

Murder trial witness 'changed her story'

2006-03-18

By Bret Christian

The key witness at a Perth murder trial said this week she could not explain why she made crucial changes to her account of events surrounding a young man's sudden death.

Clare Marie Pigliardo, her mother and sister Tina were returning to their Woodlands home after Tina's 21st birthday party when Clare suddenly swore loudly.

She drew the attention of the others in the car to a body on the road under a footbridge in front of their car.

Clare Pigliardo told the Supreme Court this week that she saw figures on top of the footbridge before the fall.



Clare Pigliardo outside the court.

She could not explain why at various times she stated the number of people as two, three, four and five.

The lower numbers were given within days of Phillip Walsham's death in Stirling in 1998.

Ms Pigliardo said she had changed the word "jumped" in one statement to "fell" in a later statement when police asked her to be as clear as possible.

She said she could not be 100% sure whether the plunge was voluntary or involuntary.

Malcolm McCusker QC, counsel for one of three men accused of wilful murder, asked Ms Pigliardo whether she had changed the number of people on the bridge because of her knowledge of the number of people on trial.

"Why has your belief changed?" Mr McCusker asked.

"I don't know," she said. "I don't recall any discussion about it."

"Was it because two or three people did not fit the prosecution case?" Mr McCusker asked.

"What was it that caused you to change your belief?"

Ms Pigliardo replied: "I can't honestly put together a sensible assumption."

The court was told that the Pigliardo family car was stopped at a red light 92 metres from the footbridge at about 2.30am on Saturday, February 28, 1998.

Ms Pigliardo said that she had consumed up to eight glasses of vodka punch during her sister's party. She said she was not intoxicated.

"I have a crystal-clear recollection of the events of that evening," she said.

She said she saw a person do a backflip off the southern side of the footbridge onto the south-bound on-ramp to the Mitchell Freeway at the Cedric Street intersection.

She said she saw the man bounce off the road and lie still.

Tina Pigliardo (29), a lawyer who now lives in Melbourne, told the court she heard her sister scream and pointed out a body on the road in front of the car.

"We were all pretty upset â€" I thought we should help out," she said.

A decision was made to continue on the drive home and call an ambulance from there.

Clare Pigliardo (26), who is studying for a masters degree in psychology, gave evidence over four days.

She said she had seen the silhouettes of a group of men ascending the stairs to the top of the footbridge.

She was asked why, in 1998, she had signed statements which said that after the backflip there were one or two men left on the bridge, and at a later time she said there were up to five before the backflip.

This week she said: "Today I could say there were four people on the footbridge."

She did not see any sign of a fight or struggle. The men were at talking distance "but not crowded around him".

One of the group then backflipped off the bridge and she saw him bounce off the road.

"I saw no one throw him off the bridge, no," Ms Pigliardo said.

She did not see his legs or feet go over the railing.

She had not considered that the man might have been standing on a ledge outside the railing.

"I never thought of it â€“ that someone could be standing up there and propelling himself off the bridge," she said.

She could not see the southern railing because of her angle of vision from below.

On trial in the Supreme Court are Jose Felix Martinez, Salvatore Fazzari and Carlos Pereiras, who were teenagers at the time.

They are accused of wilfully murdering Phillip Walsham (21) by throwing him off the footbridge connecting the Stirling train station and a drop-off point beside the freeway on-ramp.

Ms Pigliardo told another defence lawyer, Simon Watters, that she did not know what happened when a person was hit by a car.

"Is it possible that what you saw was a body go through the air after being hit by a car?" asked Mr Watters.

She said it was not.

She said she definitely saw "the movement of a guy going backwards".

Earlier in the trial, prosecutor Bruno Fiannaca said it was the state's case that two of the three teenagers had "viciously kicked" Mr Walsham as he sat intoxicated on a seat, leaving him bleeding heavily from the face.

They had left the scene in a car and returned to throw Mr Walsham off the bridge, eight metres to the roadway below.

He had died in hospital some hours later.

It would be alleged that a wound on Mr Walsham's shoulder matched a tyre lever found hidden in one of the offenders' homes, Mr Fiannaca said.

Lawyer Simon Freitag, representing one of the three men, said in an opening address that Mr Walsham's death could have been suicide or the result of being struck by a car.

H said the state only had a theory about what happened, "because they don't know".

"The three men don't know how Mr Walsham came to die, and they don't have to," he said.

Mr Freitag said two of the men admitted the initial assault on Mr Walsham and had been dealt with for it by law.

But they had left the scene and did not come back.

"The state has no evidence that they did come back," he said.

"The state has a theory."

Not a single witness would say that the three men were on the footbridge — no witness and no forensic evidence, such as DNA.

No witnesses suggested a struggle.

None of Mr Walsham's blood was on top of the footbridge, although the prosecution had said he was bleeding.

The shoulder wound to Mr Walsham was a superficial abrasion that could have had a number of causes.

There was no forensic evidence on the tyre levers, which were not hidden but handed to detectives when asked, Mr Freitag said.

He described Ms Pigliardo as a "supposed eyewitness" and said the jury "had to be very careful about her evidence".

He said there were other people in the station precinct that night.

"Some will give evidence and some never came forward," he said.

He said there were two reasonable alternative explanations for Mr Walsham's death.

One was that he had committed suicide, and the other was that he was struck by a motor vehicle.

The jury would also be asked to look at timings on the night.

"Did the accused have time to get back to Stirling train station?" he said.

He said it was an emotional case, and the jury had to put aside prejudices and feelings of sympathy for the Walsham family.

The prosecution said that in 1992, Phillip Walsham had ridden his bicycle to Warwick train station, then under construction.

He had climbed a scaffold, tied one end of a hose around his neck and the other to the scaffold, and threatened to throw himself off.

His father, Albert John Walsham, gave evidence that after an argument at home about drugs, Mr Walsham

had fallen backwards through a bedroom window.

His wife had called the police, who spoke with Phillip.

After that incident he had changed his group of friends and got a steady job, which he held up to the time of his death.

The trial is due to continue for four more weeks.