PROBABILITY AND THE LAW

EXAMPLE OF EYEWITNESS MISIDENTIFICATION

Defense Lawyer: Do you recognize the defendant as the man who robbed the bank?
Witness: Yes, I do.
DL: Did you examine some pictures at the police station?
W: Yes, I did.
DL: Could you tell us how the photographic identification went?
W: They showed me a series of pictures and I recognized one.
DL: I understand. Do you play any sport?
W: I am sorry – what?
DL: I asked whether you played any sport.
W: Why is this relevant?
DL: Please, answer my question.
W: Yes, I play soccer regularly on a team.
DL: I would like to show you a photograph. [*Showing the photograph to the witness*] Do you recognize anyone?
W: I am in the picture, and so are the people in my team.
Prosecutor: Objection – this is irrelevant.
DL: I am sorry. I need to ask a few more questions, your Honor. When was the picture taken?
W: Last summer.
DL: On the 4th of September?
W: I believe so.
DL: That is, one month before the robbery?
W: I suppose so.
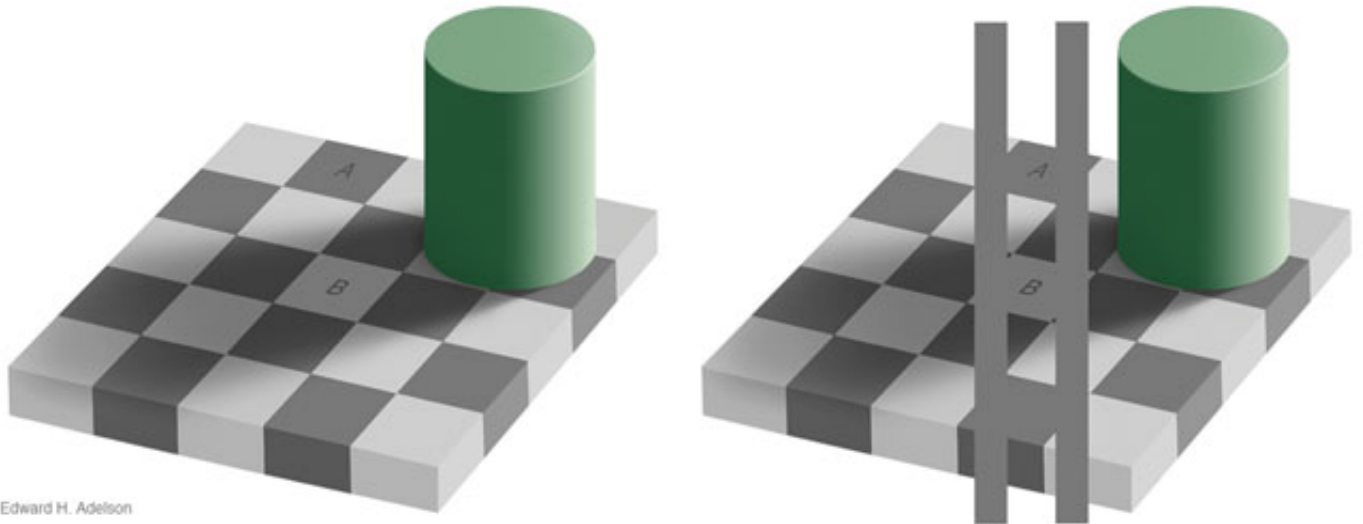DL: Did you know the people on the other team?
W: Some of them, not everybody.
DL: Can you please look at the photo and tell us if you can recognize anyone?
W: I know this one; this one as well; this ...
DL: Let the record show that the witness recognizes the man in the second row, third position from the right. So, what were you saying?
W: This one...looks like...He looks like the man in the picture I identified at the police station! DL: As a matter of fact, they are the same person.

Carofiglio, *Ragionevoli Dubbi*[Reasonable Doubts], p.56 Translation from Italian is mine.

Edward H. Adelson

SENSORY ILLUSIONS – ONE EXAMPLE AMONG MANY