

1 IN THE CRIMINAL COURT OF RECORD
2 IN AND FOR DADE COUNTY, FLORIDA

3 CASE NO. 69-2355

4 STATE OF FLORIDA,)
5)
6 Plaintiff,)
7)
8 vs.)
9)
10 JAMES MORRISON,)
11)
12 Defendant.)
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24)

11 Proceedings had and taken before the Honorable
12 Murray Goodman, Judge, Criminal Court of Record, in and
13 for Dade County, Florida, at 1351 Northwest 12th Street,
14 Miami, Florida, on September 2, 1970.

15 APPEARANCES:

16 TERRENCE J. McWILLIAMS, ESQ., and
17 LEONARD RIVKIND, ESQ.
18 Assistant State Attorneys
19 on behalf of Plaintiff

20 MAX FINK, ESQ., and
21 ROBERT C. JOSEFSBERG, ESQ.
22 on behalf of Defendant.
23
24

1 THEREUPON:

2 DAVID LEVINE

3 was called as a witness on behalf of the Defendant, and
4 having been first duly sworn, testified on oath as follows:

5 CROSS EXAMINATION

6 BY MR. McWILLIAMS:

7 Q David, how long have you been a photographer?

8 A About four years.

9 Q What photography shops have you worked in?

10 A I worked at Blow-Up Miami which was located
11 at 163rd Street and Sunny Isles. It was a place that did
12 enlargements, and after that I worked at another enlargement
13 placed called Trick Pix on Collins.

14 Q Did you have any form of training in handling
15 photography?

16 A You mean in school?

17 Q Yes. Did you study any courses in it?

18 A No.

19 Q Are you familiar with bulk film?

20 A Yes.

21 Q Were you using bulk film that night?

22 A No, sir.

23 Q Will you describe to the jury what bulk
24 film is?

1 A You can save money by buying a long roll of
2 film, put it in the cassettes yourself. It comes in 25
3 and 100 feet length. You wind it into the cartridges
4 yourself.

5 Q When you use bulk film are there little
6 numbers on the negatives?

7 A Yes, sir.

8 Q Do they run, for instance, 1 to 10, or
9 how do they run?

10 A I don't know how they run. I have never
11 used bulk film.

12 Q You have never used bulk film?

13 A No, sir.

14 Q How long have you been active in the
15 profession of photography?

16 (Objection, overruled.)

17 A How long have I been involved in it, in
18 the profession, about two years.

19 Q Do you use a lot of film?

20 A A fair amount.

21 Q Do you consider yourself an expert in
22 matters of photography?

23 A Yes, sir.

24 Q How many pictures did you take that evening?

1 A 36.
2 Q How many turned out?
3 A About 10. More of them turned out. What
4 I mean by not turning out, I mean blurred from motion.
5 When you are shooting available light, the light there,
6 you have to use a very slow shutter speed. You have to
7 push the film. If you give it more development it makes
8 it more sensitive. I had to push the film. With a slow
9 shutter speed if somebody moves it will blur it.

10 Q Where are the other photos that did turn
11 out?

12 A I have the negatives at home.

13 Q Were you instructed not to bring those to
14 court?

15 A I wasn't instructed anything.

16 Q What is your address, Dave?

17 A 2455 North Meridian.

18 Q Is that on the Beach?

19 A Yes, sir.

20 Q Now, one of your photographs -- counsel
21 asked you a question if you saw any masturbatory movements,
22 any movement which might indicate masturbation. You said --

23 A I didn't say it that way. It wasn't what
24 I said. He asked me if I saw anything resembling. He

1 didn't say movements.

2 Q What was your response? Will you give it
3 to me again?

4 (Objection, overruled.)

5 Q What was your response?

6 (Objection, overruled.)

7 Q Did you see any movements on the stage by
8 Morrison which indicated masturbation to you?

9 A To me?

10 Q Yes. Answer yes or no.

11 A Yes.

12 Q Tell the jury what you saw.

13 A He did hand movements but that was just --

14 Q Show the jury what you saw him do.

15 A He just went like this.

16 Q How many times?

17 A Just a couple of times that I saw.

18 Q Could it have been as many as five times?

19 A I didn't count them.

20 Q You couldn't count them?

21 A I didn't count them. It didn't phase me
22 one way or the other.

23 Q What was he doing when you took this picture?

24 A He just slid his hands in his pants and moved

1 his head back. It had nothing to do with that. It was
2 before that.

3 Q How many times did he make these movements,
4 just little up and down movements?

5 A I don't know, a few.

6 Q More than two?

7 A More than two.

8 Q More than five?

9 A I don't know. I can't say for sure because
10 I don't remember.

11 Q Tell the jury approximately how many times
12 you remember him doing this.

13 A Between five and ten, how is that?
14 (Discussion between counsel.)

15 Q David, was Mr. Morrison standing up or
16 sitting down when you observed these movements?

17 A He was standing up.

18 Q Would you please, sir, stand up and show the
19 jury so we may accurately describe the motions, what you
20 saw.

21 A He just went like this a few times,
22 between five and ten.

23 (Discussion between counsel.)

24 Q How close to Mr. Morrison's groin did his

1 hand come these five or ten times?

2 A I don't remember.

3 Q You don't remember?

4 A No.

5 Q Was it less than a foot?

6 THE COURT: Son, stand up and do that
7 again and stop your hand at the closest point it gets to
8 your body.

9 A This was between six and eight inches.

10 THE COURT: Are you satisfied that is what
11 he did before? Stop your hand at the closest point to the
12 body.

13 MR. McWILLIAMS: Approximately six to eight
14 inches away.

15 MR. FINK: We had better get a tape measure.
16 That is the longest six inches I have ever seen.

17 THE COURT: Stand up again. The Court
18 will have to describe it.

19 Well, it looks like it is a movement which
20 is inclined to the body at a 45 degree angle. Stop at the
21 highest point -- starting about opposite the chest and
22 ending about opposite the navel. I think that any other
23 court could now tell from the record what happened.

24 Q (By Mr. McWilliams) David, were these ten

1 times you saw all this one instance or were they ten
2 different occasions?

3 A One instance, maybe two, probably one I
4 think, if I remember right.

5 Q Maybe two?

6 A It is possible but I can't say for sure
7 because it was pretty wild. I was getting squished.

8 Q How many times did you see him with his hand
9 inside his pants?

10 A Just once.

11 Q When you say you were getting squished
12 where did you go?

13 A There was no place to go. I was just
14 squished.

15 Q What did you do with your camera after --

16 A I held it up like this and just hoping --
17 I kept it at my eye and I was just hoping nothing would
18 happen. There wasn't nothing much I could do. It was
19 only one possible place I could go. That was onto the
20 stage. The guards were up there and everything. People
21 kept pushing and, you know, I just couldn't go anyplace.

22 Q Do you have any pictures with the defendant's
23 shirt off, yes or no?

24 A On the roll I have some. I'm not sure

1 whether they were printable or not.

2 Q Are you telling the jury you were watching
3 the performance the entire time, is that right?

4 A Yes, sir.

5 Q Did you ever take your eyes off the stage?

6 A No. I missed, I might have missed some-
7 thing like right at the end but I think they just took
8 him right off.

9 Q Are you telling the jury there wasn't any
10 period of five to eight seconds when you weren't watching
11 the stage?

12 A It is possible I may have missed something.

13 Q Isn't it a fact there were people on the
14 stage, yes or no?

15 A Yes, sir. I have a picture of some people
16 on the stage.

17 Q Isn't it a fact when there were people on
18 the stage they were on both sides of Morrison, isn't that
19 a fact?

20 A At one point they were moving around but I
21 could still see. I have photographs like that girl that
22 went up there.

23 Q Isn't it a fact they were on both sides of
24 Morrison and isn't it a fact you were on the side of

1 Morrison?

2 A No, I was in front. I was at the front
3 right-hand corner of the stage.

4 Q Did some of these people walk in front of
5 you at any time?

6 A There was no place to walk.

7 Q On the stage?

8 A No.

9 Q Do you recall hearing, isn't it a fact
10 that you recall hearing the defendant say, "Do you want
11 to see my cock"?

12 A Yes.

13 Q You do remember that?

14 A Yes.

15 Q Isn't it a fact you remember him saying,
16 "Here it is"?

17 A (Shakes head.)

18 Q Isn't it a fact that you heard him say,
19 Morrison say, "I want to see some nakedness in the
20 audience." Didn't you hear him say that?

21 A I don't remember.

22 Q Did you hear him say, "I will show you
23 mine if you will show me yours"?

24 A I heard that from someplace out it might

1 have been from the audience because people were yelling
2 from the audience, too.

3 Q At that particular point you were paying
4 attention to the stage then?

5 A I was paying attention to the stage but
6 it was still noisy.

7 Q You don't know where the comment came from?

8 A That particular one, no. That is just
9 memory. It has been a year and a half. I remember
10 hearing it but I am not sure he said it because I remember
11 that or something similar coming from the audience.

12 Q What did he say when he took his shirt off?

13 A I don't know.

14 Q Were you paying attention?

15 A I was watching mostly more than listening.
16 It is a habit I have. I look around for things happening.

17 Q You have told us about that near the end
18 it was getting out of hand. How was it getting out of
19 hand, what was happening?

20 A The crowd, they were, I don't know.

21 Q What were they doing?

22 A They were trying to get up on the stage.

23 Q Why?

24 A Why, I don't know.