

1 THE COURT: Do you have any further questions of Mrs.  
2 Pirello?

3 MS. GERTNER: Just one second, your Honor.  
4 No, your Honor.

5 THE COURT: Thank you, Mrs. Pirello, you are  
6 excused. Who is next?

7 MR. KELLY: Your Honor, the United States -- I'm  
8 sorry, your Honor, we have another witness with a problem.

9 MS. GERTNER: Mr. Robert Pirello as well. This will  
10 be very short.

11 Robert Pirello, sworn

12 Direct Examination by Ms. Gertner

13 Q Could you state your name, please?

14 A Robert William Pirello.

15 Q Mr. Pirello, would you mind either shouting or getting a  
16 bit closer to the microphone?

17 A Robert, Robert William Pirello.

18 Q And where do you live, sir?

19 A 47 Prospect Avenue, Roslindale, Massachusetts.

20 Q Directing your attention to October 28th, 1991, did you  
21 visit your aunt, Eleanor Pirello?

22 A Yes, I did.

23 Q And was that around 11:45?

24 A Yes, I did.

25 Q How did you get to your aunt's house?

1 A I was with my mother in her car.

2 Q And you were the passenger, right, in the passenger's  
3 seat?

4 A Yes, I was.

5 Q And as you were driving, as your mother was driving down  
6 Eastbourne Street, did something happen with regard to Mr.  
7 Shay, Sr.'s car?

8 A Yes, it did.

9 Q What happened?

10 A My mother, it was a dead end street, my mother was trying  
11 to turn around. And as she backed up and tried to pull back,  
12 Mr. Shay's car sort of cut her off, just got in her way a  
13 little bit, and made her wait until he pulled over to the side  
14 of the curb.

15 Q And then your mother parked the car?

16 A Yes.

17 Q While you were in the car, as you were getting out, did  
18 you look at Mr. Thomas Shay, Sr.?

19 A Yes, I did.

20 Q And did you see an object in his hand; is that right?

21 A Yes.

22 Q And can you describe, first of all, did Mr. Shay seem to  
23 be in a hurry?

24 A No, he wasn't.

25 Q He was walking in a normal pace?

1 A Yes.

2 Q Could you describe the object that you saw in his hand?

3 A I saw a tool box in his left hand, I believe it was, and  
4 another box in his right-hand.

5 Q What was the box you saw in his right-hand?

6 A Similar to a metal box, a metal box, similar to a ratchet  
7 set.

8 Q It was dark or black?

9 A It was darkish color, yes.

10 Q And what were the dimensions, sir?

11 A Probably six inches wide, maybe one inch deep by about  
12 maybe ten inch, 8 or ten inches long.

13 Q And it was a consistent color, right?

14 A Yes.

15 Q And he had a green tool box in one hand and then this  
16 object in the other hand?

17 A Yes.

18 Q After you made these observations, what did you do, where  
19 did you go next?

20 A I proceeded to go into my aunt's house.

21 Q And where did you go when you got to your aunt's house?

22 A We went into the kitchen, sat down at the kitchen table,  
23 had a cup of coffee and sat there, my aunt was waiting for my  
24 uncle to come back from his walk. And just after he came  
25 back, I don't know if he did come back or if he was there, or

1 if he was already walking up the street. I think he was  
2 already coming in on the porch and we heard an explosion.

3 MS. GERTNER: Thank you, no further questions.

4 THE COURT: Mr. Kelly.

5 Cross-examination by Mr. Kelly

6 Q Hello, Mr. Pirello?

7 A Hi.

8 Q On the day in question, sir, when you made these  
9 observations, would you tell us approximately how far you were  
10 from where Mr. Shay was when you made the observations that  
11 you described?

12 A Approximately from --

13 Q How about from me to you?

14 A Yeah, maybe just a little bit further.

15 Q So if I was back here, would this be about right?

16 A Yes.

17 Q Do you remember in one hand seeing a tool box of some  
18 kind?

19 A Yes.

20 Q Are you able to give us some better description of it?

21 A It was maybe, the tool box, it had a handle to it and --

22 Q Is it one of these open ended jobs, you know, where you  
23 can see the tools at the top?

24 A Yeah, it seemed like, yeah, because I have one at home,  
25 it seems like you flip open the latch, and you open it from

1 the top and you got one rack and the other underneath.

2 Q So am I correct, Mr. Pirello, in one hand he's got an  
3 open ended tool box and the other item in the other hand?

4 A Yes, he does.

5 Q So he's able to hold the item in the other hand?

6 A Yes.

7 Q So your description was six inches wide, ten inches long,  
8 dark consistent color looked like a ratchet?

9 A Approximately, yes, I believe so.

10 Q Mr. Pirello, this item that I'm going to show you here  
11 that I've marked for identification as Exhibit No. 52, is it  
12 possible that this is the object that you saw, Mr. Pirello?

13 MS. GERTNER: Objection, your Honor.

14 THE COURT: What's the objection?

15 MS. GERTNER: "Is it possible," your Honor.

16 THE COURT: Did you see it?

17 THE WITNESS: Yes, it could be.

18 Q Consistent in color?

19 A Yes, it was dark.

20 Q Consistent in size?

21 A Yes.

22 MR. KELLY: Thank you, Mr. Pirello.

23 THE COURT: Anything else?

24 MS. GERTNER: Yes, your Honor.

25

Redirect Examination by Ms. Gertner

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Q You believe that the object you saw was metal?

A I believe it to be metal, yes, but --

Q The object -- I'm sorry.

A But as I was -- my mother was a little, kind of huffed at the fellow for sort of cutting her off, and I told her to try to calm down and not say anything to the fellow.

THE COURT: Could you speak up a bit, Mr. Pirello.

THE WITNESS: Yes. I told the fellow my mother was kind of huffed at him for cutting her off, so I told her not to say anything. At the same time, he was getting this tool box and this other thing, and it happened pretty quick.

Q But your initial impression was that it looked like it was metal, right?

A The one he was carrying in his right hand was the smaller one, so when he was walking it was on his right side which was away from me.

Q So you just, you just got a glance of it as he was turning around?

A Yes, as he was walking into the driveway.

Q And the object that was the tool box, Mr. Kelly asked you if it was an open ended tool box where you could see the tools sticking out of them, that wasn't how the tool box was, was it?

A The tool box, it was a shape of a tool box that would

1 have a latch on it and it would swing open like this.

2 Q Right. You couldn't see the tools in the tool box?

3 A No, you couldn't see the tools, no.

4 Q And it's your memory that that was green, the tool box  
5 was green?

6 A Yes, that's what I said, yes.

7 Q But the other object was black?

8 A It was dark in color, yes.

9 Q Dark in color. And could it give the appearance of wood  
10 or metal?

11 A As I said, when he took the stuff from his car, you know,  
12 he turned and he started walking to his driveway. So his left  
13 side was facing me and the smaller box was on the right side,  
14 so I --

15 Q Was it roughly this color?

16 A It could have been, it's a dark color.

17 Q And it seemed solid to you at first. From the glimpse  
18 you saw, it seemed solid, right?

19 A At first, yeah, I'm not sure really because, like I said,  
20 he had it to his right side. I said it was solid but --

21 Q You can't tell from your --

22 A -- that was my observation.

23 Q Initially you thought it was solid?

24 A Yes.

25 MS. GERTNER: Okay. No further questions.

1 THE COURT: Anything else?

2 Recross Examination by Mr. Kelly

3 Q Have you discussed with your mother the observations that  
4 you made that day?

5 A Yes.

6 Q Is it fair to say that you and your mother remember  
7 things a little differently?

8 A Yes.

9 MS. GERTNER: Objection, your Honor.

10 THE COURT: He's already answered. The answer will  
11 stand.

12 Q You and your mother remember a little differently?

13 A Yes, we do.

14 Q With respect to this object, this item that you saw, were  
15 you able to tell if the person was carrying it like you might  
16 carry a pizza or was it somehow dangling down?

17 A It was, it was in his right hand --

18 MS. GERTNER: Beyond the scope of direct.

19 THE COURT: That it is.

20 MR. KELLY: I don't think it was beyond the scope  
21 given the appearance of metal, et cetera, et cetera, et  
22 cetera.

23 THE COURT: It is beyond the scope.

24 Q Well, just so I'm clear, is it your testimony, Mr.  
25 Pirello, that it's possible that this is the object that you

1 saw?

2 MS. GERTNER: Objection.

3 A It's possible.

4 THE COURT: We don't want to know what whether it is  
5 possible. He can tell us what the object looked like. He  
6 shouldn't tell us whether it is possible or not.

7 Q You aren't able to tell us what the object was made out  
8 of, are you, sir, because you simply don't know?

9 A No.

10 Q Thank you.

11 MS. GERTNER: All you can say, sir --

12 THE COURT: You are not only beyond the scope, but  
13 this is round three so Mr. Pirello is excused. Thank you.  
14 Now, we go back to the prosecution's witnesses and we  
15 stretch. You can see what would happen if we didn't limit  
16 examinations, we could have ten rounds.

17 (Pause.)

18 MR. KELLY: Your Honor, the United States calls  
19 Robert Evans.

20

21

22

23

24

25