



DOWNSTATE ILLINOIS INNOCENCE PROJECT

INSTITUTE FOR LEGAL AND POLICY STUDIES
UNIVERSITY OF ILLINOIS AT SPRINGFIELD
Public Affairs Center, Room 429
One University Plaza Springfield, Illinois 62703-5407

UIS investigation proves the black Pontiac Bonneville owned by David Swann had tinted windows, corroborating the testimony of a key defense witness Vickie Gagnon

A key defense witness, **Vickie Gagnon**, described seeing the black Pontiac Bonneville bearing “CADS 7” license plates, the vehicle Karyn Slover was driving, traveling in the direction of Champaign on Friday September 27, 1996. The vehicle was eastbound on Route 105 east of Cerro Gordo, IL at approximately 5:25 p.m.

Gagnon, employed by Monticello Bus Services Inc., departed the Cerro Gordo High School at approximately 5:15 p.m. to transport the football team to its game in Bement, IL. Approximately 5 to 10 minutes after departing, she was passed by a black vehicle that had CADS 7 license plate near the Millmine Road. She estimated the time would have been around 5:20 to 5:25 p.m. The car appeared to be in a hurry, traveling at a high rate of speed. **“The windows were tinted . . . not real dark but they were tinted.”**

Direct examination by defense counsel Vigneri:

Q: Okay, You said that the car that passed you on Friday had windows of some tinting?

A: Right.

Q: You are holding an exhibit now that shows what?

A: Except for this picture here, they look like they are a little tinted.

Q: Okay. Let me ask you this. In the Group Exhibit that you are holding, No. 12. how does the car that’s depicted in those pictures, how does that line up or compare, if at all, with the car that you saw pass you?

A: It looks like the same car.

[See trial transcript of Vickie Gagnon, at p. 3011, 2012]

Had the jury accepted Gagnon’s testimony as true, this evidence would have disproved the State’s theory that Karyn Slover traveled to Mt. Zion to pick up Kolten, where she was allegedly killed by the Slover family.

To counter Gagnon's testimony, prosecutors called David Swann, owner of the 1992 black Pontiac Bonneville to elicit evidence that the windows were not tinted:

Direct examination by prosecutor Jack Ahola:

Q: How long had you had that vehicle?

A: Approximately a year-and-a half.

Q: **Did it have tinted windows?**

A: **No, sir, it did not.**

* * * *

Q: Mr Swann, I have some photographs of the car only. I would like you to take a look at it on the screen.

Q: What does slide No. 1 show?



People's Exhibit # 8, p. 27

A: It is a picture of my 1992 Pontiac Bonneville.

Q: That's what you saw when you were summoned to the interstate?

A: Yes, it is.

Q: Go to the next photo, please. Photo No. 2, what is that?



People's Exhibit # 8 page 27

A: That's a picture of my car, also.

Q: Is that a fair and accurate picture of how it was when you saw it on the interstate that night?

A: Yes, it is.

Q: I would like for you to take a look at some pictures of the interior. Go to the next one, please. Photo No. 3, what is shown in this one?

A: Driver's side door open. . .

Q: And do you see on this picture any of the windows of the vehicle?

A: Yes, sir. On the back window you can see it is partially open, **and you notice that they are not tinted windows.**

Q: And that's about two inches open?

A: Yes, sir, I would say, approximately two, two-and-a-half.

Q: Next picture please. What is picture No. 4?



People's Exhibit # 8 page 28

A: It is also a picture of my '92 Pontiac Bonneville.

Q: **And that shows the absence of any tinted windows?**

A: **That is correct.**

[See Trial testimony of David Swann at. p. 1517; 1540-41]

The photographs that were shown to David Swann were taken in a dark setting with the dome light of the car illuminating the interior. These photographs taken by CSI Joe Siefferman give an optical illusion of the car having clear glass windows due to the

dome light being on inside the vehicle under night time conditions. These photographs do not portray a true picture of the car's tinted windows.

The more accurate photo that demonstrates the tint in the car's windows was taken after the car was towed and placed inside a brick building. One photo in particular shows the contrast of the tinted windows against the background of the red brick wall.



The photo above was taken from inside the vehicle looking out. A view through the glass of the driver's door and front windshield shows that the red brick wall appears visibly darker in shade due to the effect of the tinted glass. This contrast provides a more accurate picture as to whether the windows appear tinted.

Unfortunately, defense attorneys failed to bring this photo to the attention of the court or to the jury as conclusive evidence of misconduct by the prosecutor.

The prosecutor's cross-examination of Ms. Gagnon was highly effective, but unfairly misled the jury.

Cross-examination by prosecutor Jack Ahola:

Q: Well, you told the defense attorney that the windows were tinted, right?

A: Yes.

Q: And you told Officer Dunlap that you couldn't see who was in the car because the windows were tinted, didn't you?

A: Yes.



People's Exhibit #8, page 28

Q: I am going to hand you what's been marked as People's Exhibit No. 8. referring you to page 28, which shows some pictures of a vehicle. Now, you are saying that the vehicle shown on page 28 is the same car that passed you?

A: Yes.

Q: You see any tinting on any of these windows?

A: No.

THE COURT: I want the jury to know what we are talking about. So, if you will step down, ma'am, in front of the jury box and let's point out the pictures that the witness is testifying about. You can repeat the question and answers.

(witness off the stand.)

MR. AHOLA: Thank you.

Q: You are looking at page 28, right?

A: Right.

Q: You see three pictures of a car?

A: Right.

Q: And the top two show numerous parts of the window, right?

A: And none of these windows are tinted, are they?

Q: No.

THE COURT: Please, step back just a little bit. I am not sure the jurors on this end can see.

Q: So, none of those windows are tinted?

A: No.

Q: But the car that you saw had windows that were tinted?

A: Correct.

Q: So, this is not the same car that you saw, is it?

MR. VIGNERI: Objection, Your Honor. I think she has answered that.

* * *

Q: Do you remember the question?

A: I am not sure I do.

Q: The car that you saw, did it have tinted windows?

A: I believe so, yes.

Q: And the pictures that you just saw in the book, that car does not have tinted windows in that book, right?

A: Correct.

Q: Did the car that you saw have the same windows as the one in the book?

A: Well, I would assume, so, yes.

Q: So, where are these tinted windows that you refer to?

A: I don't know.

[See trial transcript of Vickie Gagnon, at p. 3020-3023.]

On March 9, 2006, UIS student **Mark Camper** interviewed **Albert J. Brown**, a service advisor at S & K Pontiac GMC located at 1400 S. Dirksen Parkway, Springfield, IL. Mr. Brown ran the vehicle identification number of the Pontiac Bonneville owned by David Swann through a computer data base and determined that this particular vehicle was equipped at the factory with tinted windows.¹ (See March 9, 2006 interview report of AJ Brown.)

Mr. Brown provided a sworn affidavit. Mr. Brown relied on both photographic evidence and information provided by the vehicle manufacturer in expressing his conclusion that the vehicle definitely had tinted windows. He observed: "One can obviously see from the photograph that the car windows are slightly tinted. . . . Vickie Gagnon was correct when she described the vehicle having a light tint to the windows." [See Affidavit of Albert Brown.]

The misleading use of the photographs and testimony of David Swann denied the Slover family of a fair trial.

¹ VIN # 1G2HX5360N12304528840A