

HEARSAY

ROBBERY VICTIM AND LINEUP

PHOTOGRAPH

Hearsay Defined

- Federal Rule of Evidence 801(c) defines hearsay as a statement, the declarant does not make while testifying at the current trial or hearing and a party offers in evidence to prove the TRUTH OF THE MATTER ASSERTED in the statement.



<https://youtu.be/cmWcUnYg1zI>

Objections: Overcoming Hearsay Objections
Two Examples

Texas Rule 801 (e) : Because the Rule Says So...

- Rule 801(e) declares 5 exemptions of would be hearsay statements to be non-hearsay simply "because the rule says so."
 - 1.) Prior inconsistent statements
 - 2.) Prior consistent statements offered to rebut a charge of recent fabrication, improper influence or motive
 - 3.) Prior statements of identification of a person made after perceiving the proceeding
 - 4.) Admissions by a party opponent
 - 5.) Depositions taken in the same proceeding

ROBBERY VICTIM & LINEUP PHOTOGRAPH

David Bradley is robbed on 01/15/2015, at 11:00 P.M., on the way to his apartment building from parking lot

- Lot is located next to the building
- Only light is located directly across from the lot

Bradley Gives Description of Two Men to Police

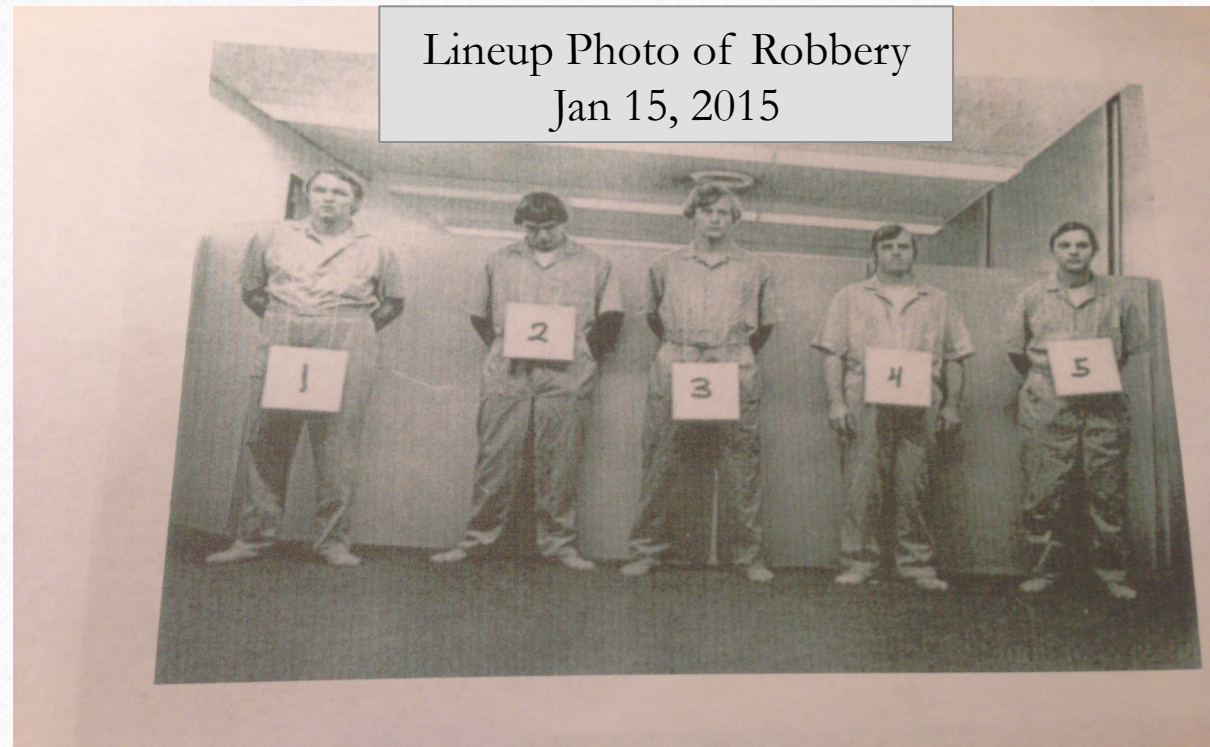
- Each were around 25 years of age
- White
- Approximately 5'10"
- 175 lbs.
- Wearing Blue Jeans and White T-shirt
- Neither had Beard nor Mustache
- No Unusual Hair or Noticeable Features

3 Days Later, Bradley is called to the station, to view a lineup.. Upon arrival Bradley is asked if he recognizes anyone in the lineup as his assailants to point him out. Bradley identifies the second person from the left, defendant, Sam Jones.

1.) Prosecution conducts a direct examination of Bradley

- Establish identity, residence, and place of employment, hours of employment and length at employment
- What time does Bradley usually get home
- How is Bradley's vision
- Do you remember the events of the evening of January 15, 2015
- Can you tell us how you felt?
- Why were you terrified?

2. Prosecution conducts a direct-examination of Bradley using photo below to illustrate his testimony



2. continuation

- Bradley identifies the second person from the left as one of the persons who confronted him on Jan 15, 2015.

3.) Defense Cross-examination of Bradley

- Did they have a weapon?
- Do you wear prescribed reading glasses?
- Have you ever had an eye exam?
- Is there a light post in the parking lot where you parked?
- Where did the two men approach you?
- Do any of these hair styles stand out to you?

4. Defense cross-examination of photo

*The scenario for this question presumes photo was not introduced as evidence, however, Bradley does identify the defendant in court as one of the robbers. Acting as defense we do have the photo as evidence

- Were you ever asked by the police to come into the station following the incident on Jan 15, 2015?
- Were you asked to view a lineup to identify the two men you encountered in the parking lot on the night of the night in question?
- Were you able to identify anyone in the lineup as the two people you encountered on the night in question.