

Robert Simon.

ROBERT P. SIMON, being duly sworn according to law,  
testified as follows:

DIRECT EXAMINATION

By Mr. Fierro:

Q. State your name?

A. Robert P. Simon.

Q. Where do you live?

A. 1804 Princeton Avenue.

Q. Where do you work?

A. Stroehmann Brothers' Company Roll Plant.

Q. That is on Lycoming Creek Road?

A. Yes, Sir.

Q. What is your position there?

A. Production Manager.

Q. Mr. Simon, do you know Mr. Hubbard?

A. Yes, Sir.

Q. Do you know when Mr. Hubbard went to work

for Stroehmann's?

A. Not until I talked with Mr. Fenstermacher and looking  
over the records.

Q. And when was it when you looked at the records?

A. On the 24th, Sir.

Q. The 24th of what?

A. October.

Q. What year?

A. 1973.

Q. Now, I think Mr. Fenstermacher said he went to work

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somewhere around 4:00, is there a 4:00 shift?

A. Yes, Sir.

Q. Was that like 4:00 to 11:00?

A. 4:00 to 12:30 or in that area.

Q. Who was, at least on October 24th, in charge of that shift, or was there more than one man?

A. It would probably be Mr. Terry Andrews, that is the man that is in charge of that shift.

Q. What do you know concerning what equipment, if any, is issued to an employee at that particular Plant?

A. When a man starts work he is issued a pair of pants, a shirt and a white hat, a helmet.

Q. You say when he starts work he gets it?

A. Yes, Sir.

Q. I want to show you what has been identified as Commonwealth's Exhibit No. 115, if you wish you may remove it from the bag, it is up to you, but I want you to look at it?

A. Yes.

Q. What is that?

A. This is the type of helmet we use at the bakery.

Q. Look at the brand?

A. Yes.

Q. What brand is it?

A. Scalp-cap.

Q. Do you know whether that is the brand you use at the bakery?

A. I would not swear to it, but I am pretty sure it is.

Q. But this is the type of helmet that you issue, is that correct?

A. Yes.

Q. When you say clothing, what do you mean?

A. Pair of white pants and a white shirt.

Q. Cross examination.

By The Court:

Mr. Ertel?

CROSS EXAMINATION

By Mr. Ertel:

Q. I take it you were not directly responsible for Mr. Hubbard at all, I mean you were not right in contact with him during his employment?

A. Well, I hired him.

Q. You hired him?

A. Yes.

Q. Did you take his Application?

A. Yes, Sir.

Q. Do you remember specifically having him fill out his Application?

A. Outside of seeing quite a few Applications, I would believe that would be the one.

Q. Could it have been Mr. Fenstermacher that took his application rather than you?

A. Well, it is kept in the office, once I hire a man, then it is given to the office and put into his records.

Q. Well, that is dated the 10th of October?

A. Yes, Sir.

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Q. Is that when you hired him?

A. I believe, looking at the records, there is times that somebody can come in and put an Application in and not be hired for a week, a day, a month or a couple of months, depending on the need for people, so it is quite likely that he could have put it in on the 10th and not been hired right away.

Q. You don't know about this?

A. No.

Q. You don't know when he was hired?

A. Just from going over the records, it was the 24th.

Q. That is the day he started work?

A. Yes, Sir, the day he started work.

Q. But when was he hired?

A. That, I couldn't tell you, Sir.

Q. Could it have been before the 24th and told to come in on that particular date, is that true?

A. Yes, Sir.

Q. And at that time you would have issued his helmet and his white clothing?

A. Common practice is to be given to him when he starts working, the day he started work.

Q. You don't know specifically whether Kim Hubbard got it when he was hired or when he started work, is that correct?

A. No, Sir, I don't.

Q. If Mr. Fenstermacher said when he applied and if he was hired then, it might have been given then, or when he started work, you don't know about that?

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A. No, it is common practice to give it whenever the man starts his work, his shift.

Q. You don't know who issues this, do you?

A. At the time that it was being issued by myself and by the supervisor on duty.

Q. You have not talked to Mr. Andrews to ask him if he....

A. We discussed it but he doesn't remember and I don't remember. At the time there was a constant turnover of employees.

Well, you were looking for people back around October, is that right, somebody came in you were really sure for people?

A. Any particular day, yes.

Q. Incidentally, there is red ink on there which might be the same handwriting, do you know whose red ink handwriting that would be the person that wrote it, and he wrote a "20" I believe?

A. This would possibly be the Secretary and Telephone Operator.

Q. What would the "20" indicate?

A. 20 years of age. That is my handwriting on top, "The second shift Sweet Rolls."

Q. Then you have up here "Start 10-29", I believe. Did you write that?

A. I had written 10-28. I don't remember why the "9"

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was on there, I don't recall changing it to "9".

Q. Do you remember writing that "Start 10-28" was that before, was that back, was that back at that time or was that just recently you wrote that, if you know?

A. No, it had to be the time I hired him, at the time I hired him. I don't recall why it was put on here.

Q. But that is your writing?

A. Yes, Sir, that is my writing.

Q. Incidentally, this helmet, this type of helmet, do you know where you purchase them?

A. No, Sir, I don't, that is I don't even know who purchases them, whether Mr. Fenstermacher would or whether it is purchased through General Office.

Q. Could you have put that on there that he was supposed to come on the 28th when you first interviewed him on the 10th, that that was the date he was given to come into work?

A. I would say it is likely, there is occasions that somebody comes in and puts an Application in and says, "I cannot come to work for two weeks.", and if I think the man is, would be a good employee, then I will say "Whenever you can come here, if you need two weeks to get straightened out, then it is okay, I will hire you whenever you come."

Q. You know 10-28 is exactly two weeks from 10-10?

A. I just used that as an instance, I have a man that just came in today that was here five days ago, I believe that he said he had to get things straightened out in Kentucky.

Robert Simon.

Q. We can't talk about other men, we have to talk about this one, but that is a possibility also, you just don't know?

A. No, Sir, I don't.

Q. No further questions.

RE-DIRECT EXAMINATION

By Mr. Pierro:

Q. When an Application is submitted, is a medical examination required?

A. Yes, Sir, before they start work a medical examination is required.

Q. That Application is dated what?

A. 10-10, I believe.

Q. And do you know when the medical examination was submitted, would it show there?

A. It would not show on here, but according to the records of Mr. Fenstermacher it was on the 18th that the Doctor had the examination.

Q. And that is required before he goes to work?

A. Yes, Sir, they have to have an examination before they come into the Plant.

Q. Thank you.

RE-CROSS EXAMINATION

By Mr. Ertel:

Q. Can he be hired subject to him passing the medical examination?

A. Yes, Sir.

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Q. No further questions.

By Mr. Pierro:

Thank you, that is all.

(Excused from witness stand.).

By The Court:

Everyone else remain, the Defendant is excused.

The Jury is excused until tomorrow morning at 9:00. Court stands in recess until tomorrow morning at 9:00.

(Recessed at 5:15 P.M., EDT.).