

POLICE - Crime Identification

Deposition of - Robert Lee Studebaker, April 6, 1964, 7 H 137-49

For reasons known only to the Commission, Studebaker's deposition, taken at 3:45 p.m., appears before that of Dhority, taken at 2:45 p.m. of the same day.

Studebaker's statement is hard to follow, easy to misunderstand, and probably not possible to understand it with certainty. It seems as though he gave special meaning to words, special interpretations to facts, and used "thises" and "thats" with reference to exhibits in a fashion that makes it risky to try and decide which exhibits he was referring to.

Especially with respect to whether or not the boxes were moved or had ever been moved, is his testimony contradictory at best.

He has had no technical training for the crime lab work he is doing. He describes it as "just on-the-job training - you go out with old officers and learn how to dust for prints and take pictures and fingerprints." (p.137)

He contradicts himself and Lt. Day on when they arrived at the Depository Bldg. and when they began their work and when they learned of the location of the empty rifle cartridge shells. On p.138, he places the time they arrived at the Depository Bldg. at about 1:15 (which is just a few minutes after Mooney reportedly found the shells, 1:12 as I recall it), and on p.139 he gave this version of the sequence of events when questioned by Asst. Counsel Ball:

"Mr. Ball. Then, were you directed to some place on the sixth floor, as soon as you arrived there?

Mr. Studebaker. No; they hadn't found anything when we got there.

Mr. Ball. After you were there a little while, did somebody find something?

Mr. Studebaker. They found the empty hulls in the southeast corner of the building - they found three empty hulls and we went over there and took photographs of that." (p.139)

He described his camera as a "Graflex, a 4 by 5 Speed Graflex". Asked if he "had some experience in operating a camera?", he first replied, "Yes," which

would be presumably true the moment he shot the first picture with it, then states his experience with this particular camera was "about two months" which, it later turns out, is an 8-day exaggeration. He qualifies as no more expert when asked by Ball, "But you have had photography in your crime lab work?" Studebaker says, "Yes", and Ball asks, "For how long?" To this, Studebaker replied, "Was about two months." This also turns out to be 8 days more experience than he has had. (p.138) He said that he and Day each took two photographs. "We took double shots on each one." He testified about a picture before it had been introduced. It is then identified as his Exhibit A, and he says of it "This one was right before anything was moved." This is in ²¹ 17 H 643.

He subsequently marked this photograph to show an indentation on the box. It is a rather poorly exposed photograph. It is impossible to determine whether the boxes are, in fact, in a position that would seem to represent one in which they had been undisturbed; but in any event, if the mark on the box is as he identified it, this box is about 90 degrees off of the position in which it was at the time of the shots. Examination of the slant of this mark shows that it runs at right angles to the approximate direction of the rifle, the direction which presumably the longer indentation would have been made. It is not possible that a rifle made a mark as wide as the one he has indicated on this exhibit. But Studebaker, as we will see, has his own concept of what constitutes moving the boxes, in any event.

He also refers to the large number of copies they made of the various negatives. On this page he says of this exhibit, "You probably got one or two recopies. We printed a bunch of them." A was taken looking from east to west. B, which is next referred to, was taken in the opposite direction. (p.139) They at this point switch to the taking of pictures of the rifle. Whether by accident or design, it certainly increased the already significant confusion.

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This exchange follows the question; "Did you take a picture of that?", referring to the rifle:

"Mr. Studebaker. Yes, sir; on these, Lieutenant Day also took pictures of those, and he also took pictures of this gun. We took two shots apiece.

Mr. Ball. Let's see the shots you took of the place where the gun was located?

Mr. Studebaker. I know it's mine because my knees are in the picture.

Mr. Ball. Do you remember the name of the deputy sheriff that found the gun?

Mr. Studebaker. No, I don't." (p.140)

This was with reference to his Exhibit C. (21 H 645)

Referring to this exhibit is the following additional exchange:

"Mr. Ball. That is a picture taken by you of the location of the gun - that was before anyone moved it?

Mr. Studebaker. Yes.

Mr. Ball. Do you have another shot of that other picture?

Mr. Studebaker. No, we took two from the same location when we was up on top of the stack of boxes shooting down at it, before they picked it up. Actually, there was four negatives of them of the gun, but they are all in the same location, shooting straight down and they were taken on different exposures." (p.140)

The picture with his "knees", as he refers to it, does not appear as a Studebaker exhibit, but it may well be the picture in the Weitzman exhibits that I thought might have an object like a mailbag in it.

When asked, "Did you take a picture of the window in the southeast corner?" he replies that he did, that there was a box or boxes on the windowsill, that his picture shows this, and when asked "Was that before any of them were moved?" he replied, "That picture right there is the one that shows them, and the other pictures show them before they were moved." The "before they were moved" further

questioning reveals refers to A and B.

Ball confuses it further by referring to boxes in the plural in the window, and Studebaker says that Exhibit A is such an exhibit. Of this he says additionally, "This is before it was ever moved, and right down below here, you can see a staple on another box or another negative, this isn't too good a negative here. If I had known what you wanted, I would have brought you a better print - picked out a better print."

This exchange then follows:

"Mr. Ball. Now, you say on Exhibit A it shows a box in the window?

Mr. Studebaker. These boxes (indicating), yes, sir.

Mr. Ball. Is that the way they were piled up?

Mr. Studebaker. Yes, just exactly like that.

Mr. Ball. And you say there is an indentation on that box?

Mr. Studebaker. Right here.

Mr. Ball. That shows in the picture.

Mr. Studebaker. Yes.

Mr. Ball. Will you take this pen and sort of surround that and make it look a little heavier?

Mr. Studebaker. (Marked exhibit as requested by Counsel Ball.) (p.140)

There is further questioning in which Ball refers to what would be shown on other negatives and in which there are other references which cannot be completely and accurately understood. Then Ball asks, "Do you have any pictures of the boxes before they were moved other than those you have showed me?" To this, Studebaker replied, "Just these two."

"Mr. Ball. Just the two that show the cartons, and those are Exhibits A and B?

Mr. Studebaker. We have probably got one down there I can get you that is a lot better print than that. If you want a better print, I can get it for you.

Mr. Ball. Then, you don't have any pictures taken of the boxes before they were moved?

Mr. Studebaker. No." (p.141)

Notice what he has said - that he does not have any pictures taken before the boxes were moved. I believe this to be the truth, but I cannot prove it.

Studebaker Exhibit D, 21 H 646, is then identified. It seems to be a reconstruction as discussed in Day's testimony that is completely impossible and totally inaccurate. He concedes this picture was taken after the boxes were dusted and moved. He also concedes they "were not in that position then when you first saw them?" However, he is not asked why they were put back in a position that was obviously false and deceptive and then photographed. Yet Ball asks him to give identifications of locations based upon this picture, such as, with respect to the boxes, "where they were with reference to the left window sill, were there boxes over close to the left window sill or in the center, or close to the right of the window sill?" (p.141)

It takes Studebaker a full page before he finally answers this question. In between he again says, in discussing one of the exhibits, "I think but I am not certain, Exhibit B, that the picture was taken before the box was moved.

Then comes this exchange:

"Mr. Ball. Now, in Exhibit A - can you tell me looking at Exhibit A whether or not these boxes were over near the left-hand corner of the sill, to the left of the sill, looking out of the window, at the center, or over at the right.

Mr. Studebaker. They were in the left-hand corner of the window looking towards Elm Street.

Mr. Ball. How close to the edge of the sill?

Mr. Studebaker. Right at the edge.

Mr. Ball. Right at the edge?

Mr. Studebaker. Yes, sir.

Mr. Ball. Now, you show an indentation or a mark on the top of the box shown in Exhibit A, is that a little Rolling Reader box?

Mr. Studebaker. Yes, sir." (p.142)

He gets into a discussion of the home-made bag on p.143 and says approximately the same thing as Lt. Day. Ball helps him out by testifying for him, such as by saying, "And it was folded, you say?" Studebaker, says, "Yes." But the fact is he ~~was~~ hadn't said anything about it being folded. (p.143)

Then this exchange comes:

"Mr. Ball. Was it folded over:

Mr. Studebaker. It was doubled - it was a piece of paper about this long and it was doubled over.

Mr. Ball. How long was it, approximately?

Mr. Studebaker. I don't know - I picked it up and dusted it and they took it down there and sent it to Washington and that's the last I have seen of it, and I don't know.

Mr. Ball. Did you take a picture of it before you picked it up?

Mr. Studebaker. No; ~~it doesn't show in any of the pictures~~

Mr. Ball. Does that sack show in any of the pictures you took?

Mr. Studebaker. No; it doesn't show in any of the pictures." (p.144)

Note that Studebaker admits what I had suspected, that no one took a picture of the bag before it was moved. Note also that he is not asked why. (p.144)

Asked to identify a box from which he lifted a print and which seems to be the box about which Day had testified, he gives it space from the south wall 16-1/2 inches. Day had given it first at 18 and then at 19-1/2 inches.

Now recalling what he had said about the moving of boxes, that some pictures were taken before boxes were moved, that no pictures were taken before boxes were moved, note this exchange:

"Mr. Ball. Did you take a picture of that box in place before it was moved?

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Mr. Studebaker. Yes.

Mr. Ball. The box from which you lifted the prints?

Mr. Studebaker. This box never was moved.

Mr. Ball. That box never was moved?

Mr. Studebaker. That box never was moved.

Mr. Ball. And you took a picture of it?

Mr. Studebaker. Yes, sir." (p.145)

He then refers to the distance of this box from the wall as 16 inches. He identifies the picture of a cart with a Dr. Pepper bottle and a paper sack that he took. (p.146)

By now a little bit of Mr. Studebaker is rubbing off on Mr. Ball who, having asked Studebaker if he saw a chicken bone "over near the boxes in the southeast corner ..." Studebaker said he didn't believe so. Ball then said, "One witness, a deputy sheriff named Luke Looney (sic) ..."

When Ball refers to some pictures in the following fashion, "Now, this is such a good set of pictures, can we have them?" Studebaker says, "You will have to see Chief Curry. He gave orders that no pictures were to be released without his permission." Is any comment necessary? Shortly thereafter, Studebaker refers to the number of pictures they have printed from their negatives, saying, "We have printed about 10,000 of them - it seems like that ..." Ball then refers to a picture of the boxes, saying "this is after they were moved?" Studebaker says, "Yes, sir; they were moved there. This is exactly the position they were in." Ball asks, "It is?" and Studebaker's response is, "Yes - not - this was after they were moved, but I put them back in the same exact position." We have already seen how exactly Studebaker returned his boxes. Ball, with reference to Studebaker Exhibit J, (21 H 649) asks,

"Mr. Ball. After the boxes of Rolling Readers had been moved, you put them back in the same position?

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Mr. Studebaker. Yes.

Mr. Ball. And took a picture?

Mr. Studebaker. Yes, sir." (p.147)

Later Ball asks Studebaker if he dusted the rifle and Studebaker's reply was, "No, sir; Lieutenant Day handled the rifle part of it. I didn't mess with the rifle at all. He took it down to the city hall and they worked on it down there at the lab." (p.148)

The box on the window sill, Studebaker says was 3 or 4 inches lower than the box next to it.

The Following excerpt should be compared with Lt. Day's testimony, which is contrary:

"Mr. Stern. Perhaps this is not the witness to establish it, but I think it might be useful to know if he has any opinion as to why the boxes were placed that way?

Mr. Studebaker. A good gun rest.

Mr. Stren. In that arrangement?

Mr. Studebaker. Yes, it was a good gun rest.

Mr. Stern. With the box in front lower than the box behind?

Mr. Studebaker. In other words, it's like this - you see - it would be down on a level like this - it shows where the butt of the gun was up behind him here. He was down like this - nobody could see him from the street. He was behind this window. He didn't shoot this way because everybody would be looking right at him." (p.149)

Remember Brennan's testimony?