

IN THE SUPREME COURT OF THE STATE OF NEVADA

Case No. 74743

WILLIAM BRANHAM

Appellant,

v.

ISIDRO BACA, WARDEN, et al.,

Respondent.

Appeal From Order Denying a Post-Conviction Petition for
Writ of Habeas Corpus
Second Judicial District Court, Washoe County

The Honorable Elliott A. Sattler, District Judge

**APPELLANT'S APPENDIX TO THE OPENING BRIEF
VOLUME II OF VII**

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ALPHABETICAL INDEX

1.	Answer to Petition for Writ of Habeas Corpus, Case No. CR92-1048.....	1222
	Dated June 1, 2017	
2.	Information, Case No. CR92-1048	001
	Dated May 26, 1992	
3.	Judgment, Case No. CR92-1048.....	1156
	Dated April 14, 1993	
4.	Jury Instructions, Case No. CR92-1048	1123
	Dated March 9, 1993	
5.	Motion to Dismiss Petition for Writ of Habeas Corpus, Case No. CR92-1048.....	1225
	Dated June 1, 2017	
6.	Notice of Appeal, Case No. CR92-1048	1295
	Dated December 15, 2017	
7.	Notice of Entry of Order, Case No. CR92-1048.....	1286
	Dated December 5, 2017	
8.	Opposition to Motion to Dismiss Petition for Writ of Habeas Corpus, Case No. CR92-1048	1231
	Dated June 16, 2017	
9.	Order Dismissing Appeals, Case No. 24478, 24648.....	1183
	Dated December 18, 1996	
10.	Order of Affirmance, Case No. 45532	1186
	Dated November 10, 2005	
11.	Order to Respond, Case No. CR92-1048	1220
	Dated May 16, 2017	
12.	Order to Set Oral Argument, Case No. CR92-1048.....	1248
	Dated August 17, 2017	
13.	Partial Transcript of Proceedings- Cross, Redirect, and Recross- Examination of John Neal O'Donnell, Case No. CR92-1048...	121
	Dated March 2, 1993	
14.	Partial Transcript of Proceedings- Testimony of Dr. Ellen Clark, Case No. CR92-1048.....	696
	Dated March 5, 1993	

15.	Partial Transcript of Proceedings- Testimony of Joseph Masters, Case No. CR92-1048	859
	Dated March 8, 1993	
16.	Petition for Writ of Habeas Corpus, Case No. CR92-1048	1190
	Dated April 7, 2017	
17.	Reply to Opposition to Motion to Dismiss Petition for Writ of Habeas Corpus, Case No. CR92-1048	1244
	Dated June 26, 2017	
18.	Transcript of Appeal- Trial, Case No. CR92-1048	011
	Dated March 1, 1993	
19.	Transcript of Appeal- Trial, Case No. CR92-1048	1020
	Dated March 9, 1993	
20.	Transcript of Appeal- Trial, Case No. CR92-1048	187
	Dated March 2, 1993	
21.	Transcript of Appeal- Trial, Case No. CR92-1048	322
	Dated March 3, 1993	
22.	Transcript of Appeal- Trial, Case No. CR92-1048	506
	Dated March 4, 1993	
23.	Transcript of Appeal- Trial, Case No. CR92-1048	755
	Dated March 5, 1993	
24.	Transcript of Appeal- Trial, Case No. CR92-1048	929
	Dated March 8, 1993	
25.	Transcript of Proceedings- Motion to Dismiss Petition for Writ of Habeas Corpus, Case No. CR92-1048	1251
	Dated September 20, 2017	
26.	Transcript of Proceedings- Sentencing, Case No. CR92- 1048.....	1157
	Dated April 14, 1993	
27.	Transcript of Proceedings- Telephone Testimony of Carmen Cruces, Case No. CR92-1048.....	005
	Dated February 24, 1993	

CHRONOLOGICAL INDEX

VOLUME I

1. Information, Case No. CR92-1048 001
Dated May 26, 1992
2. Transcript of Proceedings- Telephone Testimony of Carmen
Cruces, Case No. CR92-1048..... 005
Dated February 24, 1993
3. Transcript of Appeal- Trial, Case No. CR92-1048..... 011
Dated March 1, 1993
4. Partial Transcript of Proceedings- Cross, Redirect, and Recross-
Examination of John Neal O'Donnell, Case No. CR92-1048... 121
Dated March 2, 1993

VOLUME II

5. Transcript of Appeal- Trial, Case No. CR92-1048..... 187
Dated March 2, 1993

VOLUME III

6. Transcript of Appeal- Trial, Case No. CR92-1048..... 322
Dated March 3, 1993

VOLUME IV

7. Transcript of Appeal- Trial, Case No. CR92-1048..... 506
Dated March 4, 1993
8. Partial Transcript of Proceedings- Testimony of Dr. Ellen Clark,
Case No. CR92-1048..... 696
Dated March 5, 1993

VOLUME V

9. Transcript of Appeal- Trial, Case No. CR92-1048..... 755
Dated March 5, 1993
10. Partial Transcript of Proceedings- Testimony of Joseph Masters,
Case No. CR92-1048..... 859
Dated March 8, 1993

VOLUME VI

11.	Transcript of Appeal- Trial, Case No. CR92-1048.....	929
	Dated March 8, 1993	
12.	Transcript of Appeal- Trial, Case No. CR92-1048.....	1020
	Dated March 9, 1993	
13.	Jury Instructions, Case No. CR92-1048	1123
	Dated March 9, 1993	
14.	Judgment, Case No. CR92-1048	1156
	Dated April 14, 1993	

VOLUME VII

15.	Transcript of Proceedings- Sentencing, Case No. CR92-1048.....	1157
	Dated April 14, 1993	
16.	Order Dismissing Appeals, Case No. 24478, 24648	1183
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	Dated December 15, 2017	

DATED this 4th Day of April, 2018.

Respectfully submitted,

/s/ Jonathan M. Kirshbaum

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CERTIFICATE OF ELECTRONIC SERVICE AND MAILING

I hereby certify that this document was filed electronically with the Nevada Supreme Court on April 4, 2018. Electronic Service of the foregoing **Appellant's Appendix to The Opening Brief (Volumes I-VII)** shall be made in accordance with the Master Service

List as follows:

Terrance P. McCarthy, Deputy District Attorney

/s/ Adam Dunn

An Employee of the
Federal Public Defender, District of Nevada

CR92-1048
STATE VS WILLIAM EDWARD BR 135 Pages
District Court 07/30/1993 08:17 AM
Washoe County
CH000010

93 JUL 30 A8:17
JUDICIAL DISTRICT COURT
BY *Mary Lou Wilson*
DEPUTY

No. CR92-0546 and CR92-1048
Dept. No. 5

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE
THE HONORABLE MARK HANDELSMAN, DISTRICT JUDGE

--oOo--

ORIGINAL

THE STATE OF NEVADA,)	
)	
Plaintiff,)	TRANSCRIPT ON APPEAL
)	
vs.)	Trial
)	
WILLIAM EDWARD BRANHAM,)	March 2, 1993
)	
Defendant.)	Reno, Nevada
)	

APPEARANCES:

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The Defendant: WILLIAM EDWARD BRANHAM

Reported by: RICHARD L. MOLEZZO, CSR40, CP, CM, RPR
Computer-Aided Transcription

1						
2		<u>I N D E X</u>				
3		<u>WITNESSES:</u>	<u>Direct</u>	<u>Voir</u>	<u>Dire</u>	<u>Cross</u>
4					<u>Redirect</u>	<u>Recross</u>
5	O'DONNELL, John Neal					
6	Previously transcribed - pg 3					
7	ROMERO, Renee	5		11	13	
8	FASSETT, Maria	14		19		
9	SOKOLIK, Richard	20		33	48	53
10					53	54
11	WOODS, Steve	58		63	68	
12	SOKOLIK, Ikie Woody	70		77	81	
13	BELL, John	83		90		
14			104	105	129	
15						
16						
17						
18						
19						
20						
21						
22						
23						
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1 RENO, NEVADA; TUESDAY, MARCH 2, 1993; 10:00 A.M.

2 --oOo--

3
4 THE COURT: Thank you. Be seated, please.
5 Would counsel approach for a moment, please.

6 We're back on the record of CR92-0546 and
7 CR92-1048, State of Nevada versus William Branham.

8 (Discussion at the bench.)

9 THE COURT: Okay. Ladies and gentlemen, as you
10 can see in the jury box, Ms. Arnold is not present this
11 morning. I have had a call from her physician. Ms. Arnold
12 is ill and not expected to be back for a few days, so I am
13 going to replace Ms. Arnold with Mr. Swenson, who was the
14 first alternate selected in this case. Ms. Means will remain
15 as an alternate. I think this shows exactly why we have
16 alternates.

17 So I will ask you, Mr. Swenson, if you would be
18 kind enough to take the seat that was occupied by Ms. Arnold.

19 Our record should also show Mr. Branham is
20 present in court, along with Miss Wilson. Mr. Hall is
21 present, representing the State. The jury is now comprised
22 of all jurors previously sworn as well as Mr. Swenson, who
23 has already taken the alternate juror's oath and is properly
24 in place at this time. Ms. Means remains as our alternate

14 1 juror.

2 Would counsel be ready to proceed at this time?

3 MS. WILSON: Yes, your Honor.

4 MR. HALL: State's ready, your Honor.

5 THE COURT: All right. Would you resume the
6 stand please, Doctor. No need to swear you in. Your oath
7 remains with you today, sir.

8 MS. WILSON: Thank you.

9 (See transcript of Cross, Redirect and Recross-
10 Examination of John Neal O'Donnell, previously
11 prepared.)

8 12 THE COURT: Ladies and gentlemen, it is 12:15.
13 We will reconvene at 2:00 p.m. this afternoon. You're
14 instructed not to discuss this case amongst yourselves or
15 with anyone else, or to form any conclusion as to any issue
16 in this case until such time as you are formally asked to do
17 so and it is submitted to you as a jury. You are not to
18 read, look at or listen to any media accounts of this trial
19 or this event, should there be any.

20 I thank you very much for your patience this
21 morning. Look forward to seeing you at 2:00 p.m. this
22 afternoon. Court will stand in recess.

23 (Noon recess.)
24

8 1 RENO, NEVADA; TUESDAY, MARCH 2, 1993; 2:10 P.M.

2 -oOo-

3
4 THE COURT: Thanks very much. Be seated,
5 please.

6 We're back to CR92-1048, State of Nevada versus
7 William Edward Branham. Mr. Branham is present, along with
8 Miss Wilson and Mr. Hall. The jury has returned and they're
9 in place. Would you be ready to proceed?

10 MR. HALL: State's ready, your Honor.

11 THE COURT: Your next witness?

12 MR. HALL: State would call Renee Romero.

13 THE COURT: All right. If you would step
14 forward, please, approach the lady to my right, raise your
15 right hand, listen carefully to the oath and be sworn in.

16 (Witness sworn.)

17 THE COURT: If you'd have a seat in the darker-
18 colored chair, please.

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RENEE ROMERO,
called as a witness by the plaintiff herein,
being first duly sworn, was examined and
testified as follows:

DIRECT EXAMINATION

BY MR. HALL:

Q Would you please state your name, and spell your
last name.

A Renee Romero. R-o-m-e-r-o.

Q What is your occupation?

A I'm a criminalist with the Washoe County
Sheriff's Office Crime Laboratory.

Q How long have you been so employed?

A Four years.

Q Do you have any special training that prepares
you-- training and education that prepares you to become a
criminalist at the Washoe County Crime Lab?

A I have a Bachelor's degree in chemistry with the
fulfillment of a Bachelor's degree in forensic science from
Michigan State University. And upon completion of those, I
spent three months in internship. And my internship was
basically in drug chemistry and crime-scene investigation.

Then I was hired by the Washoe County Sheriff's

8 1 Office Crime Laboratory and spent about six months in the
2 area of drug chemistry and about two years in the area of
3 trace- evidence examination.

4 In that two years, I was in several different
5 classes. One of those classes was a hair and fiber class put
6 on by the California Institute of Criminalistics. And in the
7 area of hair analysis I trained under David Atkinson, who is
8 the supervising criminalist. And I trained with him for
9 quite a period of time on hair analysis.

10 Q Did you have an opportunity to review or examine
11 any hair in connection with the State's case versus William
12 Branham?

13 A Yes, I did.

14 Q And when was that?

15 A February of last year, and again this year in
16 February.

17 Q And do you use any special equipment when you do
18 your hair examinations?

19 A Basically, a hair examination is limited to a
20 microscope.

21 Q Can you describe what you do in performing the
22 examination or comparison of hair samples?

23 A Initially I will examine the hair standards, and
24 then I'll compare the hair standards to the evidence hair.

8 1 As I said, the way I do this is by using a microscope. And
2 hair has some characteristics that we can see under the
3 microscope that we don't see with the naked eye.

4 You can kind of use the analogy of a pencil, if
5 you will, when you're comparing hair. And characteristics
6 are that there's an outer layer of the hair. This is called
7 the cuticle. This would be similar to the orange layer on a
8 pencil.

9 And then the second layer of the hair is called
10 the cortex, and this is similar to the wood area of the
11 pencil. Even more so because in wood you'll see a grainy
12 texture, you would maybe see knots in wood. In hair in the
13 cortex this is where the pigment distribution is. It can
14 look smooth, it can look grainy. You may see some fine lines
15 through there. There are just different ways that the cortex
16 can look.

17 The next area that we look at is called the
18 medulla. Now, this would be similar to the lead of the
19 pencil. And when I'm looking under the microscope, I'm
20 comparing this in a cross-section of the pencil.

21 And the medulla in the hair can be absent,
22 meaning like in a pencil there would be no lead at all. It
23 can be continuous, like the lead in a pencil. It can be
24 discontinuous, it can be fragmented.

9 1 And then also the shape of the medulla, how
2 thick it is and a comparison of how much room the medulla
3 takes up to how much room the cortex takes up is another
4 characteristic.

5 Those are basically the major characteristics
6 that I look at under the microscope.

7 Q Do you know whether or not there were various
8 samples of hair taken from the crime scene by Detective Lowe
9 that you used to compare with known hair samples?

10 A Yes, there were.

11 Q Now, the known hair samples, were they taken
12 from the defendant Mr. Branham, the victim Ms. Fetherston,
13 John Bell and Mr. Poorman?

14 A Yes, those are the four hair standards I looked
15 at.

16 Q You compared those to the hair standards that
17 were taken from the crime scene?

18 A The hair samples from the crime scene.

19 Q That would include samples taken from the shirt,
20 as well as the couch, her finger, and I believe a beer can;
21 is that correct?

22 A I didn't see any hair from a beer can. The
23 other one I had was hair from a pubic hair combing from
24 Miss Fetherston.

9 1 Q Did you have pubic hair standards from the
2 individuals I mentioned, Poorman, Fetherston, Branham and
3 Bell?

4 A Yes.

5 Q Okay. Now, with respect to the head hair
6 standards, these four people, were you able to draw or see
7 any similar or dissimilar characteristics? Can you tell me
8 what your examination revealed in short?

9 A For the head hair?

10 Q Yes.

11 A Initially, I compared the head hair standards
12 amongst themselves with the four people and found that I
13 could distinguish between what hair came from what person.

14 And then I looked at the head hair that I
15 recovered in the envelopes that were submitted to me at the
16 Crime Laboratory. And there was head hair from the armrest
17 of a couch, and then I also found five head hairs that were
18 collected from a sweatshirt.

19 And those head hairs I found to be similar to
20 the Branham head hair standard, and dissimilar to the other
21 three standards.

22 Q The other three would be Bell, Poorman and
23 Fetherston?

24 A Yes, sir.

9 1 Q Okay. Now, you also indicated that you reviewed
2 some pubic hair standards?

3 A Correct.

4 Q What did your examination reveal with respect to
5 those standards?

6 A Once again, I initially looked at the standards
7 themselves and I found that I could not distinguish between
8 the pubic hairs from Branham, Fetherston and Bell, which
9 means that those pubic hairs from those three people shared
10 an overlapping range of microscopic characteristics.

11 Pubic hair itself is quite a variation in color
12 and the way that cortex is distributed, and I could not
13 distinguish between those three people. I could tell those
14 three from the Poorman pubic hair standard.

15 As far as the evidence goes, there was the pubic
16 hair combing from Miss Fetherston and then there was some
17 pubic hair on the sweatshirt. And those two samples of pubic
18 hair also fall in the range that the other three people do.

19 MR. HALL: Thank you. I have no further
20 questions.

21 THE COURT: Your witness.

22 MS. WILSON: Thank you.

23 ///

24 ///

9 1 CROSS-EXAMINATION

2 BY MS. WILSON:

3 Q Now, when you had these samples presented to
4 you, you indicated that some samples were provided to you
5 approximately a year ago?

6 A Yes, ma'am.

7 Q And those samples a year ago, those were of
8 Mr. Poorman, Mr. Branham and Miss Fetherston, but not
9 Mr. Bell; correct?

10 A Correct.

11 Q And then later on this year, you were provided
12 with Mr. Bell; correct?

13 A Correct.

14 Q You were also provided with oral, rectal and
15 vaginal swabs taken from Beverly Fetherston at autopsy?

16 A Yes, I was.

17 Q And what did you determine with that?

18 A With the swabs, I did presumptive testing.
19 Basically, this is I'm looking for a color change using some
20 chemicals. And if I can refer to my report?

21 Q Please.

22 A For oral and vaginal swabs, I found negative
23 results for the presumptive presence of semen, which means I
24 didn't get a reaction that would indicate to me that there

10 1 was semen there.

2 For the nasal and oral swabs, I found a positive
3 result for the presumptive presence of blood. And the rectal
4 swabs were not examined, and they contained brown stain.

5 Q You were also provided with a hair from the
6 lady's hand or index finger of Beverly Fetherston?

7 A Correct.

8 Q And what did you do with that?

9 A There were two hair fragments that were found
10 from her hand, and I looked at those under microscope.
11 They're very short hair fragments. A half an inch to an inch
12 long.

13 And in that small of a fragment there's not
14 enough microscopic characteristics, so I cannot determine
15 what variation is going on from the root to the tip because
16 I'm just looking at a fragment, and therefore I could not
17 determine anything from the hair fragments.

18 Q Okay. And isn't it true that due to
19 insufficient microscopic characteristics, hair cannot be
20 individualized to one particular source?

21 A Correct. What that means is hair is not like
22 drugs. When a drug is examined, the examiner can say, "This
23 is cocaine." Or a fingerprint, "This is from John Doe."
24 Hair is the type of evidence that you can only say it is

1 similar to John Doe. It is not exclusive of anybody else.

2 Q So when we talk about something that you believe
3 or you conclude should be consistent with a particular donor,
4 that is not an absolute; is that right?

5 A Correct, yes.

6 MS. WILSON: That's all I have.

7 THE COURT: Any redirect, Mr. Hall?

8 MR. HALL: One question.

9
10 REDIRECT EXAMINATION

11 BY MR. HALL:

12 Q Was the head hair of Poorman and John Bell
13 consistent with the hair samples taken from the crime scene?

14 A No.

15 MR. HALL: That's all I have.

16 THE COURT: Anything else?

17 MS. WILSON: No.

18 THE COURT: You may step down. Thank you very
19 much, Miss Romero.

20 Good afternoon. If you would approach the
21 person to my right, please, and be sworn in.

22 (Witness sworn.)

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MARIA FASSETT,

called as a witness by the plaintiff herein,
being first duly sworn, was examined and
testified as follows:

DIRECT EXAMINATION

BY MR. HALL:

Q Would you state your name, and spell your last
name.

A Yes. My name is Maria Fasset. The last name
is spelled F-a-s-s-e-t-t.

Q What is your occupation?

A I'm employed as a criminalist for the Washoe
County Sheriff's Office in the Forensic Science Division here
in Reno.

Q How long have you been employed at that
division?

A Next month it will be nine years.

Q Have you had any special training and education
that prepares you for your position?

A Yes.

Q Can you describe that for the jury, please?

A I received my Bachelor of Science degree in 1977
from the University of California at Davis in biochemistry.

1 I worked-- What was I? As-- Mind blank.

2 I worked in organic chemistry for the
3 Environmental Protection Agency down in Las Vegas for
4 approximately three years. And before that, right after
5 graduation from the University, I worked as a research
6 assistant for approximately three years.

7 Which after Las Vegas, I moved up to the Reno
8 area and I was hired on by the Washoe County Sheriff's
9 Office, and again nine years ago.

10 As far as training, I went back to the FBI
11 Academy for two weeks in a training course in basic serology.
12 The process of training is ongoing, of course. I trained
13 extensively with one of the older serologists there. I keep
14 abreast of all the new and current techniques that are going
15 on. And that's about it.

16 Q With respect to the State's case versus William
17 Branham, did you have an opportunity to review some evidence
18 in this case?

19 A Yes, I did.

20 Q And do you recall what evidence you reviewed?

21 A Yes.

22 Q What was that?

23 A There were three sofa cushions, there was a
24 knitted, multicolored afghan, a pillow with a blue printed

1 pillow case, and a pair of pink stretch pants.

2 Q Let me show you a photograph, and perhaps you
3 could identify for the jury, if you would, if those items
4 that you reviewed are depicted in this photograph. Showing
5 you State's Exhibit BB.

6 A All the items that I mentioned appear similar to
7 the ones depicted in the photograph. However, I do not see
8 the pink stretch pants.

9 Q Let me direct your attention to a different
10 photograph. That would be State's AA, and that would be the
11 upper right-hand corner of the photograph. Not very easy to
12 tell.

13 A No. You can't even tell they're pants. The
14 color is approximately similar.

15 Q Okay. I'll also show you State's Exhibit I.

16 A Again, they look similar.

17 Q Okay. Now, when you examined these particular
18 articles that you've mentioned, what were you looking for?

19 A On the sofa cushions, the request was to look
20 for the presence of semen. On the pillow case, pillow and on
21 the afghan, the request came over to look for blood, saliva
22 and semen. And the pants, the request came over rather
23 vaguely, but I assumed it was for blood and/or semen.

24 Q Let's start with the cushions. Did you find--

1 What did you find on the cushions?

2 A I found lots and lots of hairs, but no semen.

3 Q The afghan. What did you find on the afghan?

4 A There were numerous hairs on the afghan, but
5 there was no blood nor semen nor saliva.

6 Q The pants. Did you find anything on the pants?

7 A Just a few hairs. That was it. No blood, no
8 semen.

9 Q The pillow. What did you find, if anything, on
10 the pillow?

11 A The pillow had some very light faded red-brown
12 stains. A couple of those stains I tested, and they were
13 positive for the presumptive presence of blood. But they
14 were very small in this case and they were not looked at any
15 further.

16 Q Did you see any semen on the pants?

17 A On the pants?

18 Q The pants.

19 A No semen on the pants.

20 Q And you were talking about the pillow. You saw
21 some blood on the pillow?

22 A Yes.

23 Q Okay. Was there any other significance to
24 anything on the pillow?

1 A Well, now, there's the pillow and the pillow
2 case. I looked at both of them separately.

3 Q All right. Let's focus on the pillow case.

4 A Okay. On the pillow case, again there was a
5 couple of real small faded red-brown stains, I believe one of
6 which gave a positive result for the presumptive presence of
7 blood. But it was not large enough to do anything further
8 with.

9 The-- There was also a very remarkable large
10 red-brown substance which also gave a positive result for the
11 presumptive presence of blood. However, information provided
12 to me concerning the origin of that stain indicated that it
13 was coming from the victim's mouth and nose. So I did not
14 look at that any further.

15 Q Let me just cover the pants again, in case I
16 overstepped myself there.

17 Can we cover the pants now. Did you examine the
18 pants?

19 A Yes.

20 Q What, if anything, did you find?

21 A Just a few hairs. There was no blood, no semen
22 on the pants.

23 MR. HALL: Thank you. Nothing further.

24 THE COURT: Thank you. Miss Wilson?

1 MS. WILSON: Thank you, your Honor.

2
3 CROSS-EXAMINATION

4 BY MS. WILSON:

5 Q Regarding the request for the pillow and pillow
6 case, that was requested of you rather recently; was it not?

7 A Yes, it was.

8 Q And when you examined the pillow case, you found
9 that there was no evidence of lipstick staining?

10 A Correct.

11 Q And there was no evidence of what appeared to be
12 bite marks?

13 A Correct.

14 Q And there was no indication of any form of
15 beverage spilled on the outer pillow case?

16 A Not that I could tell.

17 MS. WILSON: Thank you.

18 THE COURT: Any redirect, Mr. Hall?

19 MR. HALL: No redirect.

20 THE COURT: Thank you very much. You may step
21 down.

22 Good afternoon, sir. If you would approach this
23 lady to my right, please, raise your right hand, listen
24 carefully to the oath and be sworn in.

1 (Witness sworn.)

2 THE COURT: If you'd have a seat there by the
3 microphone, please, sir.

4
5 RICHARD SOKOLIK,
6 called as a witness by the plaintiff herein,
7 being first duly sworn, was examined and
8 testified as follows:

9
10 DIRECT EXAMINATION

11 BY MR. HALL:

12 Q State your name, and spell your last name.

13 A Richard Sokolik. S-o-k-o-l-i-k.

14 Q What is your occupation?

15 A I'm a sheetrock taper.

16 Q Where do you live?

17 A 670 K Street in Sparks.

18 Q Are you married?

19 A Yes, I am.

20 Q Who are you married to?

21 A Ikie Woody.

22 Q What does she do?

23 A She owns the Swiss Chalet.

24 Q How long have you been married to Miss Woody?

1 A Almost nine years.

2 Q Do you recall a person by the name of Beverly
3 Fetherston?

4 A Yes, I do.

5 Q How do you know Miss Fetherston?

6 A The first time I met her was her husband
7 introduced us to her. And her husband, he passed away about
8 a year before this happened.

9 Q What was his name?

10 A Michael Fetherston. And he had been a friend of
11 my wife's for over 20 years up until his death.

12 Q How long had you known Mr. Michael Fetherston?

13 A About five years.

14 Q Do you know when Mr. Fetherston and
15 Miss Fetherston got married?

16 A It was about three years before her death, I
17 believe.

18 Q Do you know how Miss Fetherston was employed?

19 A She was employed as a bartender working for my
20 wife.

21 Q And are you involved with the Swiss Chalet at
22 all?

23 A I do tend bar there occasionally, and I fix
24 things like that for my wife. But I have my card there at

12 1 the bar in case I have to go to work. In case somebody
2 doesn't show up, I'll work there and tend bar.

3 Q Do you know the defendant--

4 A Yes, I do.

5 Q --seated here in the courtroom today?

6 A Yes. He is right over there.

7 MR. HALL: The record reflect the identification
8 of the defendant Mr. Branham?

9 THE COURT: Very well.

10 BY MR. HALL:

11 Q What was the relationship between
12 Mr. Fetherston, Beverly Fetherston and the defendant
13 Mr. Branham back--

14 A It-- As far as I knew, she helped him out. She
15 let him-- She gave him a place to stay. They were
16 roommates.

17 Q And we're referring back when Miss Fetherston
18 lived on Crampton Avenue?

19 A Right. That's when her husband was down right
20 before he died.

21 Q When did he die; do you recall?

22 A It was almost a year, a little over a year, I
23 think, to the date that she died. About a year. He died of
24 cancer down in California.

1 Q Would that have been in 1990?

2 A Yeah.

3 Q Now, what was the relationship originally
4 between Beverly Fetherston and Mr. Branham?

5 A They were friends. I believe that he moved in
6 when Mike was still alive and he was going for treatments.
7 And he moved in and there was also another guy there that
8 were roommates there.

9 Q Do you know why they moved in?

10 A At that time I think they just-- You know, they
11 were roommates. You know, they all helped-- They knew Mike.
12 I don't know if Bill knew him or not. I know the other guy
13 did. And that they were, you know, just trying to help out,
14 I guess.

15 Q Okay. Now, do you know how Beverly Fetherston
16 was employed?

17 A She was employed as a bartender for us.

18 Q And how long had she been employed as a
19 bartender for Swiss Chalet?

20 A Little over a year, I believe.

21 Q Did you see her on a regular basis at the Swiss
22 Chalet?

23 A Oh, four, five times a week.

24 Q Was she a good employee?

1 A Yes, she was.

2 Q All right. Did you know her to miss work on a
3 frequent basis?

4 A No. She was never-- never irresponsible in any
5 type of way. If she was late at all, she would phone. And I
6 really don't believe she was late.

7 Q Do you ever recall Miss Fetherston being ill or
8 missing work because of illness?

9 A No, unh-unh, I don't.

10 Q Do you know whether or not she had any problems
11 with any of the customers or clientele at the Swiss Chalet?

12 A She did with him, and--

13 Q Who are you talking about when you say--

14 A I'm talking about Bill Branham. And he-- Well,
15 he used to phone a lot, abuse her over the phone when she was
16 working behind the bar.

17 Q Let me focus on any other clientele at the Swiss
18 Chalet. Did you know her to have any problems with any other
19 clientele other than the defendant?

20 A No. I know a few in there just thought the
21 world of her, loved her.

22 Q How about yourself? How do you feel about--

23 A I-- I considered her a very good friend.

24 Q Now, when you say there were problems between

1 Miss Fetherston and Mr. Branham, how do you know there were
2 problems between--

3 A Well, at one particular night my wife-- I was
4 there when my wife threw them out, told them to leave. They
5 left, you know. He started yelling at her in the bar. I
6 was-- It was on her day off.

7 Q Excuse me, sir. You started talking about him
8 yelling at her.

9 A I'm talking about Bill.

10 Q Can I just ask you to be a little more
11 descriptive, so we're sure who exactly you're talking about.

12 A All right. Bill was yelling at her, being very
13 abusive to her. My wife-- I was going to get up and do
14 something about it, but I made my wife a promise a long time
15 ago I'd never cause any problems in the bar.

16 Q When did this particular incident occur?

17 A Oh, it's-- it was after Michael died. In fact,
18 I believe Michael was down in California. I think he was
19 still alive. It would have been almost a year before.

20 Q Are you talking about this was-- this occurrence
21 in the bar where Mr. Branham was yelling at Miss Fetherston--

22 A Right.

23 Q --occurred while Mr.--

24 A Yeah, almost-- almost-- almost a year. It was

1 right before he died. He had refused to see her anymore
2 because he was losing so much weight from cancer, her husband
3 did. And she came back to Reno. She went down to see him,
4 and he would not see her the last time.

5 This is right before he died this happened. And
6 it was her day off and she came back, was having a few
7 drinks. And Bill became very abusive to her.

8 Q When you say "very abusive", can you describe
9 that?

10 A Well, he was being abusive in the language he
11 was using to her, calling her, and stuff like this.

12 Q What kind of language what is he using?

13 A He called her a "stupid cunt", you know, stuff
14 like that, and just yelled at her. I didn't hear it all, but
15 what I did, I started to get up--

16 You know, I'm a little bit hard of hearing, but
17 I got up and started heading for the bar, and my wife had
18 already told them to leave.

19 Q Were you aware of any problems after that?

20 A Yes.

21 Q And can you describe any of those other problems
22 that you were aware of?

23 A My wife threw them out. Between the time after
24 that, between the time this last-- when we just talked about

13 1 and before she died, she threw him out-- 86'd him out of the
2 bar twice because he even called my wife a "cunt".

3 And-- And that was the last time he was thrown
4 out of the bar causing problems, wanting to fight a
5 bartender. And just drunk and very abusive to everybody in
6 the bar. Very argumentative.

7 Q What point was he 86'd from the bar; do you
8 recall?

9 A Pardon me?

10 Q When was he 86'd from the bar?

11 A It was before Thanksgiving, I believe.

12 Q That would have been 1991?

13 A Right.

14 Q Now, do you recall the month of February of
15 1992?

16 A Yes, I do.

17 Q Do you recall what shift Miss Fetherston was
18 working in February of 1992?

19 A She worked I'd-- As to the exact-- She worked
20 swings, and I think she did work at days-- or a day or two on
21 days, and I think she worked three swings. I'm not really
22 sure about this, how many days she worked.

23 It might have been all swing shift, because she
24 had worked days and then my wife would switch her to swing

1 shift.

2 Q Do you recall what days Miss Fetherston had off?

3 A Excuse me. Thursday and Friday, I believe.

4 Q Do you recall Saturday, that being February 7th
5 of 1992?

6 A Yes, I do.

7 Q What happened on Saturday, if anything?

8 A I came down in the afternoon, which I usually
9 do, I guess it was about 5 o'clock. And nobody had heard
10 from Beverly. And the day bartender was still working. And
11 I-- I finished the shift. I just-- I-- I started working
12 there then for that night 'cause we-- we couldn't get ahold
13 of Bev.

14 Q And what did you do in your attempt to get ahold
15 of Miss Fetherston?

16 A She had talked about going to Tonopah. We had
17 friends in Tonopah, and she had some real good friend down
18 there, and Marilyn, and they couldn't-- They tried to get
19 ahold of her at Tonopah.

20 I went over to her house and knocked on the door
21 that Saturday night. And there was no car or no answer. So
22 I figured that maybe she was in Tonopah. Or on her way back
23 and maybe something happened. But I figured if it was a bad
24 accident, they would notify us. Or if she broke down, I

1 figured, you know, she would call. I knew she would call if
2 she was able to.

3 Q When you went over to the house on Saturday, did
4 you try and look in any of the windows?

5 A Yes, I did.

6 Q Were you able to?

7 A No, they were all drawn, all the blinds were
8 drawn. And I was trying to see in the-- look around the
9 front just to see if anybody's in there. I heard noise in
10 there. And I found looking around trying to see through the
11 side of the window and a little cat jumped up and went
12 through-- scared the heck out of me.

13 Q Were you able to gain entry into the residence
14 on Saturday?

15 A No. I-- I talked to the-- one of her neighbors
16 who lives right next-- above it in the garage. I believe
17 lives in an apartment above the garage there in the same--
18 right next door to them. And he said that there was people--
19 you know, he had seen Bill there. And that day. Or the car
20 there. And I said, "Well, they're not here."

21 So I got a little bit worried about that. We
22 went back and I talked to my wife about it, and we finally
23 got ahold of her landlady and-- we had to wait till Sunday
24 and-- when we finally got ahold of her, and then we called

14 1 the police.

2 Q When was that? When did you call the police?

3 A Sunday-- Sunday evening sometime. It was in
4 about-- I talked to the landlady I think it was around, oh,
5 probably about 5:00, maybe a little earlier. And--

6 Q What day was that that you talked--

7 A Sunday. Couldn't get ahold of her before then.
8 I kept trying to get ahold of her, I couldn't get ahold of
9 her then.

10 Q Was that Norma Lagomarsino?

11 A Yeah, her name was Norma. Her last name escapes
12 me right at the present, but yeah, Norma. And she said that
13 she would come over and that I would-- she, you know, would
14 call the police and have the police meet us there, but she
15 wouldn't go in. So I went in with the police officer.

16 Q Well, let's backtrack a little bit. What
17 happened when you met over at Miss Fetherston's residence and
18 the policeman showed up?

19 A Well, I told him that we were a little worried
20 about her, concerned because we haven't heard from her. And
21 this is the first time since she's-- in over a year that
22 she'd worked for my wife that this-- she had just not showed
23 up or not called or anything. I mean it never happened
24 before. It wasn't like her. And we were a little concerned

1 for her well-being.

2 Q And then when the police officer showed up, what
3 happened?

4 A The landlady gave us the key, and he and I both
5 started to enter the house. More like a little cottage.
6 When he put the key in the door, the cat I believe it was ran
7 into the bedroom, and he stepped-- stepped in and caution--
8 cautiously when he went in and identified himself as a police
9 officer and was looking to the left, and I took a step in and
10 she was right in front of me there.

11 Then he turned around, saw her, and at that time
12 I just taken aback and he just eased me back out the door. I
13 just-- I lost it.

14 Q Who else was there besides yourself, the police
15 officers? You called the police officer's name. Was that
16 Officer Flores?

17 A Yes, Officer Flores, right.

18 Q Who else was there?

19 A A friend of mine named Ziggy Laizans came over.
20 Some people came over from the bar. We were concerned about
21 her. All the people there know her. Landlady was there.
22 Gary Swinehart, a graveyard bartender was there, I believe.
23 Ziggy. I think there was a few other people, but right
24 offhand I can't remember all of them that were there.

1 Q When was the last time that you saw Beverly
2 Fetherston?

3 A I believe I saw her on Wednesday before--
4 before-- before her days off is the last time I saw her.

5 Q And when was the last time that you saw
6 Mr. Branham?

7 A He was 86'd out of that-- out of the bar at that
8 time and had been for quite a while. I had-- I-- It had
9 been a while. I really can't recall right now.

10 Q The last time you saw Miss Fetherston on
11 Wednesday, would that have been the 5th of February, 1992?

12 A It was the last date-- Yeah, I think it was the
13 last day she worked before her two days off, which was
14 Thursday--

15 Q When you saw her on that day, did she exhibit
16 any signs of being ill and not feeling well?

17 A No. She was working behind the bar and talking
18 to people, and I didn't-- I just usually come in to pick up
19 my wife. Every once in a while I stop to have a beer, but I
20 do most of the driving so I don't drink too much, unless'n we
21 catch a cab or something. But I usually go in and pick my
22 wife up and have a cup of coffee. Usually I drink coffee.

23 MR. HALL: Thank you. That's all I have.

24 THE COURT: Your witness.

14 1 CROSS-EXAMINATION

2 BY MS. WILSON:

3 Q Mr. Sokolik, you were a close friend of Beverly
4 Fetherston?

5 A I consider her a good friend of mine, yeah.

6 Q And you knew of Michael?

7 A I knew her husband, yeah. I knew him about five
8 years.

9 Q And you knew him better than Beverly--

10 A Yes, I did.

11 Q Okay. And would it be fair to say that the
12 Swiss Chalet is a close-knit bar?

13 A We're most of the people are-- that-- that go in
14 there are a neighborhood place. Yeah, we usually keep the
15 fools out.

16 Q And you have regular customers?

17 A Yes, we do.

18 Q And would you-- would it be fair to say that
19 there's a clique amongst the folks in there?

20 A Well, I think everybody that comes in there--
21 woman that comes in there can feel safe in there, yeah. The
22 people in there are fairly-- The bartenders take care of the
23 customers, and the customers more or less take care of the
24 bartenders, too.

1 Q Okay. And by "clique", I mean friends.

2 A I think-- It's always a friendly atmosphere.

3 We try to make it like a homey atmosphere, yes.

4 Q Would it be fair to say that Beverly Fetherston
5 was part of that family atmosphere of the Swiss Chalet?

6 A Yeah, it would be.

7 Q And she was a bartender with you for almost a
8 year?

9 A She was with my wife almost a year.

10 Q Okay. Now,--

11 A In fact, a little over a year. Excuse me.

12 Q You made a statement to the police; right?

13 A Yes, I did.

14 Q And you made it--

15 It was a written statement; correct?

16 A Yes.

17 Q And then you testified at the preliminary
18 hearing under oath?

19 A Yes.

20 Q Okay. I'm going to direct your attention to
21 your written statement first.

22 A Okay.

23 Q You made that written statement with Officer
24 Flores. Do you recall that?

1 A Yeah, it was after-- after we discovered her,
2 yeah.

3 Q And in that written statement, you told him
4 that-- you indicated that you had become concerned because
5 Beverly Fetherston was supposed to meet Bill Branham on
6 Wednesday night. Remember that?

7 A He was-- Yeah, they told me-- When I found out
8 he was supposed to meet her, she didn't tell me she was
9 supposed to met her. I found that out from people there.

10 Q Okay.

11 A A-- All right.

12 Q You also told the police officer that the police
13 officer should talk to another person named John?

14 A John, yeah. John Bell, right.

15 Q At the time you didn't know his last name;
16 right?

17 A Yeah, I wasn't sure about his last name. I
18 didn't remember his last name.

19 Q That was because you had really only known him a
20 short period of time; right?

21 A Yeah, just a couple of weeks. Like I said, I'm
22 not in there every day or eight or ten hours a day. I'm just
23 in there maybe an hour or two in the evenings, if that.

24 Q Would it be fair to say that you knew he was an

1 auto-body mechanic?

2 A Yes, I did. He told me he was.

3 Q And that he drove a white 1970 vintage VW bug?

4 A I believe that Ziggy told me that's what he
5 drove.

6 Q Okay. And that's what you told the police;
7 right?

8 A Yeah, I remember-- Yeah, I remember it was a
9 VW, but the year I don't remember.

10 Q Okay. Now, the time that you went to visit the
11 home of Beverly, that was-- the first time was a Saturday?

12 A Yes.

13 Q Okay.

14 A In fact, I left a note I believe in her door to
15 contact us.

16 Q Did you see the note when you returned on
17 Sunday?

18 A No, I don't-- I don't remember. No, I don't.

19 Q Okay. And that was Saturday afternoon about
20 5:00 p.m. that you went--

21 A Yeah, I went over there before I came back and
22 relieved Ted of that shift. It was sometime between--
23 between 4:00 and 5:00, because I came back and relieved Ted,
24 took over the shift because he had been working over there.

15 1 And I went over to try to see if she was over there first,
2 then I came back.

3 Q Then you mentioned that you talked with a
4 neighbor that had seen Bill on--

5 A Right, right.

6 Q --on Saturday?

7 A Right.

8 Q And when did he say he saw Bill on Saturday?

9 A That was-- I saw him-- It was-- He said he
10 saw him the day before-- that day and the day before, I
11 believe.

12 Q And who was that that said--

13 A That was the one who lived above the garage. I
14 cannot remember his name. He was--

15 Q Charles McRunnels?

16 A I-- The-- The name-- I'd have to see him to
17 be able to tell you.

18 Q And he told you that he had seen Bill Branham on
19 Saturday and the day before?

20 A Yeah, I believe he said he saw him on Friday--
21 Friday or earlier that day with the car. And I said, "Okay."

22 Q That was Friday and Saturday?

23 A Right.

24 Q Okay. And is that written down anywhere in your

15 1 police report?

2 A I don't know if that is or not. I-- You know,
3 at the time I made that-- when I wrote that down, I was a
4 little bit upset.

5 Q Yes. Okay. So you--

6 A Okay?

7 Q So you didn't write that down in the report;
8 right?

9 A I-- I'm not sure if I did or not.

10 Q Let me show you your report, and you see if it's
11 in there.

12 A Okay. It's probably not. If you say it's not
13 in there, then it's not in there.

14 Q Okay. Thank you.

15 A I was really shook up when I wrote that.

16 Q Would you like to make sure, or do you--

17 A No, I believe if you say it's not there, it's
18 not there.

19 Q All right. Now, in your work you are-- you're a
20 taper and drywaller?

21 A I'm a drywall finisher, right. Have for over 31
22 years.

23 Q And this case has been pending for about a year
24 now; right?

1 A Little over a year, yeah.

2 Q And you've probably discussed this case with
3 friends at work; right?

4 A No, I don't-- I have-- I might have talked about
5 it a little bit, but I just tell them, you know, until it's
6 all over it's not to be really talked about. I was told to
7 not talk about that when I came to the preliminary hearing.

8 Q So you wouldn't have talked to anybody about it
9 at work, huh?

10 A I-- You're talking about my work? You're
11 talking about when I'm working in the drywall work, the
12 drywall business?

13 Q Yes.

14 A I might have mentioned it, but I don't think I
15 did, no.

16 Q You were told not to talk about it?

17 A All the witnesses I believe were told that.

18 Q Okay. Now, the last time you saw Bill Branham
19 was the week before that, which would be about February 2nd;
20 right?

21 A I-- He wasn't in the bar then, you know. If he
22 was in the bar-- If he was in the bar--I don't remember him
23 in the bar--he would have been thrown-- He was already 86'd
24 out of the bar. It's been-- It had been a while. I talked

1 to him on the phone because he used to phone there all the
2 time--

3 Q Um-hum.

4 A --when she was working.

5 Q Is your answer to the question you don't recall
6 seeing him the week before?

7 A I-- I might have, but I don't believe I did.
8 It wasn't in the bar. He was probably on the street.

9 Q Okay.

10 A It wasn't in the bar there, so--

11 Q And you say that he was 86'd from the bar, which
12 means he was told he couldn't come back to the bar,--

13 A He'd be arrest-- This time--

14 Q --before Thanksgiving?

15 A Now, before Thanksgiving she went back. My wife
16 would go let him in for Christmas, because we usually fix a
17 Thanksgiving dinner there and we have Thanksgiving with our
18 customers there. And-- And-- And Christmas. And my wife
19 was going to-- And she asked Bev, you know, she left it to
20 Bev's decision, and Bev said no, she didn't want to--

21 Q Isn't it true that Bev was the one that asked
22 your wife if Bill could come back into the bar?

23 A No, my wife asked her.

24 Q And isn't it true that Bev did not say, "Oh, I

1 don't want him back into the bar"; Mr. Branham said, "I don't
2 want to come back into the bar"?

3 A No, nah, no. No. He-- He never said that.

4 Q Okay. Were you around when that was discussed?

5 A He never said that-- That was never discussed
6 in my presence at all.

7 Q Okay.

8 A But-- But as far as him coming back in there,
9 my wife asked him that-- asked her, and she said no, she did
10 not want this holiday spoilt.

11 Q Were you present at the time?

12 A I was present when she said that, yeah.

13 Q Okay. Now, isn't it true that your recollection
14 is that Bill Branham left Beverly Fetherston's residence in
15 January?

16 A She threw him out after the first of the year,
17 which she said she was going to do.

18 Q That was January; right?

19 A Right.

20 Q Okay. Now, isn't it true that you saw Bill
21 Branham in the bar three or four times?

22 A Probably more like 12 or 15.

23 Q Okay.

24 MS. WILSON: Your Honor, and--

1 THE WITNESS: Over that year period you're
2 talking about?

3 BY MS. WILSON:

4 Q I'm talking about the total time that you saw
5 him in the bar.

6 A The total time in the bar was at least-- at
7 least 15 times. Probably a lot more than that.

8 Q Okay.

9 A He usually didn't stay long, but --

10 MS. WILSON: Your Honor, and Mr. Hall, I direct
11 your attention to the preliminary hearing transcript, page
12 50. At the bottom, 24 and 25.

13 "Question: How many times had you seen him in
14 the bar?"

15 "Answer: Oh, three or four times maybe."

16 BY MS. WILSON:

17 Q Now, in your presence Bill Branham never
18 physically hurt Beverly Fetherston. Isn't that true?

19 A No, he didn't.

20 Q Okay. And you never had to break up any kind of
21 fight, fistfight between them?

22 A No, just him with loud words and he was told to
23 leave.

24 Q He was mouthy?

1 A Extremely, and argumentive.

2 Q Okay. Now, it would be fair to say, would it
3 not, that the times that you observed Bill Branham in the
4 Swiss Chalet Bar he was intoxicated?

5 A There was a few times that he wasn't, but most
6 of the time he was.

7 Q Okay. And it would be fair to say that you have
8 seen Beverly Fetherston intoxicated?

9 A Yes, I have.

10 Q Okay. Now, you did not approve of the
11 relationship between Beverly and Bill?

12 A I-- There was no relationship between them, you
13 know, as far as-- She-- I did not approve of her giving him
14 a hand. I didn't, you know. But there was no relationship,
15 if you're talking about a relationship. There wasn't any.

16 Q Sexual?

17 A No, there was none.

18 Q Okay. And you knew that because he slept on the
19 couch and she slept in the bedroom?

20 A No, because she talked to my wife about that.

21 Q And that's basically like what she said?

22 A Yeah, and I believed her. She said it was
23 strictly platonic, and I asked her if she wanted me to make
24 him leave.

17 1 Q Now, isn't it true that the vehicle that Beverly
2 drove, Bill usually drove it?

3 A He drove it without her permission.

4 Q Well,--

5 A He didn't have a license, and we talked about
6 that one day, and I told her she would be responsible if--

7 Q But he usually drove it; didn't he?

8 A He would come and take it without her knowledge
9 when she parked it on the street and she was working.

10 Q That was always without her permission?

11 A Not always, but at the beginning she let him
12 drive it. But later on she told him no, but he still would
13 end up going at the end of the day.

14 Q And she didn't file a police report at the time;
15 did she?

16 A No. She was trying to help him out, like I
17 said, you know. Which after she had made some resolution
18 that after the year, beginning of the year, he was gone.
19 And-- And--

20 Q And it would be fair to say that when you saw
21 the vehicle, Mr. Branham was driving it?

22 A No. It was a lot of times I saw it, it was
23 parked in front of the bar. It was parked in the parking
24 spot. When she was working. And he wasn't around.

17 1 Q And you saw when it was driven-- was driven by
2 Mr. Branham; isn't that true?

3 A I've seen him drive it twice that I can remember
4 right offhand.

5 Q Okay.

6 MS. WILSON: Your Honor, and Mr. Hall, I would
7 direct your attention to page 55 of the preliminary-hearing
8 transcript.

9 "Question: So am I correct to assume that you
10 noticed the car missing on Saturday, February 8th, after the
11 no-call, no-show?"

12 "Answer: Well, you know, I wasn't really
13 looking for it. Like I said, it usually-- When I drive by
14 there, she just lived down the street. She didn't drive it
15 that much. He usually drove it."

16 THE WITNESS: Right, he did, when he-- when he--
17 But that was when they were-- you know, when she told him to
18 quit driving it, around Thanksgiving. Okay?

19 To get myself back together here. In the last
20 time he was 86'd out of the bar, the car was either parked
21 right across from her house or parked at the bar. Or she was
22 using it somewhere else.

23 BY MS. WILSON:

24 Q When Beverly Fetherston lived with her husband

1 Michael, they lived on Crampton Street?

2 A Yes, they did.

3 Q Okay. And during that time is it your testimony
4 that Beverly, Michael, Bill Branham and another man lived--

5 A I-- I--

6 Q --together?

7 A I might be wrong about that, because I never
8 went up there at that time. But there was a guy named Razz
9 who was-- who was a-- another bartender here in town and a
10 friend of Michael's for a number of years.

11 Q Okay. Then after that, she got rid of Razz and
12 Bill Branham moved in?

13 A Right, yeah. Bill-- Bill-- Bill helped her
14 move and get rid of-- Yeah.

15 Q Okay.

16 THE COURT: This might be an opportune time to
17 take a brief afternoon break, Miss Wilson.

18 MS. WILSON: You know what, Judge? Let me just
19 see for a second.

20 THE COURT: Okay.

21 MS. WILSON: There's only about three more
22 questions.

23 THE COURT: All right. Go ahead.

24 MS. WILSON: Okay.

1 ///

2 BY MS. WILSON:

3 Q Would you classify Beverly Fetherston as quite a
4 smoker?

5 A I know she smoked.

6 Q Okay. Chain smoker?

7 A Not really to my knowledge, no.

8 Q Do you know a fellow by the name of Mike Rode--
9 I'm sorry, Mark Rode?

10 A Yes, I do.

11 Q Okay. And has he been in the Swiss Chalet
12 family?

13 A He has been-- He's been in the bar, but-- and
14 he even played on our pool team, but he-- he's no longer
15 allowed in the bar.

16 Q Did he get 86'd?

17 A Yes, he did.

18 Q And was he with you when you went to the home
19 with the officer--

20 A I believe-- Yeah, I believe-- I believe he
21 was. I believe he came down-- I believe he came down with
22 Ziggy. I went down with Gary, and I think-- I think they
23 were there. But like I said, when I walked back out of
24 there, I just was not thinking real straight.

1 Q Sure. And Mark Rode was 86'd from the bar
2 approximately how long?

3 A It was after-- after Bev's death. I-- I-- I
4 really can't remember exactly when now. I'd have to talk to
5 my wife. My wife would know, but right offhand, I don't.

6 MS. WILSON: That's all I have. Thank you.

7 THE COURT: Would you have redirect for this
8 witness?

9 MR. HALL: Yes, your Honor.

10 THE COURT: All right. Why don't we take a
11 15-minute recess and we'll reconvene at 20 minutes after
12 3:00.

13 (Recess.)

14
15 THE COURT: Thank you very much. Be seated,
16 please.

17 We're back with CR92-1048, State of Nevada
18 versus William Branham. Parties and counsel are present.
19 The jury is in its place. And Mr. Sokolik is in the witness
20 box under oath. Ready to proceed?

21 MR. HALL: Yes. Thank you, your Honor.

22
23 REDIRECT EXAMINATION

24 BY MR. HALL:

1 Q Mr. Sokolik, with respect to your statement made
2 to the police, do you recall your statement?

3 A Not word for word, no, I don't.

4 Q Is this a copy of your statement?

5 A Um-hum. Yes, it is.

6 Q Does that refresh your recollection as to what
7 you said in your statement?

8 A (Nods head affirmatively.)

9 THE COURT: Mr. Sokolik, the gentleman right
10 here in between you and I working on this machine is taking
11 down every word you say. When you nod your head, it won't
12 report. So--

13 THE WITNESS: Yes, your Honor.

14 THE COURT: So if you'd answer audibly, it would
15 be helpful to us.

16 THE WITNESS: Okay. Yes, I will.

17 THE COURT: The question is: Have you had a
18 chance to refresh your memory by looking at what was offered
19 by Mr. Hall?

20 THE WITNESS: Yes, I do.

21 THE COURT: Thank you.

22 BY MR. HALL:

23 Q What did you tell the police about Mr. Branham?

24 A Well, it concerned-- I was concerned for her

1 welfare after she didn't show up, and then she-- I said
2 definitely look into talking to him about it.

3 Q Why is that?

4 A I was afraid maybe something might have happened
5 to her.

6 Q Did you have any specific facts regarding what
7 might have happened to her?

8 A No. It was just I didn't know-- I just knew
9 that she wouldn't just not show up or not call. That wasn't
10 like her. She was a very responsible person. And I was--
11 We were all a little concerned about it.

12 Q All right. You testified that you talked to the
13 next door neighbor?

14 A Yes, I did.

15 Q You testified that the next door neighbor told
16 you that he had seen the defendant Mr. Branham. Is that what
17 you recall?

18 A Yes. The exact day, I-- I-- I really-- escapes
19 me. I'm not just sure what day.

20 Q You're not sure of which date Mr. McRunnels the
21 next door neighbor told you that he saw Mr.--

22 A Right.

23 Q --Branham?

24 A Right.

1 Q With respect to your preliminary-hearing
2 transcript on page 50 where you stated that you had seen
3 Mr. Branham--

4 The question was: "How many times had you seen
5 Mr. Branham in the bar?" And your response was, "Three or
6 four times maybe."

7 What were you talking about, "three or four
8 times"?

9 A Well, I-- I-- you know, I believe I
10 misunderstood that, because I thought that was-- I was
11 talking about recently. I seen him in there three or four
12 times before my wife finally threw him out the last time.
13 He'd been thrown out a number of times.

14 Q You were talking about seeing Mr. Branham in the
15 bar 15 times. What time frame are you talking about?

16 A That's when the-- from the first time I saw him
17 in there talking to her when her husband was in the hospital
18 down in California. That whole year. From the time that it
19 had been a year or better.

20 But usually he was just-- you know, he wasn't
21 sitting there in the bar all the time. He was usually
22 leaving. If I went in in the morning or something on the
23 weekend, he'd be there sometimes. And gone, you know. It's
24 just he'd be leaving. He wasn't there every day.

19 1 Q Do you have any knowledge as to whether or not
2 Miss Fetherston had any kind of a sexual relationship with
3 Mr. Branham or Razz, the--

4 A Just what I previously said. That she told my
5 wife it was strictly a platonic thing and she was trying to
6 help him out and get back on his feet. All that was going to
7 end after the first of the year. That was in '90.

8 Q Do you know whether or not Mr. Branham was
9 working?

10 A At that time, he was working I believe when he--
11 when he first-- when he-- But he wasn't working there, no.
12 He was unemployed.

13 Q I don't think I quite understood.

14 A When I first-- When I first-- I believe when
15 the first-- the first time I saw him the year-- the previous
16 year, I believe he was working at that time, and shortly
17 after that he lost his job or quit it or whatever. I really
18 don't know.

19 Q Do you know whether or not he was working in
20 February of 1992?

21 A I don't believe he was working at all the last
22 six months.

23 MR. HALL: That's all I have.

24 THE COURT: Thank you, Mr. Hall.

1 Miss Wilson?

2 RECROSS-EXAMINATION

3 BY MS. WILSON:

4 Q Now, you knew that he was collecting
5 Unemployment; didn't you?

6 A Yes, he-- he was getting Unemployment.

7 Q And when we're talking about the written
8 statement that you made where you were concerned about
9 Miss Fetherston, you indicated that she was supposed to meet
10 Bill Branham?

11 A Right, after she-- after she got off for-- her
12 last shift on Wednesday, which I-- you know, I-- I-- I was
13 off-- I went home, took my wife and went home. Later that
14 evening. I picked her up-- Like I say, I pick her up in the
15 evening and--

16 Q And then you took it one step further and
17 indicated to the police that they should look to John Bell as
18 well as Mr. Branham. Is that true?

19 A Yes, I did.

20 Q Okay.

21 MS. WILSON: That's all I have.

22
23 FURTHER REDIRECT EXAMINATION

24 BY MR. HALL:

1 Q Just back on that statement again with respect
2 to your statement regarding Bill Branham that you made to the
3 police. Did you indicate to the police that you thought Bill
4 Branham may be responsible for Beverly Fetherston's death?

5 A Yes, I did.

6 Q Did you indicate you thought John Bell may be
7 responsible for Beverly Fetherston's death?

8 A I think-- There was a possibility. I was more
9 concerned for him, I believe. I said yeah, the only other
10 possibility would be John Bell is the only one I know, you
11 know, outside-- outside of Bill.

12 Q You said that you were more concerned about him.
13 Who are you more concerned about?

14 A I was more concerned about John, his-- his
15 well-appearing-- well-being. Bill took him out to Verdi and
16 showed him where he was going to bury him one time and left
17 him out there. And somebody else-- he phoned and somebody
18 else went and got him.

19 MR. HALL: That's all I have, your Honor.

20 THE COURT: Anything else?

21 MS. WILSON: Yes.

22
23 FURTHER RECROSS-EXAMINATION

24 BY MS. WILSON:

19 1 Q Who told you about someplace that Bill Branham
2 took and he was going to bury John Bell?

3 A John-- John-- He took John Bell in I believe
4 Bev's car out to-- for a drink in Verdi somewhere.

5 Q Who told you that, Mr.--

6 A John-- John Bell and Marilyn, who was the lady
7 who went and picked him up.

8 Q So you heard that Bill Branham told Mr. Bell
9 where he was going to bury him--

10 A Right.

11 Q --from John Bell?

12 A From John Bell and from Marilyn.

13 Q Okay. And when did they say that to you?

14 A It was one-- It was-- The exact morning I
15 can't tell you. It was shortly before her death. But Bill
16 had picked John up or they had all been together somewhere, I
17 really don't know. Like I said, it was just-- I heard it
18 from John and I heard it from Marilyn.

19 But he phoned the bar. Marilyn was working the
20 bar. And when Marilyn was off, she would sit in there and
21 have a drink. And he phoned and Marilyn went out to Verdi
22 and picked him up.

23 Q And John Bell told you, "He showed me where he
24 was going to bury me"?

1 A Yeah. Said that-- I asked him, you know,
2 "What's it all about?" He said he took him out there, you
3 know.

4 Q And showed him where-- where he was going to
5 bury him?

6 A Marilyn-- Marilyn and John both told me that,
7 yes.

8 MS. WILSON: That's all I have.

9 THE COURT: Thank you very much. You may step
10 down.

11 MR. HALL: May this witness be excused?

12 THE COURT: Any objection to that?

13 MS. WILSON: He's under subpoena by the defense,
14 your Honor, and he may be subject to recall.

15 THE COURT: Would you need him today?

16 MS. WILSON: Not today.

17 THE COURT: You're excused until-- Would it be
18 safe to say Thursday morning, or sooner?

19 MS. WILSON: Yes.

20 THE COURT: Thursday morning we'll consider your
21 subpoena in full force. But there's no reason to keep you
22 under subpoena technically between now and then, sir. So
23 feel free to do what you'd like to do, but please return on
24 Thursday.

1 THE WITNESS: Thursday morning at 9:00, or--

2 MS. WILSON: Your Honor, what we'd like to do is
3 contact Mr. Sokolik. If any of our defense witnesses are
4 needed, we will contact him. I don't want him to be totally
5 excused from this case.

6 THE COURT: Okay. And you have a phone number
7 where you can reach Mr. Sokolik?

8 MS. WILSON: Yes.

9 THE COURT: All right. You're free to go about
10 your business. Remain within Reno, within Washoe County, and
11 Ms. Wilson will contact if the defense needs you to testify
12 in that portion of the case.

13 THE WITNESS: All right, your Honor.

14 THE COURT: Thank you, sir.

15 If you'd step forward, be sworn in by the clerk,
16 please.

17 (Witness sworn.)

18 THE COURT: If you'd have a seat in the chair
19 right up here, please, sir.

20 ///

21 ///

22 ///

23 ///

24 ///

10 1 ///

2 STEVE WOODS,

3 called as a witness by the plaintiff herein,

4 being first duly sworn, was examined and

5 testified as follows:

7 DIRECT EXAMINATION

8 BY MR. HALL:

9 Q Sir, would you state your name, and spell your
10 last name.

11 A Steve Woods, W-o-o-d-s.

12 Q Mr. Woods, did you have an opportunity to
13 respond to 129 and a half Wells Street on February 9th, 1992?

14 A Yes, sir, I did.

15 Q And what was your purpose of going there?

16 A I went to investigate a death that was reported
17 by the Reno Police dispatcher at that address.

18 Q And what is your business with respect to deaths
19 here in Washoe County?

20 A I'm a deputy coroner investigator for Washoe
21 County Coroner's Office.

22 Q How long have you been employed as a deputy
23 coroner for the Coroner's Office?

24 A Here?

1 Q Yes. Here.

2 A Six and a half years.

3 Q Did you have any experience prior to that?

4 A Yes, sir.

5 Q What was your prior experience?

6 A I was deputy coroner, chief deputy coroner, in
7 Rio Grande County, Colorado, for nine and a half years.

8 Q And before that?

9 A I was in emergency medicine since 1967.

10 Q What is your educational background?

11 A I have a license to practice nursing and I've
12 had some college, and rest of my training comes from both
13 emergency medicine, International Association of Coroners and
14 Medical Examiners, and St. Louis University School of
15 Medicine for death investigation.

16 Q How many scenes involving deceased persons have
17 you been to?

18 A Approximately 8,000.

19 Q Now, with respect to your duties on the 9th of
20 February, 1992, what were they?

21 A I was called to-- in-- to investigate the death
22 by the Reno Police Department and to investigate the scene of
23 the death.

24 Q What did you do when you got there?

10 1 A I met with the officers outside the residence,
2 went inside the residence with them, took kind of a brief
3 look around, and then left the residence.

4 Q Did you reenter the residence sometime later?

5 A Yes, sir, I did.

6 Q And what did you do when you reentered the
7 residence?

8 A When I went back in with the officers later on,
9 again I-- I looked at the surroundings in a little more
10 detail at that time.

11 Q Did you look for any evidence which would aid
12 you in your investigation to determine cause of death of
13 Mrs. Fetherston?

14 A Yes, we looked basically at the scene.

15 Q Did you see anything that would indicate how
16 Miss Fetherston died?

17 A We weren't exactly sure at the time. There were
18 indicators to us that there were things not correct, not
19 right.

20 Q What were those?

21 A That was the position which the body was lying
22 and the pillow that was located over the top of the body,
23 over the top of the face, head. The position of the arms.
24 The position of the lower extremities. And basically that

10 1 was it. That and the-- the disarray there in the living
2 room.

3 Q Did you have an opportunity to search the
4 residence to determine whether or not there were any drugs in
5 the residence, drugs or narcotics?

6 A Yes. With the-- With the Reno Police
7 Department, we did look around the residence.

8 Q Were you able to locate any drugs or narcotics
9 that were prescribed to Miss Fetherston?

10 A Not in my memory, no, sir.

11 Q Did you find any narcotics, period?

12 A Yes, sir, there were some in the residence.

13 Q Were they ascribed to Miss Fetherston?

14 A No, sir, they were not.

15 Q Can you describe how you removed the body from
16 the residence? What's your standard procedure, and what did
17 you do in this case?

18 A In this case after we-- after we finished
19 photographing the body, we put her in a heavy body bag. It's
20 a disaster bag. Very heavy-duty disaster bag. She was
21 placed in there in the same position she was on the couch.
22 The bag was zipped up and sealed by myself. It was placed on
23 a mortuary stretcher and put in the back of the call car from
24 the funeral home. The transportation of it to the coroner's

1 office was witnessed by myself.

2 Q Do you know whether or not there was any damage
3 done to Miss Fetherston's neck from the time you arrived on
4 the scene until the time that you took the body to the
5 morgue?

6 A From the time I arrived on the scene? No, sir,
7 there--

8 Q Any time you were in contact with the--

9 A No, sir, there was no damage done whatsoever.

10 Q Okay. I'm going to show you State's Exhibit Z.

11 A Yes, sir.

12 Q Were you in any way responsible for those-- for
13 the apparent bruising on State's Exhibit Z?

14 A Oh, no, sir. No, sir.

15 Q Do you know whether or not Miss Fetherston's
16 neck was subject to any kind of blunt force, any striking or
17 hitting or any kind of trauma during the course of your
18 transporting her body to the morgue?

19 A Oh, absolutely not, no.

20 MR. HALL: That's all I have.

21 THE COURT: Thank you. Miss Wilson?

22 MS. WILSON: Thank you, your Honor.

23 ///

24 ///

1 ///

2 CROSS-EXAMINATION

3 BY MS. WILSON:

4 Q Mr. Woods, you did a two-page report in this
5 case; correct?

6 A I wrote a report in this case. I don't know how
7 long it is, but I wrote a report.

8 Q Are you familiar with it?

9 A I haven't read it for some time, ma'am.

10 Q Okay. If there's something that I ask you that
11 you don't remember, just let me know and I'll have you review
12 it.

13 A Okay.

14 Q When you went to the scene, you indicated that
15 you viewed the body. Were you present when photographs were
16 taken?

17 A Yes, ma'am.

18 Q So during the photographs, you will admit that
19 the body was moved; correct?

20 A No, ma'am.

21 Q Is it your testimony that the pillow and afghan
22 were not taken from the body?

23 A Not when the-- Not when the first photos were
24 taken.

1 Q Were you present when a second set were taken?
2 A Yes, ma'am.
3 Q Was that at the scene?
4 A Yes, ma'am.
5 Q And at that time was the pillow removed?
6 A Yes, ma'am.
7 Q And at that time was the afghan removed?
8 A Yes, ma'am.
9 Q And at that time was the body moved so the back
10 could be photographed?
11 A Yes, ma'am.
12 Q Okay. That would include the vaginal area and
13 the leg area, too; correct?
14 A Yes, ma'am.
15 Q And the photograph that you saw, State's Z, that
16 is a cropped photograph; is it not?
17 A I'm sorry, ma'am?
18 Q "Cropped", meaning it's not showing the whole
19 head and chest area?
20 A Yes, ma'am, it is.
21 Q Would it be fair to say that you observed
22 blister-like decomposition on the body?
23 A Yes, ma'am.
24 Q And that would be in the upper chest area around

1 the neck?

2 A There was some there, yes.

3 Q Would you like to see a photograph to refresh
4 your memory?

5 A Of the whole body?

6 Q Of the neck area and the blistering.

7 A Sure.

8 MR. HALL: I would object, your Honor. My
9 objection is that there's Photograph Number 1 is not the
10 actual photograph, is black and white, copy of the
11 photograph, does not accurately depict the victim as she
12 appeared on the date in question.

13 MS. WILSON: Your Honor, I was going to use the
14 black and white to refresh Mr. Woods's memory. However, if a
15 color photograph would aid in his refreshment, I could do
16 that.

17 THE COURT: Why don't you both approach the
18 bench, please.

19 (Discussion at the bench.)

20 BY MS. WILSON:

21 Q Mr. Woods, I'd like to show you a photograph to
22 refresh your memory.

23 MS. WILSON: May I approach, your Honor?

24 THE COURT: You may.

1 ///

2 BY MS. WILSON:

3 Q Without showing the jury that photograph, does
4 that refresh your memory?

5 A Yeah. Um-hum.

6 Q And does that photograph or print of that
7 photograph refresh your memory as to the decompositional
8 changes in the neck and chest, upper chest area?

9 A Yes, ma'am.

10 Q Now, you said that you had contact with the body
11 and then you left and then you came back; correct?

12 A Yes, ma'am.

13 Q So in that interim, you don't know what took
14 place with that body; correct?

15 A I'm pretty sure I know what took place, yes,
16 ma'am.

17 Q Well, you weren't there; right?

18 A I wasn't next to the body, no, ma'am.

19 Q Where were you?

20 A Out in the parking lot.

21 Q How long were you away from the body?

22 A I would say possibly several hours.

23 Q Okay. Now, when you are doing your report, you
24 have input from other people?

2 1 A In-- In some cases, yes, ma'am.

2 Q And in this case, did you have input from Dean

3 Kateley, the son of Beverly Fetherston?

4 A Yes, ma'am, I did.

5 Q Okay. And with that input, did he advise you

6 that Miss Fetherston had been an excessive drinker?

7 A Yes, ma'am, he did.

8 Q And he further indicated to you that his mother

9 did not have any significant medical history; right?

10 A Yes, ma'am.

11 Q Now, when you say that the body was taken out of

12 the residence on a gurney,--

13 A Yes, ma'am.

14 Q --at that time is the gurney a silver, metal

15 type gurney?

16 A Yes, ma'am.

17 Q Okay. And I'm assuming that the body must be

18 moved from the couch to the gurney?

19 A Yes, ma'am.

20 Q And at the time of that movement, you attempt to

21 keep it in the same positioning as it was on the couch;

22 right?

23 A Very much so, yes, ma'am.

24 Q Okay.

2 1 MS. WILSON: Thank you.

2 THE COURT: Redirect?

3
4 REDIRECT EXAMINATION

5 BY MR. HALL:

6 Q Mr. Woods, you indicated that you knew that the
7 body had not been moved from the initial time that you had
8 gone into the residence to the time that you reentered the
9 residence sometime later?

10 A Yes, sir.

11 Q How do you know that?

12 A There were Reno police officers at the door
13 guarding the residence basically until we could reenter the
14 residence.

15 Q Why did you leave the residence?

16 A I'm sorry, sir?

17 Q Why did you leave the residence?

18 A I left the residence with the Reno police
19 officers because they decided they would get a warrant, a
20 search warrant.

21 Q Do you know why they were getting a search
22 warrant?

23 A We felt like this-- this death was very
24 questionable, very suspicious, and they felt it was best to

2 1 go ahead and obtain a search warrant from the Judge.

2 Q Showing you State's AA and BB, this is the way
3 the body looked when you first entered the residence?

4 A Yes, sir.

5 Q When you reentered the residence, was the body
6 in the same position?

7 A Exactly.

8 Q Do you know whether or not anybody had tampered
9 with this crime scene?

10 A From the time I left till the time I came back,
11 as far as I know, no, sir. It was guarded by the Reno Police
12 Department.

13 Q Were you present during the autopsy?

14 A No, sir, I don't believe I was.

15 Q The photo that you were shown, were you present
16 when that photo was taken?

17 A No, sir.

18 Q Okay. Then how do you know that that photo was
19 of Miss Fetherston?

20 A Just from the marks on the neck. I can-- I can
21 recall that.

22 Q Did you take the sweatshirt off?

23 A No, sir.

24 Q Were you present when the sweatshirt was taken

2 1 off Miss Fetherston?

2 A No, sir.

3 Q Did that photograph depict an area that was
4 beneath the sweatshirt,--

5 A It may have.

6 Q --the photograph you were shown by Miss Wilson?

7 A It may have.

8 MR. HALL: I have no further questions.

9 MS. WILSON: Nothing further.

10 THE COURT: You may step down. Thank you very
11 much.

12 MR. HALL: Miss Woody.

13 (Witness sworn.)

14 THE COURT: If you'd have a seat in the darker-
15 colored chair, please.

16 THE WITNESS: All right.

17

18 IKIE WOODY SOKOLIK,
19 called as a witness by the plaintiff herein,
20 being first duly sworn, was examined and
21 testified as follows:

22

23 DIRECT EXAMINATION

24 BY MR. HALL:

2 1 Q Ma'am, would you state your name, and spell your
2 last name.
3 A Ikie Woody Sokolik. S-o-k-o-l-i-k.
4 Q What is your occupation?
5 A I-- I'm self-employed. I own a bar.
6 Q And what bar is that?
7 A Swiss Chalet.
8 Q Where is that located?
9 A 501 Mill.
10 Q How long have you owned--
11 A I've had the lease on it for 19 years.
12 Q Do you recall having an employee by the name of
13 Beverly Fetherston?
14 A Yes.
15 Q How long did she work for you?
16 A A little over a year. She came to work for me
17 in 1990.
18 Q 1990?
19 A Um-hum.
20 Q And what were her duties?
21 A She was a bartender.
22 Q And what did that entail?
23 A Taking care of the customers, serving the
24 drinks. And she helped promote and decorate for parties.

2 1 She was quite a big help to me, as a matter of fact.

2 Excellent employee.

3 Q Did you ever have any problems with her coming
4 up short in the till, or anything like that?

5 A Never.

6 Q Did you ever have any problems with her being
7 punctual for work?

8 A No.

9 Q Did you ever have any problems with her not
10 showing up for work?

11 A No.

12 Q Did you ever have any problems with her
13 complaining about being ill or sick?

14 A No.

15 Q During the time that Miss Fetherston worked for
16 you, did you ever have any complaints from any of your
17 customers regarding her service?

18 A No.

19 Q Did you ever hear from any of your customers--or
20 anyone, for that matter--who had any problems with Beverly
21 Fetherston, personal problems?

22 A No.

23 Q Okay. Do you know Bill Branham?

24 A Yes.

3 1 Q Is he here in the courtroom today?

2 A Yes, he is.

3 Q Would you point to him and describe what he's

4 wearing?

5 A Sitting right there.

6 Q What's he wearing?

7 A He's wearing a sweater with little speckle spots

8 on it.

9 MR. HALL: The record reflect identification of

10 the defendant?

11 THE COURT: Yes.

12 BY MR. HALL:

13 Q How long have you known-- How long had you

14 known Mr. Branham?

15 A Oh, I think I probably met him in the fall of

16 1990, the late summer or early fall.

17 Q And how was it that you came about to meet

18 Mr. Branham?

19 A He came in my bar.

20 Q And did you see him on a regular basis after

21 that?

22 A Yes. He became a regular customer.

23 Q Do you know whether or not he had a relationship

24 with Beverly Fetherston?

1 A They were friends and roommates.

2 Q Okay. I guess my next question is going to be:
3 What was the nature of that relationship?

4 And let's start originally when you first had
5 Miss Fetherston working for you and you'd met Mr. Branham.
6 And I guess that would be in 1990. What was the nature of
7 their relationship at that time?

8 A Bartender-customer.

9 Q Okay. And did that evolve into something else?

10 A Friendship.

11 Q Do you know whether or not they lived together?

12 A He shared her apartment and later her little
13 cottage.

14 Q When you say that, "He shared her apartment",
15 are you referring to Miss Fetherston's residence on Crampton?

16 A Yes.

17 Q Later when Miss Fetherston moved to 129 and a
18 half Wells Street, do you know whether or not he resided with
19 Miss Fetherston then?

20 A Yes, he lived there.

21 Q Now, directing your attention to the latter part
22 of 1991, the months of November and December, do you have any
23 personal knowledge as to what the relationship was between
24 Miss Fetherston, Mr. Branham at that point?

3 1 A Pretty hectic.

2 Q Can you elaborate on that?

3 A She was definitely wanting him to move.

4 Q To move out of the residence at 129 and a half

5 Wells?

6 A Yes.

7 Q And why was that?

8 A They-- They argued a lot, and I don't think he

9 worked, and I don't think that he paid for a bit that he owed

10 her.

11 Q Did you personally ever have any problems with

12 Mr. Branham?

13 A Yes.

14 Q What was the nature of those problems?

15 A He would-- Depending upon how much he'd had to

16 drink, he would become disruptive and argumentive in the bar

17 with other customers, abusive language.

18 Q Did you ever have to take any action because of

19 this abusiveness?

20 A Yes, I did.

21 Q And what did you do?

22 A I 86'd him.

23 Q And when was that?

24 A It would have been-- It would have been in

3 1 November of nineteen ninety-- This is '93. 1992.

2 Q Well, Miss Fetherston died in November, 1992--
3 in February of 1992.

4 A Okay. Then it would have been '91. Pardon me.
5 Yeah, '91.

6 Q You 86'd Mr. Branham in 1991?

7 A Um-hum.

8 Q What does "86'd" mean, anyway?

9 A That means that he's to-- no longer to enter the
10 establishment, that he will no longer be served any drinks
11 there.

12 Q Did you ever have any conversation with
13 Miss Fetherston regarding allowing Mr. Branham back into the
14 Swiss Chalet after you had 86'd him in November?

15 A Yes, I did.

16 Q When was that?

17 A It would have been around Christmas, because we
18 always do a Christmas dinner. It's a neighborhood bar. And
19 everyone gets together and cooks. I asked her at that
20 particular time if she would like for Bill to come, and she
21 said no, because nothing would change. So therefore he
22 wasn't invited.

23 Q Okay. Do you know whether or not the
24 relationship between Miss Fetherston and Mr. Branham improved

3 1 after Christmas of '92-- excuse me, Christmas of '91 and the
2 beginning of 1992, January and February?

3 A No, it deteriorated very rapidly.

4 Q How do you know that?

5 A Just bits and pieces of conversation that I had
6 picked up from her.

7 Q What did she tell you?

8 A She had told me in Christmas-- in December that
9 definitely in January that he was going to leave, but she
4 10 said she wouldn't put anyone out on the street at
11 Christmastime.

12 Q Did she say anything else?

13 A No, not-- not really that I, you know-- She--
14 In January, it was in latter December, she was spending time
15 with friends, different friends, staying with them, because
16 she was-- didn't want to go home because of arguments.

17 Q With whom?

18 A With Bill Branham.

19 MR. HALL: That's all I have.

20 THE COURT: Miss Wilson?

21
22 CROSS-EXAMINATION

23 BY MS. WILSON:

24 Q Mrs. Sokolik, you pride yourself in having a

4 1 nice establishment, the Swiss Chalet?

2 A Yes, I do.

3 Q And it would be fair to say that it's a very

4 homey and family atmosphere type bar; right?

5 A Yes.

6 Q And you became very close to Beverly, as well as

7 all your help. Isn't that true?

8 A By "close", I don't know-- She was my employee.

9 We never had any social contact outside the bar itself.

10 Q Okay. Now, do you recall her smoking?

11 A Yes.

12 Q Okay. And do you recall her using throat

13 lozenges and Chloraseptic?

14 A She used-- She said-- She had a cold when

15 people had-- She used a cough drop called Fisherman's

16 Friend.

17 Q That was around the Christmas holiday in 1991?

18 A It could have been.

19 Q Okay. And do you recall a spray bottle of

20 Chloraseptic that she would use?

21 A I believe so.

22 Q Okay. Do you recall any type of--

23 Well, I should say that when you mentioned that

24 Mr. Branham was argumentative, it would be fair to say that

4 1 Beverly would argue right back?

2 A Not in the bar when she was working.

3 Q Did you see her argue with him outside the bar?

4 A I have seen her when she was off duty. I have
5 seen them argue at the bar, but I did not hear many of the
6 words. It was low. She was low, and so was he.

7 Q Okay. Now, you 86'd Bill Branham; right?

8 A Yes.

9 Q Was your husband present when you 86'd him?

10 A He was 86'd two times. One time he was told to
11 get himself an attitude adjustment, and I allowed him back
12 in. The second time, he didn't come back. My husband--

13 Q Was your husband present?

14 A My husband could have been there at one or both.
15 I'm not for sure.

16 Q You don't have any independent recollection?

17 A No.

18 Q Okay. Now, November when you 86'd Bill Branham,
19 isn't it true that he made the raisin sauce to go along with
20 the Thanksgiving dinner?

21 A He had made the raisin sauce up probably prior
22 to being 86'd, because Beverly instructed him how to make it.
23 That was her contribution to the Thanksgiving dinner.

24 Q Okay. And he was present at a Halloween party

4 1 that you all had?

2 A Yes.

3 Q Okay. And when you say that the relationship
4 "deteriorated", was Mr. Branham living with Beverly in
5 November?

6 A I-- I suppose he was.

7 Q And he was living with her in December?

8 A I would imagine.

9 Q And he was living with her in January?

10 A I think about that time that she-- she asked him
11 to leave.

12 Q And he still lived there?

13 A I'm not for sure in January.

14 Q So you don't know when Mr. Branham left the
15 residence?

16 A No.

17 Q Okay. Now, you do know that John Bell was
18 having a sexual relationship with Beverly?

19 A Yes.

20 Q Okay. And that would be approximately January
21 of 1992 and December, 1991?

22 A Yes.

23 MS. WILSON: Thank you. That's all I have.

24 THE COURT: Mr. Hall?

1 ///

2

REDIRECT EXAMINATION

3

BY MR. HALL:

4

Q Do you know whether or not Beverly Fetherston

5

was a confrontational type of person?

6

A I beg your pardon?

7

Q Was Beverly Fetherston a confrontational type

8

person?

9

A I don't understand. Was she-- Like to confront

10

people?

11

Q What was her demeanor like? How did she treat

12

people? How did she treat Mr. Branham?

13

A Beverly, if she had problems, she would ignore a

14

lot of things. I-- I have seen when he had been talking to

15

her, the juke box would be playing so you couldn't hear, but

16

you could tell-- I could tell that they were arguing. But

17

she would look straight ahead like, "If I ignore it, it will

18

go away."

19

Q Do you know whether or not Miss Fetherston had

20

any problem getting Mr. Branham to move out of her house?

21

A She indicated to me that she-- she had asked him

22

several times to move and that he-- he wasn't going to budge.

23

Q Remember that Halloween party?

24

A Yes.

1 Q How did the defendant dress?

2 A He had white makeup on his face, and green
3 makeup and black makeup around his eyes. He had some kind of
4 a dark wig, a sheet with a hood. Kind of like a ghoul.

5 Q Do you have a photograph of that?

6 A I thought I did, but I possibly threw it away.
7 I threw some things away, and that I probably did.

8 MR. HALL: That's all I have, your Honor. Thank
9 you.

10 MS. WILSON: I have nothing further.

11 THE COURT: Thank you very much. You may step
12 down, and you're excused.

13 THE WITNESS: Thank you, your Honor.

14 MR. HALL: Mr. Bell.

15 Step forward, raise your right hand, and be
16 sworn.

17 (Witness sworn.)

18 THE COURT: If you'd have a seat in the chair by
19 the microphone, please.

20 Mr. Bell, I can hear you're kind of a
21 soft-spoken person. So would you speak up for us when you
22 answer these questions, please?

23 THE WITNESS: Yes, sir.

24 ///

5 1 ///

2 JOHN BELL,
3 called as a witness by the plaintiff herein,
4 being first duly sworn, was examined and
5 testified as follows:
6

7 DIRECT EXAMINATION

8 BY MR. HALL:

9 Q Sir, would you state your name, spell your last
10 name.

11 A John Bell. B-e-l-l.

12 Q What was your relationship with Beverly
13 Fetherston?

14 A Just my friend.

15 Q When did you meet Beverly Fetherston?

16 A December 23rd of--

17 Q How do you recall that day?

18 A Because I broke up with my girlfriend that same
19 day.

20 Q And where did you meet Miss Fetherston?

21 A At the bar, the Swiss Chalet.

22 Q Over on Mill Street?

23 A Right.

24 Q Did you have a friend in common with

1 Miss Fetherston?

2 A Marilyn.

3 Q Would that be Marilyn Mackay?

4 A Right.

5 Q After you met Beverly Fetherston on the 23rd of
6 December, can you tell us how that relationship proceeded
7 from that point?

8 A How it-- I don't know. We had a few drinks,
9 then we talked, and you know how people get along and stuff,
10 you know.

11 Q Did you become romantically involved with
12 Miss Fetherston?

13 A Yes, I did.

14 Q Did there ever come a time when you were going
15 to move into Miss Fetherston's house?

16 A Yes, there was. Well, she asked me to.

17 Q When was that?

18 A Probably about a week after I met her.

19 Q Late in December?

20 A Uh-huh.

21 Q And did you move into her house?

22 A For one day.

23 Q And what day was that?

24 A That was in January, I think, right after

5 1 Christmas and all that.

2 Q And why did you only stay one day?

3 A Because she had a roommate.

4 Q And who was that?

5 A That was Bill.

6 Q Bill Branham,--

7 A Um-hum.

8 Q --the defendant?

9 A Um-hum.

10 Q Is this Bill Branham here in the white shirt?

11 A That's him.

12 Q Was there any animosity between you and
13 Mr. Branham?

14 A No.

15 Q Did you ever have an opportunity to spend any
16 time with Mr. Branham?

17 A We went out drinking, you know, one day, and
18 that's about it.

19 Q Can you describe this time when you went out
20 drinking with Mr. Branham?

21 A I went over to help Marilyn move and stuff, and
22 he came over, and we took Beverly's car and he wanted to show
23 me some pine trees in Verdi, you know. That's cool. I'm
24 into that, because I'm from North Carolina and I ain't seen

5 1 no pine trees out here.

2 Q What did you do?

3 A We went drinking.

4 Q Were you driving around?

5 A Um-hum.

6 Q What car were you driving?

7 A Her car. He was driving her car.

8 Q What kind of car is that?

9 A A Firebird.

10 Q What color is it?

11 A Faded-out brown metallic.

12 Q And where did you go that day? You said you
13 went out to Verdi?

14 A Um-hum.

15 Q What happened out there?

16 A Well, we went out and saw pine trees, and we
17 just hit all the bars, as far as I know.

18 Q And what happened when you were at the bars?

19 A Well, we did some drinking, shot some pool, and
20 he got upset about something, and I forget what it was, but
21 we had some words and he just left me hanging out there.

22 Q Did he ever indicate that he was going to bury
23 you out there in Verdi?

24 A Well, not right up front, but I had a feeling

5 1 that he wanted to do something like that. But, you know,
2 people that knew him told me to be careful, you know.

3 Q Who told you to be careful?

4 A Like my friends like that was in the bar and
5 stuff, you know. Like Butch and Beverly and Marilyn and
6 whoever else, you know. Bunch of people.

7 Q Did the defendant ever indicate to you that you
8 should be careful?

9 A No. Not to me right up front, no.

10 Q Did he ever make any threats to you?

11 A He just-- like when we was out in Verdi when we
12 got in the argument, he told me that I wasn't going to ruin a
13 good thing for him, you know.

14 Q What was he talking about?

6 15 A I-- I guess his relationship with her or
16 whatever they had, you know. But I wasn't out to ruin
17 nobody's good thing. He'd already ruined it anyway, you
18 know. I just happened to be there.

19 Q What, if anything, did Miss Fetherston tell you
20 about her relationship with Mr. Branham after you met her?

21 A She said there was no relationship with him.

22 Q Do you know why she wanted you to move in?

23 A Yeah, 'cause she wanted him to move out, 'cause
24 she was tired of him not working and taking advantage of her,

6 1 I reckon.

2 Q Why was it that you only lived there for one
3 day?

4 A 'Cause I didn't need all that crazy hassle and
5 stuff, you know.

6 Q What do you mean, "crazy hassle"?

7 A People arguing, and stuff like that. I-- I
8 don't do things like that.

9 Q Did you want to get into the middle of the
10 relationship between Beverly Fetherston and Bill Branham?

11 A Oh, no, not at all. If they have something
12 going, that's their thing, you know. I mean--

13 Q Did you tell that to Miss Fetherston?

14 A Um-hum.

15 Q When was the last time that you saw
16 Miss Fetherston?

17 A At the bar the night he called. That's the last
18 time I seen her.

19 Q Did you talk to Mr. Branham on the phone?

20 A No, she did.

21 Q What day was that; do you recall?

22 A No, I don't-- I don't remember. It had to be in
23 January, though. 'Cause--

24 Q When was the last time you were over

6 1 Miss Fetherston's house?

2 A It had to be in January, because I-- you know,
3 like when she-- when he made that phone call, I said, you
4 know, "I don't need this kind of hassle and stuff like that,
5 so I'll talk to y'all later." And I didn't come around no
6 more. Then when I did come around, it was all over.

7 Q How was it when you came back around?

8 A I came back to see her, see how she was doing,
9 and say "Hi" and stuff like that as a friend. But it was too
10 late.

11 Q She was already dead by then?

12 A Um-hum.

13 Q Did you kill Beverly Fetherston?

14 A No, I don't hurt nobody, no.

15 Q When was the last time that--

16 I'm sorry. How many times had you been over to
17 Miss Fetherston's house?

18 A Probably all three times.

19 Q Were you asked to provide some hair samples,
20 that would be head hair and pubic hair?

21 A Yes.

22 Q And did you do that voluntarily?

23 A Oh, yeah.

24 Q Did you have the key to Miss Fetherston's house?

6 1 A Oh, no. Why would I have a key? I only knew
2 her for a month.

3 Q Did you have keys to her car?

4 A No.

5 Q Did you ever use her car?

6 A I think I did at one time, yeah, um-hum.

7 Q When was that?

8 A Had to be in January.

9 MR. HALL: That's all I have. Thank you.

10 THE COURT: Thank you. Miss Wilson?

11
12 CROSS-EXAMINATION

13 BY MS. WILSON:

14 Q Now, Mr. Bell, you cut your hair--

15 A Yes, I have.

16 Q --since the last time we saw you in court;
17 right?

18 A Yes, I did.

19 Q Okay. And you made a police statement on
20 February 14th, 1992; did you not?

21 A I assume, yes, I did.

22 Q Would you like to take a look at it to refresh
23 your memory on that date?

24 A No, I read it all last night.

6 1 Q Okay.

2 A I don't know if I remember it all, but--

3 Q So you know that you saw the police on February

4 14th; right?

5 A If that's where they got me, I guess, yeah.

6 Q Okay. And they got you at the Swiss Chalet?

7 A Yes, they did.

8 Q All right. And then you later did a preliminary

9 hearing where you raised your right hand and swore to tell

10 the truth; right?

11 A Um-hum.

12 Q Okay. And then you have seen my investigator

13 and myself on February 22nd; right?

14 A Um-hum.

15 Q Okay. And at the time you were asked if you had

16 anything to add to your statement or preliminary-hearing

17 transcript and you said, "No"; right?

18 A (Nods head affirmatively.)

19 Q You have to answer out loud.

20 A Yes.

21 Q Okay. Now, taking you back to February 14th,

22 1992, that was the date that you first found out about the

23 death of Beverly Fetherston; right?

24 A I think so. I don't remember the date, but--

6 1 Q That's what you told the police; right?

2 A Okay, yes.

3 Q And you drove over to her house and the car

4 wasn't there, and then you went to see Gary Swinehart?

5 A Right.

6 Q And you spoke to Gary Swinehart?

7 A (Nods head affirmatively.)

8 Q And Gary is a bartender at the Swiss Chalet?

9 A Right, right. He was at that time, yes.

7 10 Q And you indicated to the police that, "Gary was

11 sparking her"; right?

12 A "Sparking her"?

13 Q What do you mean, "sparking her"?

14 A What do you mean, "sparking her"?

15 Q Well, I was going to ask you that.

16 A I don't understand what you mean by "sparking

17 her".

18 Q Did you tell the police that, "Gary was sparking

19 her"?

20 A No, I don't remember that. I don't know what

21 you mean by that.

22 Q Okay.

23 MS. WILSON: Your Honor, I'd like to show

24 Mr. Bell his report.

7 1 THE COURT: All right.

2 MS. WILSON: That will be page 1. May I

3 approach?

4 THE COURT: Sure.

5 THE WITNESS: "Sparking her"? I don't remember

6 that part.

7 BY MS. WILSON:

8 Q Could you read that to yourself.

9 A I don't understand-- I don't know-- I don't

10 remember that.

11 Q Okay. I direct your attention to page 1 of the

12 police report.

13 "Answer: This is a cold shock to me."

14 "Question: What is?"

15 "Answer: Is what happened."

16 "Question: Yeah. Uh, it's a very disturbing

17 thing."

18 "Answer: Yeah, 'cause I drove over today to go

19 and see her--"

20 MR. HALL: Objection, your Honor. This is an

21 improper way to impeach a witness. If she wants to ask him a

22 question and see if that question is different from the way

23 he responded at an interview or while he was under oath, then

24 that's one thing. But just to read out of a police report

7 1 and take it out--

2 THE COURT: I hear the objection.

3 MR. HALL: Thank you, your Honor.

4 THE COURT: I'm with you.

5 MS. WILSON: Well, I think Mr. Bell indicated
6 that he doesn't remember and he doesn't know what it said,
7 and I'm reading it to him because that's what it said.

8 THE COURT: Mr. Hall is correct. Your reading
9 to him would not be appropriate. He may review it. If that
10 refreshes his recollection, that's great. If that does not
11 refresh his recollection and he says, "I don't know what it
12 means", you're stuck with the answer.

13 MS. WILSON: Well,--

14 BY MS. WILSON:

15 Q You don't recall ever making that statement to
16 the police?

17 A No. There's a lot of things that I read in
18 there that I don't even remember saying when those guys
19 talked to me. Like there's things that they put in there for
20 themselves. You know.

21 Q So are you saying that you didn't say that,
22 "Gary was sparking her"?

23 A I don't understand what "sparking" means, you
24 know.

1 Q Are you saying that you didn't say, "Gary was
2 sparking her"?

3 A Yeah, I guess.

4 Q Okay.

5 MS. WILSON: I think that is the time I may
6 impeach him with the statement.

7 THE COURT: But you don't have to read the
8 entire transcript.

9 MS. WILSON: No, I was reading the question
10 before and the statement.

11 THE COURT: Well, I heard at least three or four
12 questions in what I heard you doing.

13 MS. WILSON: Okay.

14 THE COURT: So the bottom line is you want to
15 read the line that said something about "sparking her", which
16 he doesn't recall saying and doesn't know what it means.

17 MS. WILSON: Well, and denies saying it.

18 THE WITNESS: I'm not denying I didn't say it,
19 but I don't remember. I don't-- I don't know what
20 "sparking" means. I know I know a lot of slangs--

21 MS. WILSON: But you deny saying it, too.

22 THE COURT: Hold it. Whoa. Stop. You're going
23 nowhere with this. He doesn't even know what the term means.

24 So if you want to have the jury hear that either

7 1 somebody wrote down something which is now not able to be
2 read properly or somebody misinterpreted something, so be it.
3 But you're really making no ground with this. "Sparking her"
4 means nothing to this witness.

5 MS. WILSON: Well, he is denying making the
6 statement.

7 THE COURT: No, he's not. He's saying he
8 doesn't know what it meant and he doesn't recall ever saying
9 this. He's not denying it. He's saying that's not anything
10 he ever-- it's not something that means anything to him, so
11 it's not likely he would have said it.

12 But if you would like to read the line where he
13 makes that statement, please do and then move on to something
14 else, because we're not getting anywhere with this.

15 MS. WILSON: Your Honor, I'm-- I'm trying to.
16 I've got to read the question before it and then the answer.

17 THE COURT: All right.

18 BY MS. WILSON:

19 Q "Question: Yeah. Uh, it's a very disturbing
20 thing."

21 "Answer: Yeah, 'cause I drove over today to go
22 and see her, and her car wasn't there, so I says, 'Well, I'll
23 go and see Gary, you know, and talk to Gary. He's sparking
24 her, you know.'"

1 A I remember saying I'd go over and see Gary, and
2 all that. I don't remember nothing about "sparking".

3 THE COURT: Do you know what that means?

4 THE WITNESS: No, sir.

5 BY MS. WILSON:

6 Q Mr. Bell, have you been drinking today?

7 A Oh, yes, ma'am.

8 Q How much have you had to drink today?

9 A I had two beers at lunch.

10 Q Is that all?

11 A No. Probably a couple-- Maybe four.

12 Q Four beers?

13 A Yeah. But that's like been six hours.

14 Q Okay. Do you feel like you understand my
15 questions?

16 A Well, of course.

17 Q Okay. Now, you're 42 years old?

18 A Yes.

19 Q And at the time of the police interview, you
20 were intoxicated?

21 A Um-hum. They picked me up in a bar. Of course,
22 I would be.

23 Q Okay. And at the time of the police interview,
24 you did not know Beverly's last name?

8 1 A Right.

2 Q And at the time you met Beverly, December 23rd,

3 you were having problems with your girlfriend, Jackie?

4 A Right.

5 Q And at the time she was living with Bill

6 Branham?

7 A Who was?

8 Q Beverly.

9 A Right.

10 Q And it's your understanding that Mr. Branham had

11 been there for about a year?

12 A Um-hum.

13 THE COURT: Answer out loud, please.

14 THE WITNESS: Yes.

15 BY MS. WILSON:

16 Q And she wanted him to move out?

17 A Yes.

18 Q And that was because she liked you?

19 A Yes.

20 Q And you and she were at the Swiss Chalet Bar

21 when she told you this?

22 A Right.

23 Q Okay. Now, Bill called on the phone one day and

24 you spoke to him?

8 1 A No, I didn't talk--

2 Q That's not true?

3 A --to him. I didn't say I ever talked to him on
4 the phone.

5 Q Okay.

6 MS. WILSON: Counsel, page 3 of the police
7 report.

8 THE WITNESS: Beverly talked to him on the
9 phone, but I never did.

10 THE COURT: That's okay. Let her ask you the
11 question, and you give an appropriate and honest answer.

12 BY MS. WILSON:

13 Q "Question: Okay."

14 "Answer: December, or something like that. Uh,
15 uh, she had this guy named Bill that was living with her, and
16 stuff like that, and he wouldn't work or do anything, and
17 like he's been there for a year or something like that, and
18 she said she wanted to get rid of him so she liked me. And I
19 says, 'Okay. You like me, me and my girlfriend are having
20 problems and stuff like that, so I will move in with you.
21 Okay?' She says, 'Fine. 'Cause I'll just get rid of him.'
22 So he called on the phone one day and I said, 'Look, you're
23 moving out, and I'm moving in.'"

24 A All right. But I didn't say that to him on the

8 1 phone. I told her that, and she told him that.

2 Q So you're denying that you made any statements
3 to Mr. Branham on the telephone?

4 A I didn't talk to him on the phone, no.

5 Q You didn't grab--

6 A I told Beverly that.

7 Q You didn't grab the phone away from Beverly when
8 she was talking on the phone and tell him that?

9 A Oh, no.

10 Q Okay.

11 A And that's the last time I talked to her was
12 that night.

13 THE COURT: Mr. Bell, please wait until a
14 question is asked, and then answer that question. Okay?

15 THE WITNESS: Yes, sir.

16 BY MS. WILSON:

17 Q And it's your recollection that thereafter he
18 moved out and you moved in?

19 A Um-hum. Yes, ma'am.

20 Q Okay. Now, isn't it true that three of you
21 spent the night together, Beverly Fetherston, Mark Rode and
22 yourself?

23 A Yes.

24 Q Okay. And that would have had to have been a

1 time when Mr. Branham wasn't living there. Isn't that true?

2 A Right. He wasn't there that night.

3 Q Okay. And you believe that the three of you
4 spent the night together at her residence approximately
5 February 1, 1992?

6 A I don't think I seen her in February.

7 Q Okay.

8 MS. WILSON: Counsel, page 4 of the police
9 report.

10 MR. HALL: You mean the transcribed statement?

11 MS. WILSON: Yes.

12 THE WITNESS: If I did see her in February, it
13 had to be right at the first, because I stayed away like for
14 a couple weeks after he called--

15 BY MS. WILSON:

16 Q Mr. Bell, that's what I asked you. I said, do
17 you believe that the three of you spent the night together
18 approximately February 1st, 1992?

19 A Okay.

20 Q Would that be correct?

21 A Could be, yes.

22 Q Would you like to look at the police transcript?

23 A Oh, no. I believe what you're saying.

24 Q Okay. And that particular night that Bev told

8 1 you to watch your back from Bill, that was a Wednesday night;
2 right?

3 A No.

4 Q No?

5 A I don't think. She told me that the night he
6 called.

7 Q Okay. Question on page 4, the middle.

8 "Question: Which night was that?"

9 "Answer: Uh, shit, it had to be a Wednesday
10 night. It had to be a Wednesday night, 'cause she was off on
11 Thursday and Friday. I'm pretty sure it was a Wednesday
12 night."

13 A It could have been, because she was off on
14 Thursday night.

15 Q Now, you knew that Bill lived with Bev for
16 approximately eight months to a year; right?

9 17 A Um-hum. Yes.

18 Q And you lived--

19 Well, you met Beverly through your friend
20 Marilyn?

21 A Right.

22 Q And you lived with Marilyn's adopted daughter
23 Jackie?

24 A Right.

9 1 Q And that's the person that you were having
2 trouble with at the time?
3 A Right.
4 Q And at that time it was around the holiday
5 season that you were disturbed about breaking up with Jackie,
6 and that's when you met Bev; right?
7 A Right.
8 Q Now, at the time you indicated that Bev had Joe
9 living with her?
10 A Pardon me? I don't know anybody by the name
11 Joe.
12 Q Do you recall making that statement to the
13 police?
14 A Joe?
15 Q Yes.
16 A No, I don't.
17 Q Okay.
18 A 'Cause I don't know anybody by the name of Joe.
19 MS. WILSON: Court's indulgence?
20 THE COURT: Okay.
21 MS. WILSON: May I approach and show the witness
22 the transcript?
23 THE COURT: Sure.
24 MR. HALL: May I take the witness on voir dire

9 1 for just a couple of questions, your Honor? Very brief.

2 THE COURT: All right.

3
4 VOIR DIRE EXAMINATION

5 BY MR. HALL:

6 Q The transcript of your statement, have you had
7 an opportunity to read that?

8 A I did, yes.

9 Q Did you have any part in transcribing that
10 statement? In other words, listening to the tape recording
11 and then typing out what was said?

12 A No, I didn't listen to no tape or nothing.

13 Q Have you compared the tape recording of your
14 statement to the written transcript?

15 A What tape recorder? I haven't listened to no
16 tape recorder.

17 Q Do you know whether or not the transcription of
18 your statement is completely accurate?

19 A You know, I read that-- everything that I said,
20 and like there's some things in there that I don't remember
21 even-- even saying, and stuff like that, 'cause I read it all
22 night.

23 I was up all night long reading that. And I
24 forgot already half of what I read. But some of the things I

1 don't remember.

2 Q Were you under oath when you gave that
3 statement?

4 A No.

5 MR. HALL: That's all I have.

6 MS. WILSON: Thank you.

7 THE WITNESS: Where is it?

8
9 FURTHER CROSS-EXAMINATION

10 BY MS. WILSON:

11 Q Right here.

12 A "Joe--"

13 MR. HALL: Are you referring to page 6,
14 Miss Wilson?

15 MS. WILSON: Yes.

16 THE WITNESS: Maybe I meant Bill. I don't-- I
17 don't remember-- I don't know.

18 THE COURT: Excuse me, please. Just read your
19 statement, satisfy yourself, read it to yourself, take as
20 much time as you need. And when you're finished, indicate
21 that you've had a chance to finish it, and Miss Wilson can
22 ask you appropriate questions.

23 THE WITNESS: They must have put the name down
24 wrong.

9 1 THE COURT: Sir, please don't offer anything.
2 Have you had a chance to read it now?
3 THE WITNESS: Well, that little thing that she
4 had marked, yes, sir.
5 THE COURT: Okay. You've had a chance to read
6 that?
7 THE WITNESS: (Nods head affirmatively.)
8 THE COURT: All right. Go ahead and ask your
9 questions.
10 BY MS. WILSON:
11 Q Did you make that statement to the police?
12 A I made that statement to the police, but I don't
13 think I said Joe.
14 Q Okay. "Question: Okay."
15 "And uh-- So we talked. She stayed for a few
16 days and stuff, you know, and everything was nice, and then
17 she had this guy Joe living with her."
18 A That was Bill. You know, it wasn't Joe, 'cause
19 I don't know no Joe.
20 Q "And shit, so, and she asked me to move in--"
21 MR. HALL: Objection, your Honor. Again I make
22 my same objection as to impeachment on a specific statement.
23 She's asked the question as to, you know, the Joe thing. The
24 question about whether or not he recalls that, improper

1 impeachment.

2 THE COURT: What more is there that you want to
3 cover on that?

4 MS. WILSON: Well, it's the whole answer. I
5 mean if you impeach, you ask a question and you do the whole
6 answer.

7 THE COURT: But unfortunately this hasn't gone
8 according to Hoyle, and this witness has already explained
9 what he means by this. Is there any other reference to Joe
10 in there that you were looking to present?

11 MS. WILSON: No.

12 THE COURT: Well, would you have made the point
13 that you were trying to make, though?

14 MS. WILSON: Yes.

15 THE COURT: Okay. I think we-- I don't think
16 it would add anything to add the rest of the statement.

17 MS. WILSON: It's just not the entire answer.

18 THE COURT: Oh, I understand. But I think the
19 real issue is what you've already asked of this witness,
20 whether or not he said there was someone named Joe living
21 there.

22 MS. WILSON: Right.

23 BY MS. WILSON:

24 Q Now, she told you at the time that she wanted

1 you to move in with her, and you declined to do so and told
2 her that she had to get rid of this guy that was living there
3 first before you would move in?

4 A Right.

5 Q Now, you only stayed one night after Mr. Branham
6 moved out and you moved in because you didn't like older
7 women, you liked younger women?

8 A Right, yes.

9 Q And according to Miss Fetherston, she was not
10 romantically involved with Bill?

11 A Right.

12 Q Because he slept on the couch and she slept in
13 the bedroom?

14 A Right.

15 Q But you had a sexual relationship with her for
16 three days?

17 A Well, not three days in a row, but yeah.

18 Q Okay. Now, over the telephone Bill said to you
19 that if he saw you on the street--

20 A No, Bill didn't say nothing to me on the phone,
21 because I didn't talk to him on the phone.

22 Q Excuse me, Mr. Bell. Over the telephone, Bill
23 said to you that if he saw you on the street, you were dead?

24 A Exactly. But he didn't tell me that direct. He

0 1 told that to Beverly.

2 Q Okay. So are you saying he never said that to
3 you on the telephone?

4 A Exactly. He never did.

5 Q So when you talked to the police and indicated
6 that he threatened, "If I see you on the street, you're
7 dead",--

8 A That's what I was told.

9 Q --that was not to you?

10 A Not to me, but it was told to Beverly and she
11 told me. And plus he told the other guys that hung around
12 with her that I was in trouble.

13 Q Okay.

14 A And why, I have no idea.

15 Q Now, the phone conversation that you're
16 indicating today took place with Miss Petherston and
17 Mr. Branham, that was approximately February 1st, which was
18 a Sunday?

19 A No, it wasn't February 1st. I didn't-- I
20 didn't see her in February at all.

21 Q Okay. Page 7 at the bottom.

22 "Question: Now, how long ago did all this take
23 place again?" Referring to the phone conversation where
24 allegedly Mr. Branham suggested that--

0 1 A And I said a couple, three weeks; right?
2 Q You said, "Uh, a week or two weeks ago."
3 A Okay. That would have to be--
4 Q "The last time I was at the bar."
5 A That had to be in January.
6 Q Well, Mr. Bell, the statement was taken February
7 14th.
8 A Okay. That's two weeks; right?
9 Q So a week before February 14th would have been
10 February--
11 A But I said two or three weeks.
12 Q You said, "Uh, week or two weeks ago. The last
13 time I was at the bar."
14 A Well, that might have been true.
15 Q Okay. So one week before this statement would
16 have been February 7th, and two weeks before this statement
17 would have been February 1st.
18 A I didn't see those guys in February. I know I
19 didn't see them in February.
20 Q Okay.
21 A 'Cause I left well enough alone after that phone
22 call.
23 Q You will admit that you made this statement to
24 the police?

1 A I reckon if I said it, I guess I did.

2 Q Okay. Now, you told Bev that you did not want
3 to spend the night at her home and you spent the night at the
4 bar?

5 A Exactly.

6 Q And you slept on the floor of the bar, and Gary
7 Swinehart gave you a towel for your head?

8 A I slept at the bar, not on the floor.

9 Q Is it your testimony today that you did not
10 sleep on the floor of the bar?

11 A I didn't, no. I slept on the barstool with my
12 head on the bar.

13 Q Page 8.

14 "Question: Okay."

15 "Answer: Yeah, Gary will testify, 'cause I
16 stayed in the bar and slept on the floor."

17 A Well, he will testify, but I didn't sleep on the
18 bar. I slept on a barstool with my head on the bar with
19 towels on my head, you know, for a pillow.

20 Q "He gave me a towel, ha-ha, to bury my head, but
21 that's-- uh, that's about it. I've only known her for about
22 a month."

23 A That's it.

24 Q Now, at the time of the police interview, you

0 1 indicated to the police that you stayed with Warren Christian
2 for one week?

3 A Um-hum.

4 Q That would mean from February 8th until February
5 14th; correct?

6 A It was in there-- that time, yeah.

7 Q Because you had been staying there from the
8 previous Saturday until the 14th; right?

9 A Staying where?

10 Q With Warren Christian.

11 A Right.

12 Q Now, regarding the situation where you helped
13 Marilyn move, do you recall that?

14 A Yes, I do.

15 Q And Marilyn moved from Reno to Tonopah; correct?

16 A Right.

17 Q Okay. Now, isn't it true that Friday morning,
18 January 31st, Beverly, you and Mr. Branham went to Marilyn's
19 to help her move?

20 A That was the date, yeah, we did, 'cause we were
21 all there.

22 Q And that was a Friday morning, January 31st?

23 A It was a Friday or Saturday, I don't remember.

24 Q Okay. And then Friday into the evening or

1 afternoon, January 31st, that's when Mr. Branham left you in
2 Verdi?

3 A No. We left really early from Marilyn's house.

4 Q Well, but I mean that's the night, Friday night,
5 January 31st?

6 A I-- I reckon.

7 Q Okay. And you told him that you wanted to go to
8 Truckee?

9 A No, I did not.

10 Q Okay. And you say there's no pine trees in
11 Nevada?

12 A That's what I said.

13 Q Okay.

14 A And he said he'd show me some pine trees in
15 Verdi.

16 Q Okay. And you wanted to play pool?

17 A Right.

18 Q And you and he had been drinking together all--

19 A All day.

20 Q Okay. And he didn't show you any physical force
21 at that time; did he?

22 A No.

23 Q And he bought drinks, or did you buy drinks?

24 A I bought.

1 Q So you were buying drinks and then you guys were
2 playing pool; right?
3 A Um-hum.
4 Q You have to answer out loud.
5 A Yes, ma'am.
6 Q Okay. Now, at the time that you all are playing
7 pool, there is a young lady that you're talking with at the
8 pool table; right?
9 A Yes, ma'am.
10 Q And he basically tells you to clean up your
11 mouth; right?
12 A If he did, I don't remember, but I do have a
13 foul mouth when I start drinking.
14 Q Were you intoxicated at the time?
15 A Oh, yeah.
16 Q Okay. Now, isn't it true that you all went
17 outside and he was telling you, "Hey, we're going back and
18 knock off the foul language", and you said, "The bartender
19 doesn't care. The bartender didn't tell me to stop cussing"?
20 A That part I don't remember. I just remember us
21 arguing out there and he left me. That's all I know.
22 Q Well, and Mr. Branham said, "If you go back into
23 the bar, I'm leaving"?
24 A No, I don't remember that.

1 Q And you went back in the bar and he left?
2 A No, I didn't. He left while I was standing
3 there talking to him.
4 Q Because you told him, "Nobody tells me what to
5 do"?
6 A Exactly.
7 Q And this was about 7:00 or 8:00 p.m.?
8 A It was getting dark I think, yeah.
9 Q Okay. And then that's when you had Marilyn come
10 and pick you up?
11 A Right.
12 Q And she finally located you about 1:00 a.m. in
13 the morning?
14 A Right.
15 Q Because you went back inside and partied?
16 A That's it.
17 Q All right.
18 A Yes, ma'am.
19 Q Now, the next day after he's supposed to have
20 shown you where he's going to bury you, you and Mr. Branham
21 help Marilyn move again?
22 A No, no, no, no, no, no, no, no. That's not
23 true.
24 Q That's not true?

1 A No.

2 Q You don't recall helping Marilyn move the
3 following day--

4 A Well, of course-- No.

5 Q --and Bill Branham being there?

6 A No. He helped us-- He was there the day that
7 we were doing it. That's when we went out to Verdi. After
8 that, we didn't go back over there.

9 Q Okay. Isn't it true that Ron, Linda, Beverly,
10 Mark Rode, Bill and yourself helped Marilyn move the very
11 next day after the Verdi situation?

12 A No, we didn't. If we did, I don't remember it,
13 but he sure wasn't there.

14 Q Okay. Now, you said that you are positive that
15 you didn't see Beverly in February?

16 A I didn't.

17 Q You didn't see her in February?

18 A (Shakes head negatively.)

19 Q And so is it your testimony that you weren't
20 present when Bill Branham moved his things and you were
21 sitting on the couch with Beverly?

22 A I was setting on the couch, but it wasn't in
23 February when he moved out, I don't think. I think it was
24 January--

1 Q That was February 2nd.
2 A --he moved out.
3 Q Bill Branham moved out February 2nd, Sunday.
4 Isn't that a fact?
5 A I don't recall. I--
6 Q Well, if he did move Sunday, February 2nd, you
7 would have seen Beverly in February; wouldn't you?
8 A Well, of course.
9 Q Okay. Now, Mr. Bell, you are not a 40-hour-a-
10 week employee; correct?
11 A No. I work when I want.
12 Q Okay. And when you work, you get paid by the
13 work you do?
14 A Right.
15 Q Okay. Do you still own a Volkswagen?
16 A No.
17 Q Did you own a Volkswagen car, a 1968 model--
18 A Yes.
19 Q --at the time,--
20 A Yes.
21 Q --February of 1992?
22 A Right.
23 Q Okay. Now, the time that you went with
24 Mr. Branham to Verdi, Beverly Fetherston loaned the car to

1 Bill. Isn't that true?

2 A Yes, ma'am.

3 Q He didn't take it from her?

4 A No.

5 Q To your knowledge, does he have keys of his own?

6 A That I couldn't tell you.

7 Q Okay. And isn't it a fact that she loaned the
8 car to Bill Branham all the time?

9 A As far as I know, he was her roommate, I reckon.

10 Q Okay.

11 MS. WILSON: Court's indulgence?

12 THE COURT: All right.

13 BY MS. WILSON:

14 Q I don't recall if I asked you this, Mr. Bell:
15 When you went home with Beverly and Mark Rode, did you
16 testify that it was probably a Tuesday or Wednesday night
17 because the next couple of days she had off?

18 A Right. It had to be, yeah.

19 Q Okay. And would it be fair to say that at
20 that-- there was another time that you had a slumber party
21 at Marilyn's house when you first met her?

22 A Right.

23 Q And you slept with Beverly that night?

24 A Right.

2 1 Q Now, you believe that you went to Beverly's
2 house on two occasions: one time you went with Marilyn, and
3 one time you went with Mark Rode; right?
4 A Yes, ma'am.
5 Q Wasn't there another time when you were over
6 there when Mr. Branham moved out?
7 A Yes, ma'am.
8 Q Okay. So that would be incorrect that it was
9 just twice. It was three times?
10 A Yeah, two or three times, yeah.
11 Q Okay. Now, you were at the residence at one
12 time when Beverly did not use a key to open the door;
13 correct?
14 A When she didn't use the key? No.
15 Q Okay. Page 13.
16 A She didn't use a key?
17 Q Right.
18 A She didn't use a key, he was there.
19 Q Yes. Do you recall being with Beverly when she
20 didn't use a key, the door was open?
21 A I don't remember.
22 Q Okay. I'm going to show you your transcript
23 here.
24 MS. WILSON: May I approach?

2 1 THE COURT: Of course.

2 BY MS. WILSON:

3 Q Okay?

4 A But I don't remember--

5 Q Maybe you should read this far, to get it in
6 context.

7 A See, I went-- No, see, I never told him I went
8 over there by himself. I never said this stuff. It's like
9 people saying things that I didn't say. And this has been
10 over a year ago, and I know--

11 Q You didn't say that?

12 A I don't-- Like there's things written down that
13 I never said, you know, kind of like made-up stuff.

14 Q Okay.

15 A 'Cause when those those guys picked me up, I was
16 wasted. And I'll admit it to anybody. I wouldn't admit it
17 to them then, but I was.

18 Q Okay.

19 "Question: When you got there, did she have to
20 use a key to open the door or what?"

21 "Answer: No, she didn't. No, no. Oh, no. The
22 second time, though, she did, because there was just me and
23 Mark and her."

24 A If she didn't use a key, he was there.

2 1 Q Okay. Now, according to you the reason you had
2 a verbal fight with Mr. Branham in Verdi was because he was
3 mad that he beat you in pool?

4 A I beat him in pool.

5 Q That was why he was mad at you?

6 A I reckon.

7 Q That's what you told the police?

8 A Right.

9 Q Okay. And when you were together in Verdi, he
10 had a verbal fight with you because he was mad at you because
11 you were using bad language around women there?

12 A There was only one woman there.

13 Q Is that what you told the police?

14 A Did I tell the police there was only one woman
15 there?

16 Q No. That when you were together in Verdi and
17 you had a verbal fight with him, he was mad at you because
18 you were using bad language around women there?

19 A That I don't remember.

20 Q Okay. Page 14.

21 A Well, I reckon.

22 Q Okay. Do you believe that you made that
23 statement to the police?

24 MR. HALL: Your Honor, I-- I'm going to object.

2 1 I don't know what statement that's been referred to.

2 THE COURT: I agree.

3 MS. WILSON: That was the last statement that I
4 asked him about.

5 THE COURT: Why don't you pose a new question to
6 him. We've got all kinds of dialogue here, "I reckon", and
7 "Did you make the statement", and none of us know what you're
8 talking about right now.

9 MS. WILSON: Okay.

10 BY MS. WILSON:

11 Q When you were together in Verdi, do you dispute
12 making a statement to the police that you had a verbal fight
13 with Mr. Branham because you were using bad language around
14 women?

15 A If I fight with him, it won't be because I was
16 using bad language around women, because there was only one
17 woman there anyway.

18 Q Okay. Page 14.

19 "Question: Inaudible."

20 "Answer: I get along really, really good with
21 women."

22 THE WITNESS: I do.

23 BY MS. WILSON:

24 Q "This lady was shooting pool. I swear to God, I

2 1 don't know who she was or what she looked like, and he got
2 all mad about that because I beat him in pool and all this
3 crazy shit, and he got all mad at me and calls me all kinds
4 of names and stood up to him. I'm a little guy, but I stood
5 up to him and he left me in Verdi."

6 A That's correct.

7 Q Now, was there any fistfighting?

8 A Oh, no.

9 Q Now, when Gary Swinehart told you about the
10 deceased, you cried?

11 A (Nods head affirmatively.)

12 Q And is that an answer, "Yes"?

13 A Yes.

14 Q Was that in front of Gary Swinehart?

15 A Yes.

16 Q Now, you knew the police were looking for you?

17 A Yes, I did-- No, I didn't. My boss told me.

18 Q Okay.

19 A He's the one that told them where I was at.

20 Q And after your boss told you, that's when you
21 knew they were looking for you?

22 A Right.

23 Q Okay. And as far as you knew, you were a
24 suspect because she got killed and you knew her?

1 A Right.

2 Q Now, you were not around in the last two weeks?

3 A That's right, I wasn't.

4 Q You weren't at the Swiss Chalet,--

5 A No.

6 Q --Bev's house or in touch with Marilyn, Gary,
7 Bill or Mark?

8 A No. Always try to leave well enough alone.

9 Q And the last time you saw her was February 1st?

10 A If that's when it was, yes.

11 Q Now, you were going to go down to the police
12 station after you finished your beer at the Swiss Chalet;
13 right?

14 A Yes, ma'am.

15 Q But that never happened, the police came and got
16 you?

17 A Right. 'Cause once you have one, you never
18 leave. Especially if you're an alcoholic. Trust me.

19 Q Are you an alcoholic?

20 A Oh, full-blown.

21 Q Okay. Now, Beverly got intoxicated, too; right?

22 A We did all the time. Every night I knew them.

23 Q And she got a little loud and outrageous
24 herself; isn't that true?

1 A Marilyn?

2 Q I'm sorry. Beverly.

3 A Beverly?

4 Q Beverly.

5 A Every now and then, yeah.

6 Q Got a little loud and outrageous?

7 A She does, yes.

8 Q And she was a very heavy drinker?

9 A Very much so. That's why I think I drink so

10 much, just to keep up with them.

11 Q Now, you never saw Beverly carry a purse with

12 her?

13 A No, I didn't.

14 Q Okay. Now, you also noticed that she didn't

15 drive her car much to work because she lived right around the

16 corner?

17 A So close, yes.

18 Q And as far as you knew, she would walk to work;

19 right?

20 A Yes.

21 Q And you knew Bill used her car?

22 A Yes.

23 MS. WILSON: Court's indulgence?

24 BY MS. WILSON:

1 Q Did you ever tell Richard Sokolik that Bill
2 Branham showed you where he was going to bury you?

3 A That's the lady's husband that owns the bar;
4 right?

5 Q Yes.

6 A Did I tell him that?

7 Q Yes.

8 A Well, I told him he took me out to Verdi, showed
9 me pine trees.

10 Q Okay.

11 MS. WILSON: Court's indulgence. I don't want
12 to be repetitive.

13 BY MS. WILSON:

14 Q So you don't recall seeing Beverly Fetherston on
15 Wednesday, February 5th?

16 A I didn't see her Wednesday, February 5th.

17 Q Okay. Now, you met Bill Branham about two weeks
18 after you met her; right?

19 A Right.

20 Q And you went over to the house to have a few
21 beers with both Beverly and Bill?

22 A And Marilyn.

23 Q Okay. You had done that before?

24 A I've done what before?

1 Q You've drank with Bill Branham and Beverly at
2 the same time?

3 A Oh, yes.

4 Q Okay. Did they show any physical altercation at
5 that time?

6 A Oh, no. Everything was nice, the way it should
7 be.

8 Q And that was the first time in January that the
9 three of you were drinking together at the house?

10 A Yes, ma'am.

11 Q And you would say that that was friendly and
12 everybody was getting along?

13 A Um-hum, yes.

14 Q Any verbal altercation between Mr. Branham and
15 Beverly Fetherston?

16 A No.

17 MS. WILSON: Court's indulgence?

18 BY MS. WILSON:

19 Q Now, the next time that you had contact with
20 Beverly and Bill was in the afternoon when she asked him to
21 move out of the residence in your presence?

22 A Right.

23 Q And that request was made in your presence at
24 her home?

1 A Right.

2 Q And at the time, the conversation was pretty
3 friendly?

4 A Yes, it was.

5 Q And then you viewed him grab his stuff--

6 A I didn't grab his stuff.

7 Q No, no, you viewed him, you watched him--

8 A Oh, right.

9 Q --grab his stuff and go out the door?

10 A Exactly.

11 Q You were not afraid of Bill Branham?

12 A No, ma'am.

13 Q And he never told you that he was going to punch
14 you out or threaten you?

15 A Not to my face.

16 Q And he never laid a hand on you?

17 A Never, hum-um.

18 Q You'd say that he was more talk than action;
19 wouldn't you?

20 A Exactly.

21 MS. WILSON: Thank you.

22 THE COURT: Redirect?

23 ///

24 ///

1 ///

2 REDIRECT EXAMINATION

3 BY MR. HALL:

4 Q Mr. Bell, do you recall the occasion when you,
5 Mark Rode and Beverly Fetherston spent the night over at her
6 house?

7 A Right.

8 Q Where did everybody sleep?

9 A I slept in a chair, he slept on the couch, and
10 she slept in her bedroom.

11 Q Did you have sex with Miss Fetherston that
12 night?

13 A No.

14 Q Did anybody have sex with Miss Fetherston that
15 night?

16 A No.

17 Q When you had sex with Miss Fetherston, was there
18 any kind of out-of-the-ordinary type sexual activity taking
19 place?

20 A I don't understand what you mean.

21 Q Well, did you ever use any choke holds--

22 A No.

23 Q --on Miss Fetherston when you had sex with her?

24 A No, no.

14 1 Q Do you know whether or not she was kinky at all
2 in her sexual desires?

3 A No. I-- Usually I talk to my ladies when I
4 have sex with them to ask them things like that, but no, I
5 never did. Or she never said anything.

6 Q When was the last time that you were with
7 Beverly Fetherston in a sexual type situation?

8 Let me rephrase the question. Were you with
9 Beverly Fetherston in a sexual type situation in February of
10 1992?

11 A No.

12 Q Did you know whether or not Beverly Fetherston
13 had any other roommates other than the defendant Bill Branham
14 during the time that you knew Miss Fetherston?

15 A (Shakes head negatively.)

16 Q So when you made reference to Joe or there was a
17 reference to Joe in the transcription of your statement given
18 to the police, would that have been inaccurate?

19 A Yes, that would have been inaccurate.

20 Q Would you have been referring to the defendant
21 in that statement?

22 A Bill? Yes.

23 Q The defendant Bill Branham?

24 A Yes.

1 Q Do you know whether or not Miss Fetherston had a
2 purse?

3 A If she did, I never seen it.

4 Q Do you know whether or not Bill-- Excuse me.
5 Do you know whether or not Beverly Fetherston
6 was afraid of Mr. Branham?

7 A I think she was, but she hardly ever mentioned
8 stuff like that. She kind of acted like she was.

9 Q What made you think that Miss Fetherston was
10 afraid of Mr. Branham?

11 A Because like, you know, when he called, she kind
12 of like nervous, but she hid it real well. You know how
13 people hide things.

14 Q Can you elaborate on that, explain this a little
15 bit?

16 A No, not really. You know, you have to see
17 somebody in the situation, I guess.

18 MR. HALL: That's all I have.

19 THE COURT: Recross?

20 MS. WILSON: No.

21 THE COURT: You may step down. Thank you,
22 Mr. Bell.

23 THE WITNESS: Thank y'all. Am I done now?

24 MR. HALL: May this witness be excused?

14 1 MS. WILSON: This witness is under subpoena by
2 the defense, your Honor.

3 THE COURT: Do you know how to reach Mr. Bell?

4 MS. WILSON: Yes, we do.

5 THE COURT: It means you can't leave Washoe
6 County, Mr. Bell. There's still a subpoena in effect. You
7 may well be recalled. So be around and be at the numbers
8 where you've indicated you can be at work.

9 THE WITNESS: At work?

10 MR. HALL: They may contact you, so be around
11 where they can get ahold of you.

12 THE WITNESS: Okay.

13 THE COURT: Thank you. It's about 7 minutes
14 after 5:00. I think we've had enough testimony to offer to
15 you today, ladies and gentlemen. So momentarily-- We'll
16 reconvene at 10:00 a.m. tomorrow morning.

17 You are once again instructed not to discuss
18 this case among yourselves or with anyone else, or to form
19 any conclusions concerning any issue in dispute until such
20 time as it is submitted to you as a jury. You are not to
21 read, look at or listen to any media accounts of this event,
22 should there be any.

23 And on behalf of counsel and Mr. Branham, I'd
24 like to thank you again for your attentive nature to this

1 case thus far. Court will stand in recess until 10:00 a.m.
2 tomorrow morning.

3 (Proceedings Continued to March 3, 1993, at 10:00 a.m.)

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1 STATE OF NEVADA)
2) ss.
3 COUNTY OF WASHOE)

4 I, RICHARD L. MOLEZZO, official reporter of the
5 Second Judicial District Court of the State of Nevada, in and
6 for the County of Washoe, do hereby certify:

7 That as such reporter I was present in
8 Department No. 5 of the above court on Tuesday, March 2,
9 1993, at the hour of 10:00 a.m. of said day, and I then and
10 there took verbatim stenotype notes of the proceedings had
11 and testimony given therein upon the Trial of the case of
12 THE STATE OF NEVADA, Plaintiff, vs. WILLIAM EDWARD BRANHAM,
13 Defendant, Case No. CR92-0546 and CR92-1048.

14 That the foregoing transcript, consisting of
15 pages numbered 1 to 133, both inclusive, is a full, true and
16 correct transcript of my said stenotype notes, so taken as
17 aforesaid, and is a full, true and correct statement of the
18 proceedings had and testimony given upon the Trial of the
19 above-entitled action to the best of my knowledge, skill and
20 ability.

21
22 DATED: At Reno, Nevada, this 27th day of July, 1993.

23
24 /bb


RICHARD L. MOLEZZO CBR #40