

AREA RESOURCE GUIDE

(Services listed are provided free of charge, or have income-based scheduling)

Homicide Support/Advocacy

Compassionate Families
354-0007, 721-3326
Life Is Valuable
908-0989
Parents of Murdered Children
262-0866, 713-9683
Victim Services Center
630-6300
Jax. Sheriff's Office Victim Advocate
630-1764

Abuse (Domestic)

24 Hour Hotline
1-800-500-1119
Hubbard House Emergency
Shelter & Counseling
354-3114
Quigley House (Clay County)
1-800-339-5017

Compensation (victim)

Victim Services
630-6300
MADD Victim Services
388-0664

Consumer Fraud

State Attorney's Office
630-4994

City of Jacksonville

Consumer Affairs Division
630-3467

Detoxification

Gateway Community Services
387-4661

Family

Family Nurturing Center of Florida
389-4244

Guardian Ad Litem Program

220 East Bay Street, 6th Floor
Jacksonville, Florida 32202
(904) 630-1200

Legal Assistance

Legal Aid
356-8371
Three Rivers Legal Services
126 W. Adams St., 7th floor
Jacksonville, FL 32204
904/394-7450

Mental Health Center of Jacksonville

333 West 20th Street
Jacksonville, FL 32254
(904) 695-9145

Mothers Against Drunk Driving

(MADD)
388-2455

Rape

Sexual Assault
Response Center
244-RAPE (244-7273)
Office: 244-4600

RAPE Recovery Team

722-3000

State Attorney's Office

630-2400

Trauma Counseling

Women's Center of Jacksonville
722-3000
City Victim Services
630-6300

Youth Crisis

Youth Crisis Center - The Safe Place
3015 Parental Home Road
Jacksonville, FL 32216
904-725-6662

Eyewitness Testimony



Know Your Rights

by Atty.
Jay C.
Howell

The credibility of individuals who witness traumatic events has always been the subject of debate within the criminal justice system. Witnesses sometimes get it wrong. I remember a case I tried as a prosecutor which involved the armed robbery of an armored truck that was picking up the bank deposits from a local grocery. There were two individuals seated in the front seat of a vehicle immediately behind the armored truck. One of the witnesses was emphatic in declaring that the armed truck guard had fired a shot at the fleeing suspect. The other individual, seated in the same car, was equally certain that no shot had been fired.

Because of these kinds of problems, the prosecutor often attempts to elicit testimony from the investigating detective that such witness mistakes are common. It helps to convince the jury that the mistaken testimony is still reliable for belief and conviction. In a recent Ft. Lauderdale robbery case, the sole evidence against the defendant was his positive identification by the victims. The victims were brothers, and none of the articles taken from them were ever recovered. They had described the robber as standing about six feet tall, with a muscular build. The defendant was 5' 7" tall and weighed 150 pounds.

The defendant became a suspect in the case when a friend of the victims showed them a news article describing an attempted robbery in which two of the four

perpetrators were killed by the intended victims. Two other perpetrators, including the defendant, survived. In the news article there were four photographs. The victims noted that one of the photographs looked familiar and concluded that the defendant, who was pictured in the news article, was one of the persons who robbed them.

After seeing this picture, the victims prepared a police sketch and subsequently picked the defendant's picture from a photo lineup. At trial, although the victims positively identified the defendant as the perpetrator, they conceded that he looked different from the way the robber looked at the time of the crime. His skin was lighter, he was wearing glasses, and he had lost weight. There was also the discrepancy about the height.

The investigating detective testified over the defense attorney's objection that, based upon his training and experience in eight years in the robbery unit, a victim's property is rarely recovered unless the perpetrator is caught immediately after the incident. In an attempt to explain the discrepancy in the description given by the victims, he was permitted to testify, over objection, that such discrepancies are normal and often occurred in the cases he investigated. He said this was particularly true in descriptions of height, because the person who is being robbed is experiencing a traumatic event, and very rarely will that person get the perpetrator's height exactly right.

The defendant was convicted on two counts of robbery with a firearm and one count of kidnapping with a firearm in his possession. He appealed his conviction, arguing to the Florida

appellate court that the trial court was wrong in admitting the testimony from the investigating detective about the unreliability of eyewitness testimony. The court reviewed an earlier appellate court decision in a robbery case that was also based upon the identification by the victim.

In that case, the victim originally told investigators that she was unsure if she could identify her attacker but, later when the police showed her a photo lineup, she identified the defendant and said she was 100% sure. At that trial the detective was asked whether or not it was unusual for someone to say that they may not be able to identify someone and then later positively pick the perpetrator from a lineup. The detective responded that it was not unusual and that same scenario had occurred in some of his investigations. The appellate court had reversed the conviction in that case because of the commentary about eyewitness identification.

In this case, the appellate court made a similar ruling, saying that because the identification of the defendant was the crucial issue at trial and the testimony of the investigating detective was directly related to that issue, the trial court made a mistake. The case was reversed for a new trial. The court concluded that the testimony amounted to an improper comment on the reliability of eyewitness identification.

In my own robbery trial, the witness who said the bank guard did not discharge his weapon, was wrong. Amazing as it seems, he sat in a vehicle within twenty feet of a security officer firing a shot at a fleeing robber and failed to remember that it had happened.

The case is Calixte v. The

State, and it can be found in legal publications at 31 Fla.L.Weekly D2854. It was decided by the Fourth District Court of Appeal on November 15, 2006.

Jay Howell, a Jacksonville attorney, has been a State Prosecutor, a US Senate Investigator, and the founder of the National Center for Missing and Exploited Children. He represents crime victims in civil claims for damages and advocates for the legal rights of all victims.

P.O.P.S.

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ON MARCH 20th
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