do you know if an impression
19 is taken correctly? You are saying you don't know; is that
20 right?

21 A I don't know.

22 Q Now, the same would be true of photographs. If a
23 photograph is improperly lighted or improperly highlighted, what
24 training do you have to make a determination of whether that
25 photograph has been correctly taken?

1 A I don't.

2 Q Can we approach the bench, Your Honor? I'm finished my
3 examination, if you want to continue.

4 REDIRECT-EXAMINATION

5 MR. LAZZARO:

6 Q What difference would that make in terms of your
7 identification and comparison, that is the lighting involved in
8 the photograph of the shoeprint itself?

9 A It may in fact obscure some detail that was present in
10 the original impression.

11 Q Okay. Would that in any way lead you to make a wrong
12 comparison or identification?

13 A If detail was obscured, the result would probably be
14 that you could not, you might not be able to identify a
15 particular impression because the necessary detail is missing,
16 so more likely it would lead to a non-identification rather than
17 a mistake.

18 (WHEREUPON, there was a conference at the Defendant
19 present.)

20 MR. SCHEININ: I make a motion that this person is not
21 qualified to testify in this particular murder case.

22 THE COURT: Why?

23 MR. SCHEININ: Because I don't feel that reading three
24 books and attending an one week seminar is sufficient background
25 information. He merely stated that he was tutored with somebody

1 else. He's not aware of the proper procedure for taking the
2 footprint that he is comparing, specifically photographs and
3 plaster impressions, which are the two issues in this case. If
4 he is unable to say that the photograph was taken improperly and
5 is based on assuming it is taken properly because he says he
6 don't know how to make that determination, then his conclusion
7 must be wrong, and to allow this man to testify before the jury
8 to say that similarities exist in footprint on the victim's body
9 and the shoe in court here based on photographic identification
10 would be based on erroneous facts and would definitely prejudice
11 the defendant in the eyes of the jury and give this man's
12 testimony weight that he does not deserve.

13 THE COURT: Does it have to do with the --

14 MR. LAZZARO: I would like to respond if I could.

15 THE COURT: I don't know that it is necessary. The
16 reason I say that is because it is not how his testimony is to
17 be weighed. That is one thing. Whether he's qualified to give
18 an opinion is another thing. His training is standard reading
19 of literature plus extensive training and 50 cases involving
20 hundreds of comparisons of prints. That is what I think
21 qualifies him to testify. What he testifies to is subject to
22 your attack, so I'll accept him as the expert.

23 MR. LAZZARO: Thank you, Your Honor.

24 (WHEREUPON, proceedings resumed before the jury.)

25 MR. SCHEININ: I have no further questions. Thank you.

1 MR. LAZZARO: For the record I would submit William
2 Heilman, as an expert in shoeprint identification and
3 comparision.

4 MR. SCHEININ: Objection.

5 THE COURT: I'll accept him.

6 MR. LAZZARO:

7 Q Now, Mr. Heilman, you had occasion did you not to
8 obtain some photographs or some negatives of some photographs
9 from the medical examiner in this particular case did you not?

10 A Yes, I did.

11 Q Okay. And you also had occasion to receive or obtain
12 some shoes; is that correct?

13 A Yes.

14 Q I'm going to show you what has been marked as State's
15 Exhibit 18 for identification and ask if you can identify this
16 please?

17 A (Examining.) Yes. These are the shoes I examined.

18 Q Okay. Now, I saw you looking inside of them. What was
19 the purpose of that?

20 A I placed my initials inside the shoe when I initially
21 examined them.

22 Q Okay. And you received these from detectives from the
23 Homicide Squad; is that correct?

24 A Well, actually I received those from Jack Quill of our
25 laboratory. He was the principal examiner in the case, and I

1 did the shoeprint work.

2 Q I see.

3 A So the shoes were received from Mr. Quill.

4 Q He received all of the items in the case?

5 A Yes.

6 Q Now, the photographs that you received from the Medical
7 Examiner's Office, what did you do with those in relationship to
8 those shoes?

9 A Well, I examined the photographs I was supplied, if in
10 fact they were on an one to one scale, and I performed an
11 overlay technique in which I made a test impression and
12 overlaid those overlays over the photograph.

13 Q Okay. Now, did you prepare the photograph on the one
14 to one scale or was that done for you?

15 A That was done for us.

16 Q Okay. And do you know by whom?

17 A No, I don't.

18 Q And what is an overlay technique, if you would please
19 tell His Honor and the members of the jury?

20 A Perhaps I can show them. What I'm referring to by an
21 overlay technique is where I take a questioned shoe, and I ink
22 the bottom area of the shoe to see how that shoe will print when
23 it is pressed on a surface. In this particular case I --

24 MR. SCHEININ: Objection.

25 THE COURT: Overruled.

1 THE WITNESS: In this particular case I inked the
2 bottom of these shoes, and I stepped down on a piece of tissue
3 paper, which produced a pattern (indicating), and I overlaid
4 that particular tissue paper impression, test impression over
5 the photograph to attempt to determine size, design, any
6 identifying characteristics, general wear. That was done just
7 with this particular test impression that I have here and
8 photograph (indicating.)

9 Q What if any findings but did you make with respect to
10 that?

11 MR. SCHEININ: Objection.

12 THE COURT: Overruled.

13 THE WITNESS: I was unable to determine general wear,
14 size of the shoe, or I was unable to find any specific
15 identifying features. I did find a limited correspondence in
16 design with a portion of the questioned shoes.

17 Q Okay. Now, the photograph of the footprint that you
18 have, was that a complete footprint? Was it a whole shoe
19 footprint the photograph?

20 A The photograph depicts the impression on the victim's
21 neck.

22 Q Okay. Was that -- you are looking at it right now.
23 Was that a whole footprint?

24 MR. SCHEININ: Objection.

25 THE COURT: Overruled.

1 MR. SCHEININ: Objection. How does he know that it's
2 from the victim's neck, Your Honor? It's a conclusion.

3 THE COURT: If you want to qualify that first.

4 MR. LAZZARO:

5 Q Well, did you look at the photographs? You received
6 several photographs didn't you Mr. Heilman?

7 A Yes.

8 Q And what did the photographs depict?

9 A They depicted shoe impressions on a body.

10 Q Okay. And could you tell from looking at the
11 photographs whether you were looking at the front part of the
12 body or the back of the body?

13 A Well, the particular photograph I'm looking at now was
14 taken of the neck area.

15 Q Of the neck area of the body.

16 MR. SCHEININ: Objection.

17 THE COURT: How did you come by those photographs
18 or that photograph?

19 THE WITNESS: They were supplied to me by the Medical
20 Examiner's Office along with not only this one particular
21 photograph but numerous photographs of the entire body as well
22 as various portions.

23 THE COURT: From the Medical Examiner of Baltimore City
24 or the State.

25 THE WITNESS: Yes.

1 THE COURT: All right.

2 MR. LAZZARO:

3 Q Now, Detective, or excuse me, Agent Heilman, you had
4 occasion to prepare a blow-up for court purposes; is that
5 correct?

6 A Yes.

7 Q Okay. With Honor's permission, if you would come down
8 and explain what this is to the members of the jury.

9 (WHEREUPON, the witness left the stand.)

10 MR. SCHEININ: Your Honor, I have to enter an objection
11 because the testimony is that the Medical Examiner took a
12 Polaroid, and obviously the pictures he has there are not
13 Polaroid.

14 THE COURT: Overruled.

15 MR. SCHEININ: Thank you.

16 MR. LAZZARO:

17 Q Would you identify this please Mr. Heilman and tell us
18 what it is?

19 A Well, known shoe portion of the chart is an
20 approximately 4 times enlargement of the bottom of the right Jox
21 brand tennis shoe I identified as Q 34. The test impression was
22 a 4 time photographic enlargement of this particular test
23 impression, which was acheived by incorporating the bottom of
24 the shoe and stepping down on the ground on the tissue paper to
25 produce this particular impression. (indicating)

1 The questioned portion on the chart on the left
2 represents about a 4 time photographic enlargement of the
3 impression appearing on the body of the photographs that I
4 received from the Medical Examiner's Office.

5 Q Would you please explain to the members of the jury how
6 you ascertained that there were some similar design
7 characteristics?

8 MR. SCHEININ: Objection.

9 MR. LAZZARO: Between the known.

10 THE COURT: Overruled.

11 MR. LAZZARO:

12 Q Shoe impression and the questioned one?

13 A As I explained, I made the test impression for the
14 purpose of overlaying the two dimensional photograph. The
15 actual impression was made on a tissued surface, round, curved
16 very elastic in nature, but what I was supplied is a two
17 dimensional photograph, so I took the test impression and
18 overlaid it over the questioned impression and tried to
19 determine if the design did in fact correspond.

20 Because of the limited nature of the questioned impression I
21 couldn't determine overall size of the shoe that made that
22 impression. Because of the nature of the skin and how the
23 impression was made it actually is not an impression like an
24 inked impression. The questioned impression is really a
25 contusion of bringing up blood to the surface of the skin really

1 that does not reproduce the mark that appears on the bottom of
2 the shoe like the questioned impression of those non-printing
3 areas in various portions of the test impression that was a hard
4 surface, so I was unable to identify any specific identifying
5 features within this questioned pattern, nor was I able to
6 determine, as I said, size of the shoe or general wear
7 characteristics.

8 I was able to through this overlay technique able to
9 identify a specific area from both shoes, Q 34, and I believe
10 that one was Q 33, which did in fact correspond were in this
11 herringbone pattern, which did correspond to a particular area
12 on the questioned shoes.

13 Q Okay. Thank you.

14 Q Your Honor, I would move to introduce this exhibit
15 prepared by Mr. Heilman as State's Exhibit 19.

16 MR. SCHEININ: Objection.

17 THE COURT: Overruled. States 19.

18 (WHEREUPON, the above referred to evidence was marked
19 as State's Exhibit 19.)

20 MR. LAZZARO:

21 Q Mr. Heilman, because of the difficulty in comparing
22 what you just testified to, comparing footprints made on a body
23 with those of a known sample, have you ever made any
24 identifications based upon a footprint that was obtained from a
25 body?

1 MR. SCHEININ: Objection.

2 THE COURT: Overruled.

3 THE WITNESS: No.

4 MR. LAZZARO:

5 Q Thank you, Mr. Heilman. Witness with you.

6 THE COURT: Before you begin, let me clarify something.

7 The photograph which you have you say was made by someone from
8 another photograph?

9 THE WITNESS: This particular photograph I have was a
10 photograph that our laboratory made from one supplied by the
11 Medical Examiner.

12 THE COURT: Did you see the one supplied by the Medical
13 Examiner?

14 THE WITNESS: I have not seen that one here today.

15 THE COURT: But?

16 THE WITNESS: Oh, yes.

17 THE COURT: You had seen it?

18 THE WITNESS: Yes.

19 THE COURT: And can you say whether that photograph
20 which you have is in fact the same photograph, that is of the
21 same subject matter that was contained in the one obtained from
22 the Medical Examiner's Office?

23 THE WITNESS: The one I examined from the Medical
24 Office will have my initials on the back and be identified as Q
25 66.

1 THE COURT: Okay.

2 THE WITNESS: Our are Q number.

3 THE COURT: Thank you.

4 CROSS-EXAMINATION.

5 MR. SCHEININ:

6 Q Mr. Heilman, was the impression that was made on the
7 body, was that made by a left-hand shoe or right-hand shoe or
8 left foot or right foot?

9 A I don't know.

10 Q Is the impression that was on the body, was it made
11 by, well, first, was the impression made on the body made by one
12 of those shoes?

13 A I don't know.

14 Q I would renew my objection to disallow this into
15 evidence.

16 THE COURT: It's already in. It doesn't make any
17 difference.

18 MR. SCHEININ:

19 Q I understand. Why do you have these little red marks
20 here Mr. Heilman? What are they supposed to be for?

21 A Those are simply delineating the areas which correspond
22 to the questioned impression.

23 Q But you are unable to identify them?

24 A I was not able to identify that, that's correct.

25 Q Now, Jox is a very popular shoe is it not?

1 A It's a very common shoe, yes.

2 Q Hundred thousand of them being made every year you
3 would think?

4 A I would imagine.

5 Q And they all, this type of shoe would all have the same
6 tread design?

7 A Well, I don't know all the designs Jox issues but there
8 would be --

9 Q They don't make?

10 A Several hundred thousand of that design.

11 Q And you are not able to tell, if there are several
12 hundred thousand Jox shoes, which one made the impression on
13 Dawn Hamilton are you not.

14 THE COURT: How did we ever get to agree there were
15 several hundred thousand? Do you know how many they make?

16 MR. SCHEININ: That was his figure.

17 THE COURT: You pulled it out. Do you know how many
18 they make?

19 THE WITNESS: No, I don't.

20 THE COURT: All right.

21 THE WITNESS: As a layman I would guess.

22 MR. SCHEININ: No further questions. Thank you.
23 Nothing further, Your Honor.

24 THE COURT: Thank you, sir.

25 (WHEREUPON, the witness was excused.)