

BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

In Re the Matter of)

CONFIDENTIAL

THORNTON B. HATTER, Judge Pro Tem)

Commission No.

Jefferson County District Court)

93-1445

1820 Jefferson Street)

P.O. Box 1220)

CONFIDENTIAL

Port Townsend, Washington)

98368-9920)

COPY

Deposition Upon Oral Examination

of

THORNTON B. HATTER

Taken at 38th Floor, Key Tower
Seattle, Washington

APR 19 1994

DATE: April 12, 1994

REPORTED BY: Patrice E. Starkovich, RPR
CSR NO.: ST-AR-KP-E511MF

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1 Q. Have you ever encountered an individual by the
2 name of Tim Bean?

3 A. Yes.

4 Q. Can you tell me how that came about.

5 A. I am not -- it has been a while now. This has
6 been like 1984, 1985. I am not.

7 I am just not recalling the initial --

8 Q. Is it correct that on the evening when you first
9 encountered Mr. Bean, you were driving around on the
10 freeway?

11 A. No, I don't believe so.

12 Q. Were you driving around at all when you first
13 encountered Mr. Bean?

14 A. I believe so.

15 Q. What time of the night was it?

16 A. I don't see what the relevance of this is.

17 MR. HATTER: I am going to object. It has
18 nothing to do with any allegations.

19 A. I didn't know Mr. Bean in 1991. I had a few
20 encounters with him, I believe, in 1984 and 1985.

21 Q. Is it correct that you had been driving around
22 late at night or very early in the morning when you
23 encountered Mr. Bean?

24 A. You seem to be reading a statement.

25 Q. Yes.

1 A. Is that a statement that I wrote?

2 Q. Yes.

3 A. Okay. That is my recollection, and, whatever is
4 there, I will accept as true.

5 Q. Why was it that you were driving around that
6 night?

7 A. May I look at the statement?

8 Q. Certainly.

9 A. Oh, I remember. This is when I got my then new
10 car. I bought a new car that day.

11 MR. TAYLOR: For the record, the witness was
12 looking at a statement dated May 29, 1985, that was taken at
13 Kenmore Precinct Two, and it is the statement of Thornton B.
14 Hatter, and it is five pages long.

15 Q. How is it that you came to be driving around?

16 MR. HATTER: I object to the relevance of any
17 of this.

18 Q. My question is: How was it that you came to be
19 driving around?

20 A. I don't recall. Any question that you have, I
21 will respond as I responded in my statement. I don't have
22 any independent recollection of anything there. That was
23 timely written, and that is my recollection.

24 Q. In fact, you testified about this incident at
25 length at your trial, did you not, sir?

1 A. I don't recall testifying at length about it.
2 There were a few things that I recall.

3 Q. Did Mr. Bean testify at your trial?

4 A. Sure, he did. He testified he had no recollection
5 of the incident, and evidence was offered that he had
6 recounted the entire incident. It was never charged. So I
7 don't see what the relevance is.

8 Q. On the night --

9 A. What are you trying to show? Are you trying to
10 get me to say I did some criminal wrongdoing in 1985 or
11 something when I was barely out of law school that has some
12 relevance to the Commission on Judicial Conduct? I don't
13 believe so.

14 Q. I am simply trying to develop the facts, sir.

15 A. The fact is he recanted anything that he might
16 have said. I don't believe Mr. Bean ever gave a statement.
17 There was a statement given by an Officer DiMonda who is the
18 gentleman whose name appears at the top of the statement of
19 mine here, dated May 28, '85.

20 Office DiMonda gave a statement which was directly
21 contrary to his partner's statement and Officer DiMonda also
22 testified at the trial last year. I understand he was
23 removed from the force from having something to do with
24 this, but they wouldn't let me go into that. I don't know
25 what you are getting at.

1 Mr. Bean, himself, said he had no recollection of
2 any sexual misconduct or any misconduct on my part, and I
3 stand on my statement I made in 1985.

4 Q. What I am asking, sir, is, on the evening in May
5 of 1985, when you first encountered Mr. Bean, why was it
6 that you were driving around that evening?

7 A. I don't recall. I don't recall except to the
8 extent that I might say in that statement.

9 Q. Isn't it true that you had been driving around for
10 some time that evening before you encountered Mr. Bean?

11 A. I don't recall. Whatever I say in the statement
12 is true.

13 Q. So --

14 A. Provided you take it in context.

15 Q. Well, Mr. Hatter, I am just trying to find out the
16 facts. If you have context to add to this, please do.

17 A. You are not asking me if I want to add to it. You
18 are pulling questions out of the blue, and I just don't
19 recall.

20 Q. Place it in context then for me and tell me --

21 A. I am not asking the questions. You know, when you
22 say something like weren't you driving around for a long
23 time that evening, five, six years ago, I just don't have a
24 recollection. If I make reference to it, you know, I will
25 accept that. I am not trying to say I didn't, if I said I

1 did. I am just saying I don't recall.

2 Q. Do you recall on an evening in May of '85 when you
3 and Mr. Bean were parked outside or adjacent to some
4 gasoline tanks?

5 A. Right.

6 Q. How did it come to be that you and Mr. Bean were
7 parked in your car adjacent to some gasoline tanks?

8 A. That is explained in the statement. I don't have
9 anything to add to it.

10 MR. HATTER: I object to the relevance.

11 Q. Is it correct that, while parked with Mr. Bean
12 adjacent to the gasoline tanks, that you had physical
13 contact with Mr. Bean?

14 A. He asked me to give him a back rub, which I did.
15 Actually, it was a shoulder rub. That is the physical
16 contact I had with him.

17 Q. At what time of the day or night was that?

18 A. It was at night. Don't try to make it anything
19 sleezy. It was something that he asked. It was in broad
20 view under a streetlight. There was nothing sleezy about
21 it.

22 Q. Sir, I am not suggesting anything. I am just
23 trying to find out.

24 A. I think the whole purpose of this is to suggest
25 and develop facts for some type of misconduct. That is not

1 what was happening.

2 Q. My question was: Approximately what time of the
3 day or the evening was it that you were parked with Mr. Bean
4 adjacent to the gasoline storage tanks?

5 A. I don't recall, and, hopefully, it is stated in
6 there. It was at night. I remember that much. It was at
7 night. We were under a streetlight. The sunroof was open.
8 It was brightly lit. It was on Richmond Beach Drive; I
9 remember that. It wasn't as far as the storage tanks, which
10 was a restricted area, but right along Richmond Beach Drive.

11 Q. You indicated Mr. Bean asked you to give him a
12 back rub?

13 A. Right.

14 Q. Was his shirt on or off?

15 A. He took his shirt off.

16 Q. What did he do with his shirt?

17 A. I don't know what he did with his shirt. I think,
18 at some point, he put it back on.

19 Q. Was it off during the time when you had physical
20 contact with him?

21 A. I believe so, but I think it had been off earlier,
22 anyway. It was pretty warm. I am not sure.

23 Q. Did he make any statement as to why he wanted a
24 back rub?

25 A. He said he had hurt himself.

1 Q. Did he say how he had hurt himself?

2 A. It had something to do with driving or pushing a
3 car.

4 Q. Did you have any idea of Mr. Bean's age at the
5 time this occurred?

6 A. I think he was 16 or something.

7 Q. What leads you to have that belief?

8 A. I am recalling. Just my recall today. I could be
9 wrong. Maybe that is based on what he told me or my
10 recollection of what he told me; I am not sure.

11 Q. How was Mr. Bean positioned as you were
12 administering a back rub?

13 A. He was in the passenger seat of my car, as I
14 recall, with his back to me. So he would have been facing
15 out towards the passenger window.

16 Q. Was he sitting up or laying down?

17 A. Sitting up.

18 Q. Did the seat in which he was sitting have a
19 reclining back that would go up or down?

20 A. Yes.

21 Q. Was it reclined or in the upright position?

22 A. I believe it was upright.

23 Q. At the time he asked you --

24 A. Wait a minute. Wait a minute. I am trying to
25 recall that car. It is a four-door. I think the seats

1 reclined. I am not sure. I don't drive that car anymore.

2 Q. At the time he asked you to administer a back rub,
3 did you have any concern about any impropriety as to that?

4 A. No. I mean, my colleagues at work at the same
5 time ask me to do the same thing. At that time I was
6 working for the City Attorney, I believe. I mean, these are
7 things that happen among people that are acquainted. I
8 don't believe there was anything improper.

9 Q. As you were administering the back rub, is it
10 correct the police arrived?

11 A. Right.

12 Q. What happened?

13 A. Well, the police separated us. One officer talked
14 to him, and one talked to me, and there was a lot of back
15 and forth. The officer got identifying information from me.
16 What I think was happening was a so-called good cop/bad cop
17 routine because they asked me what I knew about this kid,
18 and I told them what I knew up to that point. And, at one
19 point, they came back and said the kid -- one officer told
20 me that the kid had said that I was either smoking or
21 selling drugs out of my car.

22 So I think, at that point, I had only had the car
23 for a day, and I think I was on pretty safe ground; "If you
24 think that is true, go search the car." So I authorized
25 them to search the car. Well, there was nothing in the car

1 because nothing had happened.

2 And there was more back and forth and then came
3 the allegation of some sexual misconduct which I don't know
4 exactly what that was.

5 Q. To your knowledge, was Mr. Bean masturbating as
6 you gave him a back rub?

7 A. I don't know. I don't believe so, but I don't
8 know.

9 Q. You don't know one way or the other?

10 A. No.

11 Q. How far away from you was he?

12 A. He was right next to me in the seat. I don't
13 believe he was.

14 Q. Now, you recall, do you not, one of the officers
15 has indicated, at the time he approached the car, Mr. Bean's
16 pants were down?

17 A. That is what he said.

18 Q. Do you deny that?

19 A. I absolutely do and so does his partner. The
20 officer that made that statement was standing at my door.
21 His partner was standing at the door at the other side of
22 the car and made no such observations.

23 Q. So, again, you deny that his pants were down?

24 A. I deny his pants were down.

25 Q. Prior to administering the back rub, you were

1 aware that Mr. Bean had -- or, in fact, you had discussed
2 with Mr. Bean whether he was prostituting himself?

3 A. That is what he told me in the course of a
4 conversation. I am not quite sure, but I remember that.

5 Q. That was before --

6 A. Well, no. What he had said is he was upset and
7 crying when I asked him what it was. He said he had almost
8 done it. I don't think he actually said he did it, but I
9 thought he was at risk.

10 Q. You were aware of that statement before you
11 administered the back rub -- when you had that conversation
12 with him before you administered the back rub?

13 A. I am sure in my statement I set forth the sequence
14 of events. I have talked to him on more than one occasion.
15 I am not recalling today what the sequence of events was.
16 It seems like -- I just don't recall.

17 Q. The sequence as to when you had the conversation
18 with him --

19 A. That should be set out there.

20 Q. Just a second.

21 To the extent your statement sets forth the
22 sequence of when you and he had the discussion of him
23 prostituting himself relative to when you administered the
24 back rub would be correct in this statement?

25 A. I believe so, yes.

1 Q. You have no reason to disbelieve it?

2 A. No. I tried to be accurate at the time that I
3 wrote that statement out. At that point, in '85, it was a
4 month or two fresh.

5 Q. How long had you been administering a back rub
6 before the police arrived?

7 A. I don't recall.

8 Q. Five seconds, five minutes?

9 A. I don't believe as long as five minutes. Probably
10 more than five seconds.

11 Q. At any other time, sir, have you had physical
12 contact of any sort with a male individual or female
13 individual who you knew or believed to be age 16 or younger?

14 A. At any time?

15 Q. At any time in the past ten years, for example.

16 A. In the past ten years -- any type of physical
17 contact?

18 Q. Yes.

19 A. Handshaking, things like that?

20 Q. Excluding handshakes.

21 A. Do you want to rephrase your question as to any
22 physical contact.

23 Q. Any physical contact excluding handshakes.

24 A. I have friends with kids. Some of them have
25 teenage kids, we hug, things like that.