FILED
MAY 20 1977
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,)
Appellee,) Filed May 20, 1977
vs.)
ROGER L. GOODWIN,) 128 / 59029
Appellant.)

Appeal from Polk District Court - Gibson C. Holliday, Judge

Defendant appeals the trial court's refusal to allow cross-examination of a State's witness. Affirmed.

Richard C. Turner, Attorney General of Iowa for Appellee.

Martin R. Dunn, of Des Moines, for Appellant.

Submitted to Allbee, C.J., and Donielson, Snell, Oxberger and Carter, JJ.

Defendant Roger L. Goodwin urges the trial court erred in refusing to allow cross-examination of a State's witness. Alice Slatkoske was not allowed to testify regarding her recollection of an unrelated incident of misidentification made by a fellow bank teller in a robbery action. We affirm.

The in-chambers testimony of Slatkoske relied on as an offer of proof revealed she was aware that the teller had identified a person who had been arrested and charged with a robbery but that she had no knowledge of the disposition of that case. T. 165. The offer of proof, therefore, indicated Slatkoske had no knowledge of the subsequent finding of misidentification in the unrelated incident.

This case is controlled by State v. Harvey, 242 N.W.2d 330 (Iowa 1976). In *Harvey* the court held as a matter of law that the defendant's offer of proof was not sufficiently probative to be introduced to the jury on the issue of his credibility in the absence of any evidence tending to show such proffered fact (the witness' admission to a hospital for a "nervous disorder under the care of a psychiatrist") was related to the witness' capacity to perceive, remember, or relate the facts narrated in his testimony. 242 N.W.2d at 338.

The offer of proof failed to demonstrate Slatkoske's prior knowledge of the misidentification. In order to show faulty memory it is necessary to first establish that the witness at one time knew the fact. Only then can the present inability to recount that fact be found due to faulty memory. Ignorance of the fact precludes faulty memory of it.

Affirmed.