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Police Science Legal Abstracts and Notes

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POLICE SCIENCE LEGAL ABSTRACTS AND NOTES

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Lie-Detector Test Inadmissible to Rehabilitate Credibility of Witness—In an extension of the firmly established principle that the results obtained from lie-detector tests are not admissible as evidence, the Florida Supreme Court has refused to permit its use in order to rehabilitate the credibility of witnesses. *Kaminski v. State*, 63 So.2d 339 (Fla. 1953). The chief prosecuting witness for the state, Newbold, identified defendants and testified as to prior events which, if true, were sufficient to establish a motive for the crime (assault with intent to murder). He was then subjected to rigid cross-examination by defense counsel in an effort to destroy his credibility as a witness. Following the testimony of other witnesses for the state who gave testimony which varied considerably from that of Newbold, he was recalled to the stand and asked whether he had taken a lie-detector test. Overruling defense counsel's objections, the court held the question proper, with the qualification that either the state or the defense would be permitted to show what the test covered.

The Florida Supreme Court held this to be error to the same extent as if the results of the tests had been admitted into evidence over objection. In initiating the inquiry the prosecutor must have intended to leave in the minds of the jurors an impression that because Newbold had voluntarily submitted to a lie-detector test prior to the time of trial he was a man of veracity and hence was telling the truth from the witness stand, no matter how inconsistent his tale might appear to be to the jurors when compared with the testimony offered by other state witnesses. The putting of the questions and allowance of the answers had a direct and profound tendency to influence or prejudice the minds of the jurors against the defendants. The practical effect of the admission of the testimony, as fortified by the remarks of the trial judge when he overruled the objection, was to allow, by inference, the admission of damaging evidence that would not have been legally admissible had it been submitted directly.

Photographs of Murder Victim Admissible into Evidence—In a murder prosecution, defendant objected to the admission into evidence of photographs of the body of the deceased. One photograph showed the face and head of the dead man, depicting his gagged mouth and the gaping head wounds inflicted by the defendant. Counsel maintained these photographs were gruesome and, being wholly unnecessary to the state's case, were objectionable as they served only to prejudice the jury against the defendant.

On appeal, the photographs were held admissible both for purposes of identification and also to corroborate the coroner's testimony with reference to the description of the wounds and the cause of death. Once their admissibility is established, the fact that the photographs are so gruesome that they tend to prejudice the jury is not a valid reason for rejecting them in evidence. *State v. Solomon*, 62 So.2d 481 (La. 1952).

But see *State v. Morgan*, 211 La. 572, 30 So.2d 434 (1947). The ghastliness of the picture and the circumstances surrounding its submission into evidence might lead a court to draw the conclusion it was offered solely for the purpose of prejudicing the jury against the defendant.

Testimony of Non-Expert Witnesses Admissible—During the trial of a larceny case, police officers were permitted, as non-expert witnesses, to testify

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as to the similarity (a) of the car tracks in a field to tracks made by appellants' car; (b) of the footprints in a field to appellants' footprints; and (c) of corn found in appellants' car to corn remaining in a field where the larceny occurred. *Richardson v. State*, 254 S.W.2d 448 (Ark. 1953).

Such non-expert testimony was held to be admissible. Frequently the opinion of a witness as to the appearance of an object he has seen is the best and only evidence obtainable. And, to enable the jury to draw correct and intelligent conclusions the witness, to some extent, may add his own conclusions, judgment, or opinion. Thus, a witness may testify that spots and spatters on a throng were blood; and that blood seen by the witness was fresh blood. *Greenfield v. People*, 85 N.Y. 75 (1881); *State v. Bradley*, 67 Vt. 465, 32 Atl. 238 (1895); *People v. Loui Tung*, 90 Cal. 337, 27 Pa. 295 (1891). A witness may testify that certain hairs were human; *Commonwealth v. Dorsey*, 103 Mass. 412 (1869); or to the similarity of footprints. *Trimble v. State*, 150 Ark. 536, 234 S.W. 626 (1921). See NOTE, 31 A.L.R. 204 (1924).

In the instant case the witnesses had testified as to their observations and methods of comparison—both physical and mental—and the acceptance of the reliability of such testimony was a matter for the jury to decide.

Drug-Induced Revelation and Criminal Investigation—Special attention is being called to a symposium article on drug-induced revelation as an aid to criminal investigation. 62 YALE L.J. 315 (1953). Professors Dession, Freedman, Donnelly, and Redlich, have herein made a valuable study concerning the propriety and reliability of the use of narcoanalysis. Having discussed in some detail the various medical and forensic aspects of narcoanalysis, they conclude that there are some instances where drug-induced revelations should properly be recognized as a means for forming the basis of an expert opinion. Acute analysis of the moral and constitutional problems, and a reasoned argument for the limited use of these drugs, marks the article as an important contribution to this area of police science.

Admissibility into Evidence of Stenographic Transcript of Wiretapping Recording; Recognition of Defendant's Voice from Telephone Conversations—In *McGuire v. State*, 92 A.2d 582 (Md. 1952), police officers tapped the telephone line leading into the premises of appellants codefendant, and recorded a number of incriminating conversations which led to the arrest and conviction of McGuire. At the trial a stenographic transcript of the recordings was admitted into evidence and was used by the police officers to refresh their recollections of the conversations. One of the officers was also permitted to testify that he recognized the voice of defendant as the same voice he had heard in the incriminating telephone conversations, although he had not spoken to defendant until after the conversations took place.

On the latter point, the court held that since the officer had heard the conversations through earphones at the time they were made and also by means of the recordings, it was immaterial he had not heard McGuire in person until a later date. At the time of the trial he was in a position to make the comparison and the testimony was clearly admissible.

As to the stenographic transcripts, the court found sufficient basis for their admissibility as secondary evidence, since the recording machine had been repaired and after repair the tape could not be replayed. In any event they were admissible to refresh the independent recollection of the officers as to the conversations they heard at the time they were recorded and transcribed.