

**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE**

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Elizabeth A. Brown
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STATE OF NEVADA,

Plaintiff,

vs.

STEVEN FLOYD VOSS,

Defendant.

Sup. Ct. Case No. 77505

Case No. CR96-1581

Dept. 1

RECORD ON APPEAL

VOLUME 4 OF 15

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APPELLANT

**Steven Floyd Voss #52094
N.N.C.C.
P.O. Box 7000
Carson City, Nevada 89702**

RESPONDENT

**Washoe County District
Attorney's Office
Jennfer P. Noble, Esq. #9446
P.O. Box 30083
Reno, Nevada 89502-3083**

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1 SOPHIA PANTOJA,
2 called as a witness on behalf of the State herein,
3 having been first duly sworn, was examined
4 and testified as follows:

5
6 DIRECT EXAMINATION BY MR. WALKER:

7 Q. Good afternoon, ma'am.

8 A. Hi.

9 Q. Please state your full name and spell your
10 last name.

11 A. Sophia Pantoja, P-a-n-t-o-j-a.

12 Q. Where do you currently reside?

13 A. I live at Shoreline Plaza Apartments on 2500
14 Dickerson Road.

15 Q. Where do you currently work?

16 A. Microflex Medical.

17 Q. Where is Microflex Medical?

18 A. On West Fourth Street.

19 Q. How long have you worked at Microflex?

20 A. Since March.

21 Q. Did you know a fellow employee at Microflex by
22 the name of Beverly Baxter?

23 A. Yes.

24 Q. How did you know Miss Baxter?

1 A. She was my trainer when I first started work
2 at Microflex, and we became friends.

3 Q. Where were your work stations, if you will,
4 situated with respect to one another?

5 A. Right next to each other..

6 Q. Do you remember talking with Miss Baxter on
7 June 12, 1996, that would be a Wednesday, generally about
8 her boyfriend, Steven Voss?

9 A. Yes, we did.

10 Q. What do you recollect about that conversation?

11 A. She had mentioned that Steven had found an
12 attorney for her, and he wanted her to give him
13 everything she had, along with a one dollar check, and he
14 would fax everything over to the attorney.

15 Q. And when was that supposed to happen,
16 according to Miss Baxter?

17 A. I don't know, but it sounded like she was
18 going to do it -- I don't know whether that day or not, I
19 don't know.

20 Q. Miss Pantoja, did you ever see Mr. Voss at
21 Microflex on Wednesday?

22 A. I never saw him personally.

23 Q. Do you recognize him to this day?

24 A. I have seen pictures of him on the news.

1 Q. But from your own independent recollection,
2 you don't really know who he is?

3 A. No. I have heard a lot about him, that's all.

4 Q. Do you remember, did Miss Baxter say anything
5 to you about meeting with Mr. Voss that Wednesday?

6 A. Other than he came to work to talk to her,
7 that's pretty much all I know.

8 Q. Do you recall saying anything about her being
9 surprised he was waiting for her at 4:30?

10 A. Yes, she came by my desk to let me know that,
11 yeah.

12 Q. So he was waiting for her there at work at
13 4:30 that afternoon, at least that's what she said?

14 A. Yes.

15 Q. Did you see him at that time?

16 A. No.

17 Q. Now you described this conversation about an
18 attorney and all her paperwork. What was your
19 understanding of what the paperwork referred to?

20 A. The check.

21 Q. And that check is?

22 A. What the storage company gave her, \$5,000.

23 Q. Did Miss Baxter discuss this topic at work?

24 A. Frequently; everyday.

1 Q. Did you ever notice any change or difference
2 in her stated intention about what she was going to do
3 with this check?

4 A. It was always the same: She was not going to
5 cash it.

6 Q. Do you recall having any conversation with
7 Miss Baxter about Mr. Voss wanting her keys?

8 A. Yes, I have.

9 Q. What did she say?

10 A. Several times he was supposed to fix her car,
11 and he asked that she leave her keys in her car. He
12 didn't want to come in and ask for her to get the keys.

13 Q. Was that one set of keys or an extra set of
14 keys, do you recall?

15 A. It was her only set of keys, I believe.

16 Q. How do you know it was her only set of keys?

17 A. I don't know for a fact, I really don't.

18 Q. That was your understanding from the
19 conversation?

20 A. Yes, that she would leave her keys in the car,
21 uh-huh.

22 Q. She ever do that?

23 A. Yes, I believe twice she did it for him.

24 Q. Do you recall when that was?

1 A. I know it was some time that week, because she
2 was having problems with her window, I don't know on the
3 passenger's side or the driver's side, and he was
4 supposed to come by and take a look.

5 Q. And the purpose for leaving the keys in the
6 car was to work on the car some time this week of June
7 10th?

8 A. Yes.

9 MR. WALKER: Nothing further.

10 THE COURT: Mr. Conway?

11 MR. CONWAY: Thank you.

12 CROSS EXAMINATION BY MR. CONWAY:

13 Q. Do you know if Steven Voss -- how many times
14 he came by her place of work on Wednesday, June 12?

15 A. I heard twice. I never saw him, though.

16 Q. Do you recall -- well, one of the times was
17 when he was there at 4:30; correct?

18 A. Yes.

19 Q. Waiting for her?

20 A. It may have been the day before.

21 Q. You don't know which day he was waiting for
22 her?

23 A. No, I do not.

24 Q. Do you know if he came by twice on June 12?

1 A. No, but I just heard.

2 Q. Do you know the time he came by?

3 A. On that Wednesday, I think it was before 3:00
4 or 3:30. It was sometime after we took break; we usually
5 break at 2:00 o'clock.

6 Q. That was the first time?

7 A. I am not sure.

8 Q. Now you stated that Beverly Baxter spoke about
9 the check all the time.

10 A. Yes.

11 Q. When was the first time you heard about it?

12 A. Let's see. Right when they mailed it to her,
13 we knew about the whole thing, when the storage
14 company --

15 Q. Have you seen the check?

16 A. No, I never did.

17 Q. Have you seen the letter that they mailed it
18 in?

19 A. No.

20 Q. Do you know the date they mailed it?

21 A. No, I don't. I didn't think it relevant at
22 the time to remember the day, but --

23 Q. Do you know how long ago it was that they
24 mailed her the check?

1 A. I know that in February they sold her
2 furniture, so it had to have been sometime between -- I
3 don't know, maybe at the end of February? I am not
4 sure.

5 Q. Is that when they sent her the check?

6 A. Yes, supposedly as a settlement for selling
7 her furniture.

8 Q. Why do you phrase this as a settlement?

9 A. Because they knew that they wrongfully sold
10 her stuff.

11 Q. How do you know they knew they wrongfully sold
12 her stuff?

13 Q. She had made her payments, and for like two
14 years she paid for her furniture in storage, and out of
15 the blue they sold her stuff, so they sent her \$5,000.

16 She wanted to sue them, so she was not going
17 to cash that check.

18 Q. But you have never seen the check?

19 A. No.

20 Q. Never seen the paperwork that came with that
21 check?

22 A. No.

23 Q. And she personally told you that she had made
24 every payment on time?

1 A. Yes, she came to work really upset, yes, that
2 they had sold her stuff, and she could not understand
3 why.

4 Q. Now you had a conversation with her on June
5 12th that she was going to fax these documents that you
6 have never seen, to an attorney; correct?

7 A. No. Steven Voss wanted her to give them to
8 him so he could fax them over to the attorney.

9 Q. She ever mention the attorney's name?

10 A. I don't even think he told her the attorney's
11 name.

12 Q. You don't know what he said, you've have never
13 even met him.

14 A. No, but she would have mentioned it.

15 Q. And also she was going to send with Mr. Voss a
16 one dollar retainer check, isn't that correct?

17 A. Yes.

18 Q. For that attorney?

19 A. Yes.

20 Q. Now you stated he came by twice where he got
21 her keys to look at her car; is that correct?

22 A. Supposedly he looked at her car. I don't even
23 know if he did.

24 Q. Do you even know if she left the keys for him?

1 A. Yes, I do.

2 Q. How do you know that?

3 A. Because she had commented how she left her
4 keys out in the car. She didn't even know if he came by
5 or not to take a look at the car.

6 MR. CONWAY: Nothing further.

7 THE COURT: Mr. Walker?

8 MR. WALKER: Nothing further, Your Honor.

9 THE COURT: Thank you, ma'am, you may step
10 down.

11 (The Witness Was Excused.)

12 MR. WALKER: Ed Park, Your Honor.

13

14 ED PARK,

15 called as a witness on behalf of the State herein,

16 having been first duly sworn, was examined

17 and testified as follows:

18

19 DIRECT EXAMINATION BY MR. WALKER:

20 Q. Good afternoon, sir. If would you please
21 state your full name and spell your last name for the
22 record.

23 A. My name is Ed Park. Last name is P-a-r-k.

24 Q. Mr. Park, what is your occupation or

1 profession, sir?

2 A. I am the assistant manager for the customer
3 processing department at Microflex.

4 Q. What is Microflex?

5 A. Microflex is a company, private company that
6 sells and distributes latex gloves.

7 Q. Latex gloves, like hospitals and that sort of
8 thing use?

9 A. Generally, EMS, hospitals, funeral homes, a
10 wide variety of different industries.

11 Q. How long have you worked at Microflex?

12 A. I have worked there since October 23rd of last
13 year.

14 Q. Have you held the same position for that
15 entire period of time?

16 A. No, when I started, I started out at a data
17 entry clerk. And then I became the supervisor of my
18 department. And right now I am the assistant manager.

19 Q. So you have made two promotions, if you will,
20 in that period of time?

21 A. Yes, I have.

22 Q. What was your job status and/or title on June
23 14th, 1996?

24 A. I was the assistant manager of the customer

1 processing -- of the then known as the data entry
2 department.

3 Q. It's since changed names, it sounds like?

4 A. Yes.

5 Q. Among the employees working below you, was
6 there a person by the name of Beverly Baxter?

7 A. Yes, there was.

8 Q. How long had Beverly worked for you?

9 A. Beverly started with Microflex one day after I
10 started. She started on October 24th, 1995.

11 Q. And how well did you know Beverly, at least on
12 a day-to-day work basis?

13 A. I was very close with Beverly as far as at
14 work. She worked right under me, we started pretty much
15 at the same time, so I knew her very well, and I knew her
16 work very well.

17 Q. Were you responsible, at least immediately
18 responsible for her in terms of work reporting and
19 timeliness and that sort of thing on a day-to-day basis?

20 A. Yes, I was.

21 Q. What was her habit with respect to reporting
22 and timeliness?

23 A. Relative to everyone else, she was an
24 outstanding, extremely dependable worker, even relative

1 to anyone I have worked with in the past. She never
2 called in sick, except for one occasion, and she missed
3 half of a day. So essentially she was there every single
4 day. She was very very dependable, never showed up
5 late.

6 When she did call in sick, she -- when she was
7 sick, she called in the day before, and so I would know
8 pretty much every single day that she would come in. She
9 was that dependable. I could count on her to come in.

10 Q. What were her hours of work the week of June
11 10, 1996?

12 A. She starts work at 7:30 a.m, and I believe she
13 ends work at 4:00 p.m on that day.

14 Q. Do you recall she worked everyday of the week
15 of June 10?

16 A. She worked everyday except for Thursday, which
17 was June 13th.

18 Q. What happened Thursday?

19 A. Thursday morning she called my direct
20 supervisor. At that point in time I did not have a
21 phone, so whenever somebody needed to call in sick, they
22 would call my supervisor, who at that moment in time was
23 Debbie Mogely, and she was both the customer service
24 manager as well as the data processing data entry

1 manager.

2 Q. What was your understanding about when Beverly
3 would next be expected at work?

4 A. She was expected at work first thing Friday
5 morning, 7:30 a.m.

6 Q. Did she come to work Friday morning?

7 A. No, she did not.

8 Q. What did you do when she failed to appear for
9 work?

10 A. At approximately 7:45 a.m., I talked with
11 Linda Weeks, simply asking her if she knew anything,
12 whether Beverly had called in late on Thursday, and Linda
13 Weeks said she had not.

14 I talked with other people in my department,
15 asking whether they knew if Beverly was going to show up
16 late or if she was -- called in sick for Friday.

17 Essentially everybody I talked with did not
18 know or had no knowledge that Beverly had called the
19 company, besides her calling in Thursday morning, telling
20 Debbie Mogley that she would be in on Friday morning,
21 7:30 a.m.

22 So after talking to her and essentially
23 everyone in the department, I told Linda Weeks to wait
24 until 8:00 o'clock, and at 8:00 o'clock she still was not

1 present, so I took it upon myself, because she lived only
2 about a mile away, and because I knew her personally
3 outside of work as well as at work, and I knew where she
4 lived, I took it upon myself to drive down to her motel,
5 the Jacpine..

6 Q. Describe the driving path, if you will, from
7 Microflex Medical to the Jacpine where she lived.

8 A. Microflex is located at 127 Woodland, so it's
9 approximately two blocks away from West Fourth Street, so
10 you would be traveling north and taking a right onto West
11 Fourth Street traveling east, and it's approximately one,
12 maybe one and a half miles to the Jacpine, which is just
13 off of West Fourth Street.

14 Q. What did you find when you got to her
15 apartment?

16 A. When I came to the apartment, approximately
17 five minutes after 8:00, I knocked on her door, and when
18 there was no response, I knocked on the manager's door
19 and Sandy opened the door, and I told Sandy that it was
20 extremely unlike Beverly not to show up for work; and
21 that if she did, she was going to call in sick, that she
22 was going to be sick, she would have called in.

23 And so I told Sandy, because of this, I
24 thought it was extremely unusual, and I wanted her to

1 check on Beverly to see if maybe she might have fallen in
2 her room, something might have happened to her in her
3 room, to see if Beverly was actually in the room, if she
4 needed any assistance.

5 And Sandy essentially agreed with me that it
6 was very uncharacteristic of her not to tell anyone if
7 she was not going to work, so she agreed to open up the
8 room, to go inside to look for Beverly.

9 Q. Did you do that?

10 A. I did not go inside, but at that point in time
11 Sandy did enter the room. And the only thing that was
12 there was the dog, her own dog was left in the room.

13 Q. What are the normal pay periods for Microflex
14 Medical?

15 A. We're usually paid around the 5th of the month
16 and the 20th of each month.

17 Q. That's on a monthly basis?

18 A. Twice a month, every single month.

19 Q. I mean each month it's on the 5th and the
20 20th?

21 A. Around the 5th and the 20th. It fluctuates,
22 maybe sometimes it's one or two days earlier or one or
23 two days late.

24 Q. Do yo recall, were the two pay periods in

1 June, the 5th and the 20th?

2 A. Within one or two days. It's never been more
3 than one or two days. It would be around those dates.

4 Q. As I understand it, Beverly disappeared
5 sometime around the 13th. Did she have a paycheck coming
6 then later in the month still?

7 A. Yes, she did.

8 Q. Did she ever claim that?

9 A. Not to my knowledge, no.

10 Q. After you searched for Beverly at her
11 apartment, where did you go or what did you do next?

12 A. Essentially when the only thing that was at
13 her apartment was the dog, and knowing that she had
14 talked very highly of the dog, she told me personally
15 that the dog was very very important to her, I
16 essentially knew she would not have left town, she would
17 not have gone out of state, out of the city.

18 I made these presumptions based upon my
19 personal knowledge of her, that she's very shy, she would
20 never leave town by herself, never leave the state by
21 herself.

22 She's -- based upon the fact she always comes
23 to work on time, that she never misses a day without
24 calling ahead of time, and the fact that she left her dog

1 behind, it made me very very concerned that something was
2 wrong.

3 Q. Where did you go in order to try and locate
4 her?

5 A. After I went back to work, we called the
6 hospitals to see if she had been admitted into the
7 hospitals, and we called the Sheriff's Department to see
8 whether she had been booked into some jail for some
9 strange reason.

10 After that, we weighed until noontime. And
11 then at noontime myself, Linda Weeks and Sophia Pantoja
12 went down to her motel room again, just trying to find
13 some sort of clue as to where she could be.

14 Q. You did not find her there, I take it?

15 A. No, we did not.

16 Q. What other efforts did you go to in order to
17 locate Miss Baxter?

18 A. After that point, we essentially contacted as
19 many people who had -- who knew Beverly, past co-workers,
20 and there was a Susan Macina who not only knew Beverly,
21 she had some knowledge of Steven Voss.

22 There were other co-workers who had contacted
23 Beverly, and we contacted them, asked them if they knew
24 where Beverly was.

1 She essentially only knew -- her acquaintances
2 in town were primarily from work, people she had worked
3 with, people that she was working with presently.

4 To my knowledge there was only two other
5 people she knew outside of work, besides Steven Voss; and
6 that was Gary, a boyfriend she had, and Gary's sister.

7 Besides that, most of the people she knew was
8 from work. So we worked -- we essentially asked all the
9 people from work, that she knew from work, if they had
10 any idea. They did not.

11 After that, I took it upon myself, along with
12 my co-workers, to create posters, fliers, post them all
13 over Reno, downtown areas. We went to some of the
14 locations that she visited, posted them around, asked the
15 people around there if they had any idea if she had gone
16 through the area. If she had -- the last time she
17 visited that certain area.

18 Q. Mr. Park, did you at some point on Friday file
19 a missing person's report?

20 A. I believe my supervisor, Debbie Mogley, filed
21 that report.

22 Q. Was that on Friday?

23 A. I am not sure, but -- no, I am not sure.

24 Q. All right. At any rate, you went to some

1 lengths in order to find Beverly, and I take it you were
2 unsuccessful? Just yes or no.

3 A. We were unsuccessful.

4 Q. Mr. Park, at any time close in time to June
5 12, 1996, did you ever have occasion to have a
6 conversation with Miss Baxter about her intent with
7 regard to -- call it a reimbursement or a settlement
8 check?

9 A. On June 12th, I do not recall having a
10 conversation with her concerning her check.

11 Q. How about close to June 12, in the days
12 preceding?

13 A. In the few days preceding, I recall her having
14 conversations with other people, and overhearing
15 conversations, vaguely, regarding the check.

16 I do not recall at any point in time her
17 indicating in any way, sort, or manner, cashing the
18 check.

19 I do recall her having conversations about
20 knowing someone named Steve, and Steve asking her to copy
21 the check and make copies of all her storage paper work,
22 that he somehow found a lawyer in California, and for a
23 one dollar retaining fee, or a one dollar check to that
24 lawyer, that he would somehow take on this case and

1 represent her.

2 Q. Did she ever equivocate, ever waffle at all
3 about that intention?

4 A. At no point in time do I ever recall her
5 indicating to me that she would ever cash that check..

6 From the day she received the check in the
7 settlement, we, all her co-workers, including myself,
8 told her in very no uncertain terms, that for her to cash
9 that check would be considered a settlement, and would
10 essentially nullify her ability to sue the storage
11 company, and she fully understood that.

12 She has accounting background. She is not a
13 stupid person. She's a very bright person, in my mind.
14 She, based on her accounting experience, and based on her
15 performance at work, she was very very cognizant of the
16 fact if she cashed that check, that would be considered a
17 settlement. And at no point in time did she ever
18 indicate she ever wanted to accept \$5,000 in return for
19 all her possessions, all her furniture.

20 The day she lost all her possessions and
21 furniture and she found out that the storage company had
22 essentially sold everything, she essentially broke down,
23 she could not work, she was in tears, we had to let her
24 go for the rest of the day.

1 And I have never, in the entire time I have
2 known her, seen her so distraught and devastated by
3 anything. And it pretty much indicated to me that the
4 items she lost in storage were of incredible significance
5 to her, and of much greater value than \$5,000.

6 MR. WALKER: No further questions.

7 THE COURT: Mr. Conway?

8 MR. CONWAY: Thank you, Your Honor.

9 CROSS EXAMINATION BY MR. CONWAY:

10 Q. I believe you described Miss Baxter as an
11 outstanding and dependable employee?

12 A. Yes, I did.

13 Q. Also a very responsible person?

14 A. Very much so.

15 Q. You also stated that she has an accounting
16 background?

17 A. Yes, she does.

18 Q. So you would then assume she's quite good with
19 her finances and other aspects of her financial --

20 A. I would assume, based on her work with the
21 company, with billing, based on the fact that we have
22 extremely high standards of accuracy, that she would be
23 outstanding with her own finances.

24 Q. You also testified that it sounds like

1 Microflex is very close-knit group of people.

2 A. Our department was very close knit. The
3 company itself I have questions about, but our
4 department, this was very very close knit.

5 Q. How many people in your department?

6 A. At the present moment, there are eight people,
7 including myself, at the time Beverly disappeared.

8 Q. What was the number again?

9 A. Eight people at the present moment, including
10 myself.

11 Q. Now you testified that she had talked to you
12 about this check that she received?

13 A. Yes, she did.

14 Q. When was the first time she talked to you
15 about this check?

16 A. I believe it was within a couple days of
17 receiving the check. I do not recall that exact day.

18 Q. You don't recall the exact date?

19 A. It was sometime between her losing her storage
20 items and about a month before her disappearance.

21 Q. That was the first time you spoke with her,
22 about a month before her disappearance?

23 A. Concerning the check?

24 Q. Yes.

1 A. No, it was sometime between losing her storage
2 items and a month before her disappearance that I found
3 out about the check, and she told me about the check.

4 Q. Did she ever show you the check?

5 A. No, she did not.

6 Q. Ever show you any of the paperwork that went
7 along with the check?

8 A. No, she did not.

9 Q. So your conclusion that it's a settlement
10 check is based on what?

11 A. Is based on her telling me that it was a
12 settlement check.

13 Q. You stated that -- When was last time you
14 spoke with her about the check?

15 A. The last time I directly spoke with her about
16 the check, I believe was approximately three months
17 before she disappeared.

18 MR. CONWAY: Nothing further.

19 THE COURT: Mr. Walker?

20 MR. WALKER: Nothing further at this time.

21 THE COURT: Thank you, Mr. Park, you may step
22 down.

23 (The Witness Was Excused.)

24

1 MR. WALKER: Your Honor, I'd call Duc
2 Hamilton.

3
4 DUC HAMILTON,
5 called as a witness on behalf of the State herein,
6 having been first duly sworn, was examined
7 and testified as follows:

8
9 DIRECT EXAMINATION BY MR. WALKER:

10 Q. Good afternoon, sir.

11 A. Hi.

12 Q. If you would, please state your name, your
13 full name, and spell your full name for the record.

14 A. Duc Hamilton. D-u-c H-a-m-i-l-t-o-n.

15 Q. Mr. Hamilton, where do you currently reside?

16 A. In Reno.

17 Q. What is your occupation or profession?

18 A. Customer service rep.

19 Q. With what institution?

20 A. California Federal Bank.

21 Q. How long have you worked for California
22 Federal Bank?

23 A. Just over six years.

24 Q. Have you always worked for California Federal

1 here in the Reno area?

2 A. Yes.

3 Q. How many branches of California Federal are
4 there in the Reno/Sparks area?

5 A. Two.

6 Q. Where are they?

7 A. The Sparks branch where I work at is on 593
8 East Prater. And then the other branch is the Reno main
9 branch on the corner of Moana and South Virginia.

10 Q. Is the Sparks branch in what is known as the
11 Iron Horse Shopping Center?

12 A. Yes.

13 Q. Have you always worked in Sparks, or have you
14 bounced back and forth between the two branches?

15 A. Actually bounced around with various branches
16 we have had.

17 Q. What hours of the day and days of the week do
18 you typically work?

19 A. Generally work the morning shift, like 8:00 to
20 1:00, or 9:00 to 2:00, around there.

21 Q. On occasion do you work other shifts or other
22 hours?

23 A. Yes, I work late as well, cover shifts.

24 Q. Do you recall, did you happen to work late on

1 June 12, 1996?

2 A. Yes, I did.

3 Q. How late did you work that day?

4 A. I believe I worked to about 2:00 or 3:00
5 o'clock.

6 Q. I am going to hand you what has been admitted
7 as State's Exhibit 1. I am going to ask you if you
8 recognize this check.

9 A. Yes, I do.

10 Q. How do you recognize that check?

11 A. That was the check that was presented to me
12 for deposit, and has my handwriting on there as well.

13 Q. Where is your handwriting on the check?

14 A. It's right here, up on the top, to indicate
15 the account number that was being deposited to.

16 Q. Where did you derive that information, do you
17 recall?

18 A. From a deposit slip that was handed to me.

19 Q. Did the deposit slip have any handwriting on
20 it, do you recollect?

21 A. It may have just had the amount of the check
22 written on there for deposit.

23 MR. WALKER: If I may, Your Honor, I wish to
24 publish Exhibit 1 to the jury, while we're speaking.

1 THE COURT: Go ahead.

2 BY MR. WALKER:

3 Q. Mr. Hamilton, when was that check presented to
4 you?

5 A. On June 12th.

6 Q. Do you recall what time of day it was?

7 A. I believe it was after 11:00, around there.

8 Q. Do you recall, Mr. Hamilton, giving a written
9 statement in this case on June 17th, 1996, a statement to
10 officers?

11 A. Yes.

12 Q. If I offered you a copy of that statement,
13 would it help refresh your recollection about the time?

14 A. I don't think I have the time put on there.

15 Q. If I represented to you it is in there, would
16 that help out?

17 A. Okay.

18 Q. I will show you the second page of that
19 statement. Go ahead and read that to yourself, if you
20 would.

21 A. I stated that the incident took place --

22 Q. I am sorry, I apologize. You know, it makes
23 common sense that you might just go ahead and read it,
24 but I have to do it a certain way, and I know it seems

1 silly.

2 Do you now recall what time it was, what time
3 you said it was in this written statement?

4 A. Yes.

5 Q. What time was it?

6 A. About 3:00 o'clock.

7 Q. Do you recall where you were working
8 physically in the bank at that time?

9 A. I work as a drive-up teller.

10 Q. Were you at the drive-up teller at that time?

11 A. No, the check was presented to me in the
12 lobby.

13 Q. And what did you do when you received the
14 check?

15 A. He stated that --

16 Q. Let's break it down. I am sorry, my question
17 is kind of vague and out there. Do you recognize the
18 person who gave you the check here in Court today?

19 A. Yes.

20 Q. Would you identify him and an item of clothing
21 he's wearing right now?

22 A. He's in a suit with a dark tie, white shirt,
23 blond hair.

24 Q. The gentleman to my left here, next to the

1 gentleman whose shoulder I have my hand on?

2 A. Yes.

3 MR. WALKER: He's identified Mr. Voss, Your
4 Honor.

5 THE COURT: The record will so reflect.

6 BY MR. WALKER:

7 Q. What did Mr. Voss tell you when he presented
8 this check to you?

9 A. He was questioning when the funds would be
10 available for withdrawal.

11 Q. Do you recall, to the best of your
12 recollection, why he needed to know whether or not the
13 funds would be available for withdrawal?

14 A. He stated that Miss Baxter, who the check is
15 made out to, needed the funds in order -- was going to
16 have a loan that was going to go through, and that
17 company needed to verify that the funds were there.

18 Q. Did he indicate to you whether this was a loan
19 for Miss Baxter or a loan for he, himself?

20 A. A loan for Miss Baxter.

21 Q. And what did you tell him when he inquired
22 about the availability of these funds?

23 A. That due to the amount of the check, I had to
24 place a hold on the check.

1 Q. How long was the hold you placed?

2 A. I place a two-day hold on the check.

3 Q. Why do you place such a hold on a check like
4 that?

5 A. For amounts over \$5,000, it's automatic that
6 it be at least a two-day hold, and then it would be
7 extended.

8 Usually if -- since it was just over -- it was
9 only \$5,026.00, as opposed to like \$6,000 or something
10 like that, normally you would automatically have an
11 extended hold period on the check, which would be eleven
12 business days.

13 But I stated that I would just put the two on
14 for right now, and then try and get ahold of Miss Baxter,
15 and verify the funds on the check, to make sure that the
16 check was good. And under those conditions I would just
17 go with the two-day hold.

18 Q. Did you indicate to him at any time that that
19 hold might be extended?

20 A. Yes, I did.

21 Q. What were the circumstances you told him?

22 A. That if I was unable to verify the funds on
23 the check, that it would be extended.

24 Q. How did Mr. Voss act when you gave him this

1 information?

2 A. He was rather antsy. He stated that Miss
3 Baxter would be really upset if the funds weren't
4 available right away.

5 Q. Did you ask Mr. Voss if he knew how to get
6 ahold of Miss Baxter?

7 A. I tried calling a number we had on file, and
8 also asked if he knew her number where she could be
9 reached at.

10 Q. What was his response when you asked him if he
11 knew of a number where she could be reached?

12 A. He said: No, not at that time.

13 So I presented him a business card, and said
14 to have her call in the morning, since he seemed he would
15 be in contact with her.

16 Q. So you gave him your business card and asked
17 him to tell Miss Baxter to call you the next morning?

18 A. That's correct.

19 Q. Did he indicate or seem to you to understand
20 that request?

21 A. Yes, he did.

22 Q. Did he take the business card from you?

23 A. Yes.

24 Q. When next did you have any contact with any

1 person about the account of Beverly Baxter?

2 A. Tanya had received a call regarding the check,
3 and -- well, about a check. She did not specify which
4 one, but I recognize it as being that particular check,
5 and I just told her what had transpired, that I had
6 placed a hold on the check and the funds would not be
7 available.

8 Q. When -- Who is Tanya?

9 A. Tanya is a co-worker.

10 Q. Her full name is?

11 A. Tanya Capaneelie.

12 Q. When did you speak with Miss Capaneelie about
13 a phone call?

14 A. That was the following day, Thursday.

15 Q. So on Thursday, June 13th, you spoke with
16 Tanya, because somebody was calling about the check?

17 A. That's correct.

18 Q. Who was calling?

19 A. I don't know.

20 Q. You did not speak with a person yourself?

21 A. No, I didn't.

22 Q. Did you work on Friday?

23 A. Yes, I did.

24 Q. Did you ever have occasion to see Mr. Voss

1 come into the bank on Friday?

2 A. No, I came in later that day.

3 Q. When you say later, what time do you recall
4 coming in?

5 A. I think it was 9:30 or 10:00 o'clock.

6 Q. Do you remember seeing him around the branch
7 at all that day?

8 A. Not until later in the afternoon when the
9 investigators were there, the detectives.

10 Q. Where was Mr. Voss at when you saw him that
11 afternoon? By that afternoon, I assume you're talking
12 about June 14th now?

13 A. That's correct. Over at Yvonne Kline's desk,
14 which is located at the far left corner of the bank.

15 Q. Who is Yvonne Kline?

16 A. She's our assistant branch manager.

17 Q. Do you recall how many times did you see Mr.
18 Voss there that day?

19 A. Just the one time in the afternoon, but he was
20 there for an extended period of time because the
21 detectives were there.

22 Q. Did you ever speak with him that day?

23 A. No, I didn't.

24 Q. Did he ever attempt to speak with you that

1 day?

2 A. No.

3 MR. WALKER: Nothing further.

4 THE COURT: Mr. Conway?

5 MR. CONWAY: Thank you, Your Honor.

6 CROSS EXAMINATION BY MR. CONWAY:

7 Q. Now you have stated that Steven Voss came into
8 the bank, first time you ever saw him, on June 12th at
9 approximately 3:00 p.m.; is that correct?

10 A. That's correct.

11 Q. Did he identify himself as Steven Voss?

12 A. No, he did not.

13 Q. How did you know he was Steven Voss? Is that
14 some information you found out later about who he was?

15 A. I believe on Friday when the detectives were
16 there.

17 Q. So at that time he was just a gentleman coming
18 to deposit a check; is that correct?

19 A. That's correct.

20 Q. And he presented you with the check that has
21 been admitted as Exhibit 1, State's 1?

22 A. Yes.

23 Q. Again, this is State's Exhibit 1, that was
24 presented to you?

1 A. Yes.

2 Q. Is this substantially the same as was
3 presented to you?

4 A. Yes.

5 Q. Including what was on the back?

6 A. Other than the deposit stamps -- the first
7 deposit stamp is black, the one I initiated. The other
8 one has to go to processing.

9 Q. He also presented a deposit slip, did he not?

10 A. Yes, I believe so.

11 Q. And the account that was being deposited in,
12 was that a Sparks branch account?

13 A. Yes, it was.

14 Q. And it was Beverly Baxter's account that it
15 was deposited into, was it not?

16 A. Yes.

17 Q. How long have you been a bank employee?

18 A. For over six years.

19 Q. What does For Deposit Only mean when it's on a
20 check, on the back of a check?

21 A. That it's for deposit to that account.

22 Q. Could I cash a check that had for Deposit Only
23 on it?

24 A. No.

1 Q. In fact the reason that language goes on, is
2 that limits it to being deposited only, just like the
3 language says; correct?

4 A. That's correct.

5 Q. When a check is deposited like that one was,
6 are you required to check the signature for the deposit
7 of a check?

8 A. No.

9 Q. That's because it's being deposited; correct?

10 A. That's correct.

11 Q. Are you familiar with Beverly Baxter's
12 account?

13 A. Not really, no.

14 Q. So you don't know how -- what her record is
15 with respect to writing checks, cashing checks, the
16 normal balance?

17 A. I looked up the balance at that time.

18 Q. What was the balance?

19 A. At the time of the deposit, we pull up a quick
20 reading on the account, that also determines the amount
21 of hold that can be placed on the check.

22 Q. Do you recall what the balance was at that
23 time?

24 A. No, not offhand. If I were to rate it, I'd

1 put it in like a little three figure, probably.

2 Q. And the reason you say you'd rate it low, is
3 because it did not have a very high balance; correct?

4 A. That's correct.

5 Q. Would you recall whether that balance was
6 anywhere close to \$5,000?

7 A. Not until after I made the deposit.

8 MR. CONWAY: Nothing further.

9 MR. WALKER: Mr. Walker?

10 MR. ATTY: If I could have what is marked as
11 Exhibit 29, please.

12 THE COURT: The record should reflect Mr.
13 Walker has opened up an evidence envelope in the presence
14 of defense counsel, which contains Exhibit 29.

15 MR. CONWAY: That's correct, Your Honor.

16 REDIRECT EXAMINATION BY MR. WALKER:

17 Q. Mr. Hamilton, I am going to hand you the
18 contents of what has been identified right now as Exhibit
19 29. Just yes or no. Do you recognize that item?

20 A. Yes, I do. That's the check that -- actually,
21 I had seen that check later.

22 Q. Well, just yes or no, do you recognize it?
23 Have you seen that before?

24 A. Yes.

1 Q. Is that a check on the account of Beverly Ann
2 Baxter?

3 A. Yes, it is.

4 Q. Is that a personal check from that account;
5 meaning the kind of check she would have written herself
6 to access funds from her own account?

7 A. As a personal check.

8 Q. When did you see that item?

9 A. Actually I saw a copy of that item.

10 Q. Ever seen the actual check itself?

11 A. No.

12 Q. Now you indicated that the person, Mr. Voss,
13 identified to you as Mr. Voss, who gave you Exhibit 21
14 with a deposit slip, gave you those items. Was this
15 already signed when you got it?

16 A. Yes, it was.

17 Q. So this wasn't signed in your presence?

18 A. No, it wasn't.

19 Q. Would it surprise you to know that Mr. Voss
20 later said that he wrote the words For Deposit Only on
21 there?

22 A. I don't know.

23 Q. If I didn't own this check, this is a check
24 written to Beverly Baxter, and if Egan Walker came to you

1 at your teller, and I wanted to cash this check, could I
2 do that without Miss Baxter there?

3 A. No.

4 Q. So even if I wrote the name Beverly A. Baxter
5 on the check, you would not necessarily just cash it for
6 me?

7 A. No, I wouldn't.

8 Q. Why not?

9 A. Because you would not have proper
10 identification, and you're not the account holder.

11 Q. Even though the check is endorsed and
12 therefore legal, because it's signed by someone
13 purporting to be Beverly Ann Baxter, you wouldn't cash
14 it?

15 A. No, I would not be able to cash it.

16 Q. But you can go ahead and put it in somebody's
17 account?

18 A. Right, that's correct.

19 Q. In fact it doesn't even have to be signed at
20 all to put it into that account, does it?

21 A. No.

22 Q. Why is that?

23 A. A lot of times people will leave it blank
24 until they get to the bank, to make sure that it gets

1 deposited to their account. So that way if someone were
2 to forge the item, you would have a record of it, they
3 could identify their signature on it and track it.

4 Q. You could just put this check -- if I was
5 Beverly Baxter, I could just put this in a deposit box.
6 without signing it at all, with my deposit slip, and you
7 would credit it to my account?

8 A. Right. I usually stamp it for credit
9 within --

10 Q. Right. And that happens fairly frequently?

11 A. Yes, we get checks in the mail or through the
12 night drop very frequently.

13 Q. What is the usual policy and practice at
14 California Federal Bank when somebody brings in a
15 third-party check?

16 A. We don't negotiate third-party items.

17 Q. Why is that?

18 A. It helps reduce the amount of fraud that can
19 take place. For instance, as an example, an incident
20 where a renter may have picked up a check from someone
21 that rents from them, like the landlord, and they go
22 ahead and take their check and say that that's money they
23 owed them and put it into the account, or signed over to
24 them, they would just endorse that signature for that

1 person, so we need to verify their signature, that in
2 fact the person who the funds were intended for, are
3 actually received by that person.

4 Q. When you say you need to verify the intent,
5 what you're talking about is you need to verify who, in
6 this case Beverly Baxter, intended to pay \$5,000 to?

7 A. That's correct.

8 Q. And you don't trust the payee line to tell you
9 that?

10 A. No, not necessarily.

11 Q. So no matter what kind of identification the
12 person has, until you verify the intent of the account
13 holder, if you will, you're not going to cash this check;
14 correct?

15 A. We verify the endorsement on that particular
16 check there.

17 Q. And you would do that by personally talking to
18 Miss Baxter?

19 A. No, you can do it by checking the signature
20 card as well.

21 Q. When there is a variance, however, you ask to
22 talk to them?

23 A. Yes, if there is a discrepancy, we would
24 contact the account holder in order to determine that

1 that in fact was the intent of the check.

2 Q. As I understand it, you did exactly that in
3 this case, you gave Mr. Voss your business card, said
4 have Beverly call me tomorrow morning?

5 A. Just on the check that was being deposited?
6 Not the personal check?

7 Q. Right, not the other check, I'm talking about
8 the \$5,026.00 check.

9 A. Correct.

10 Q. You did not know about the other check on
11 Wednesday, did you?

12 A. No.

13 MR. WALKER: No further questions at this
14 time, Your Honor.

15 THE COURT: Mr. Conway?

16 MR. CONWAY: Thank you.

17 RECROSS EXAMINATION BY MR. CONWAY:

18 Q. Now you testified that the reason that you
19 wanted Beverly Baxter to contact you, wasn't whether or
20 not you were going to deposit this check, but whether or
21 not how long it would take to clear; is that correct?

22 A. That's correct.

23 Q. That was either going to be a two-day hold, if
24 you could verify it easily, or possibly a 7- to 11-day

1 hold; correct?

2 A. That's correct.

3 Q. And a 7- to 11-day hold is where it would be
4 much tougher to verify when the funds would become
5 available?

6 A. That's correct.

7 Q. But this was going to be deposited anyway,
8 regardless of whether Miss Baxter contacted you or not?

9 A. Yes, with a two-day hold.

10 Q. Now there was a mention -- what is a two-party
11 check? Can you describe that to the jury?

12 A. A two-party party check is when -- as if I
13 were to write a check to you. And a third party-check is
14 if I were to write a check to you, you signed it over to
15 somebody else.

16 Q. So the check you deposited, for example, the
17 Burgess North America check, State's Exhibit 1, that's a
18 two-party check; correct?

19 A. Correct.

20 Q. Now if it had been endorsed on the back with
21 pay to the order of Cotter Conway and signed by Beverly
22 Baxter, that would be a third-party check?

23 A. Correct.

24 Q. Now normally a check is a two-party check;

1 correct; normally a check when people write a check?

2 A. Normally, yes.

3 Q. There is the maker, who signs it, and the
4 payee?

5 A. That's correct.

6 Q. And normally when someone comes in to cash a
7 two-party check, you look to verify the signature, if you
8 can?

9 A. That's correct.

10 Q. If that appears normal, you will negotiate the
11 check and cash it?

12 A. That's correct.

13 MR. CONWAY: Nothing further.

14 THE COURT: Thank you, sir. You may step
15 down.

16 (The Witness Was Excused.)

17 THE COURT: It's 5:00 o'clock. This would be
18 an appropriate time to take our evening break.

19 We will start tomorrow morning at 9:30 in the
20 morning. I do have an 8:30 calendar. Well, let's start
21 at 10:00 o'clock.

22 While you are at home tonight, do not discuss
23 this case among yourselves, do not discuss this case with
24 anyone else.

1 The media has been here almost all day. There
2 will be something on television tonight. And there is no
3 doubt in my mind there will be something in the newspaper
4 tomorrow morning. You must at all costs avoid either
5 watching or reading any of those media of this case.

6 You should not form any conclusions about this
7 case until it's been submitted to you as a jury.

8 At this point in your lives you have only
9 heard part of the story, and you need to wait until you
10 have heard it all before you start drawing any
11 conclusions.

12 Don't talk about it with the people you live
13 with or who you will be talking to tonight. They are
14 going to want to talk to you about it, and you just can't
15 do it. Okay?

16 See you all tomorrow morning, 10:00 o'clock in
17 the morning.

18 (WHEREUPON, A RECESS WAS TAKEN.)

19

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1 STATE OF NEVADA)

2) ss.

3 COUNTY OF WASHOE)

4

5 I, RANDI LEE WALKER, Official Reporter of the
6 Second Judicial District Court of the State of Nevada, in
7 and for the County of Washoe, do hereby certify:

8 That as such Reporter, I was present in
9 Department No. 10 of the above court on said date, time
10 and hour, and I then and there took verbatim stenotype
11 notes of the proceedings had and testimony given therein.

12 That the foregoing transcript is a full, true
13 and correct transcript of my said stenotype notes, so
14 taken as aforesaid.

15 That the foregoing transcript was taken down
16 under my direction and control, and to the best of my
17 knowledge skill and ability.

18 DATED: At Reno, Nevada, this 21st day of
19 January, 1997.

20

21

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24



RANDI LEE WALKER, CSR #137

FILED

Dept. No. 10

SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE HONORABLE JAMES A. STONE, DISTRICT JUDGE

--oOo--

STATE OF NEVADA,

Plaintiff,

SENTENCING

Vs.

STEVEN FLOYD VOSS,

Defendant.)

=====

TRANSCRIPT OF PROCEEDINGS

November 27, 1996

Reno, Nevada

APPEARANCES:

For the State:

DAVID STANTON
Deputy District Attorney
Washoe County Courthouse
Reno, Nevada

For the Deft:

COTTER CONWAY
Deputy Public Defender
75 Court Street
Reno, Nevada

Reported by:

RANDI LEE WALKER, CSR #137

Computer-Aided Transcription

ORIGINAL

CR96-1581
STATE VS STEVEN FLOYD VOSS 23 Pages
District Court 01/29/1997 08:15 AM
Washoe County
101111

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WEDNESDAY, NOVEMBER 27, 1996, 8:30 A.M.

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5

THE COURT: This is Case Number CR96-1581, the
State of Nevada versus Steven Floyd Voss.

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7

The record should reflect the defendant is
present in Court with his attorney, Mr. Conway.

8

9

The State is represented by Mr. Stanton.

The Division by Mr. Lorang.

10

This is the time set for sentencing.

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Before we do that, there has been a motion
filed on behalf of the defendant with which the Court
must deal first.

14

15

Do you have anything you want to add to your
motion, Mr. Conway?

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MR. CONWAY: Briefly, Your Honor, I would note
there are actually two motions that have been filed.
There was a previous motion filed concerning -- asking
for a judgement of acquittal on some or all of the
counts; in addition to motion to dismiss Count 6 related
to Merger.

22

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24

THE COURT: Do you have anything to add?

MR. CONWAY: Your Honor, the only thing I
would -- at this point I would just submit it with what

1 is on the brief, unless the Court has any questions
2 related to what I put forth in the motions.

3 THE COURT: Mr. Stanton?

4 MR. STANTON: Your Honor, I believe Mr. Walker
5 adequately addressed the argument relative to the
6 judgement of acquittal. That's basically an argument
7 that insufficient evidence was presented to convict on
8 all the counts.

9 I would submit it to the jury's verdict and
10 the Court's recollection of the facts and Mr. Walker's
11 opposition, which I think is clearly set forth in the
12 legal standard and the attendant facts as to each count.

13 As to the recently-filed motion to dismiss,
14 the only thing I would add to Mr. Walker's opposition
15 is: The analysis I believe the Court must undergo
16 relative to the doctrine of double jeopardy of Merger;
17 and that is that the elements are separate and distinct
18 and not by necessity lesser included. They do not merge
19 for purposes of sentencing.

20 I think Mr. Walker adequately sets forth the
21 factual basis as to why the requested count of attempted
22 -- I believe the last count, Count 6, attempted theft,
23 does not merge with either the forgery or the uttering,
24 since it's a separate and distinct act, and by necessity

1 could have been committed by one individual without
2 committing the other, which I think is the test this
3 Court has in the doctrine of Merger.

4 MR. CONWAY: Briefly with respect to what the
5 District Attorney said about the motion to dismiss. He
6 states precisely what the standard is; that necessarily
7 included act.

8 I put forth that the act of uttering a forged
9 instrument, say of \$5,000, is the same act as attempting
10 to get the \$5,000 by uttering a forged instrument. They
11 are necessarily included in each other, under these
12 facts. And that is what is supposed to be required under
13 the Merger, the statute that I set forth in the motion to
14 dismiss.

15 Your Honor, we would ask since those are the
16 same acts -- they are identical, Your Honor -- to punish
17 him for the same act twice would violate double jeopardy,
18 and we would ask the motion to dismiss be granted.

19 THE COURT: The motion for acquittal or new
20 trial is denied.

21 The Court has reviewed the motion to dismiss
22 and the opposition. The Court is of the opinion they are
23 two separate and distinct offenses, and do not merge, and
24 therefore the motion to dismiss Count 6 is also denied.

1 On October 10, 1996, the jury convicted Mr.
2 Voss on Count 1, of burglary; Counts 2 and 3 of uttering
3 a forged instrument; and Counts 4 and 5 of forgery; and
4 Count of attempted theft.

5 Judgment will enter based upon the jury's
6 verdict and the Court's rulings this morning.

7 I have received a copy of the Presentence
8 Investigation, and I've had an opportunity to read it.
9 I, of course, sat through the trial and am well familiar
10 with the facts of this case and I'm prepared to listen to
11 any arguments as regard sentencing.

12 Mr. Conway?

13 MR. CONWAY: Thank you, Your Honor. I would
14 note one correction, however, in reviewing the
15 Presentence Investigation Report with Mr. Voss last
16 night. I would note that he does not have any prior
17 felony convictions.

18 The felony that's put forth on page 3 in 1990,
19 practicing electrical contract without a license; that's
20 a misdemeanor.

21 I would note, however, it had been charged as
22 a felony larceny, and it was reduced due to the fact he
23 was practicing without a license that had expired, Your
24 Honor. However, that is a misdemeanor, not a felony.

1 Therefore, he has no prior felony
2 convictions. These are his first convictions.

3 With respect to sentencing, we're asking the
4 Court not to follow the recommendation. I think it's
5 quite clear that but for the tenor of this trial and some
6 of the outlying things, I don't think a request for any
7 prison time would have been requested.

8 However, I would note that a normal person
9 under these circumstances would probably be given the
10 grant of probation.

11 I would note for the record that the concerns
12 of the Division of Parole & Probation with respect to his
13 prior criminal history, they are all misdemeanors, as I
14 have pointed out, they also say he has a lack of
15 stability.

16 I will note, and I think it's quite clear,
17 that he was burned out of his apartment that he and his
18 mother were residing in prior to this incident.

19 He's otherwise always remained in the company
20 of his mother and resided with his mother, and has always
21 been locatable during this investigation.

22 He was never one they couldn't find. In fact
23 at one point he called them and told them where he had
24 moved to. So I think he's very stable in the community.

1 I think his criminal history speaks for itself
2 with respect to misdemeanors. Under normal circumstances
3 this would be a probationary term for a first-time felony
4 conviction.

5 If the Court is considering imposing any
6 prison time, the events of this thing were one
7 transaction. There may have been a number of crimes
8 committed during that transaction, but it's one
9 transaction. And any prison time should be minimum and
10 should run concurrent to all counts.

11 Thank you.

12 THE COURT: Mr. Stanton?

13 MR. STANTON: Well, I don't know where Mr.
14 Conway assesses that this case -- or what he bases his
15 assessment on that but for some other facts this would be
16 a probation case.

17 To begin with that analysis, page 2 of the
18 PSI, which is at this juncture uncontroverted save and
19 except for the felony conviction.

20 A review of that shows that the defendant has
21 had 12 arrests; six convictions, he has four outstanding
22 warrants from no less than three different states.

23 So his criminal record -- and now I guess
24 we're at a point where defense counsel begins to argue to

1 this Court: Well, he's got a criminal record and he's
2 wanted from three different states for four outstanding
3 warrants. But guess what, Judge,? They are only
4 misdemeanors.

5 What kind of misdemeanors are they? Because
6 the type of his conduct, the past history of the
7 defendant's I think is very important for this Court to
8 consider in his statement to the Court about the type of
9 character this man is, and the truthfulness and veracity
10 of his underlying claims to this Court, and the
11 protestations of innocence in this matter.

12 All of the offenses, save and except for the
13 first DUI in 1987 out of Wanette County, in Georgia,
14 every single offense deals with someone, particularly
15 this man, committing a fraud.

16 And yet this man wants to assert facts to this
17 Court, to take it as gospel, that he's an innocent man
18 without any attendant facts to support it.

19 He's a chronic, habitual criminal, and he's a
20 chronic and habitual, untruthful person.

21 In the PSI on page 4, we have strikingly
22 similar conduct committed by the defendant in
23 Hillsborough County in Florida in November of 1991.

24 Then we have at the bottom of page 4 a listing

1 of outstanding and undocumented criminal offenses, all
2 again have indicated a propensity to commit fraud and to
3 steal money. He was a thief. And he's been a thief for
4 over a decade and a half.

5 At the bottom, we have on page 4, receiving
6 back as early as 1979, receiving stolen property;
7 embezzlement in '81; vehicle theft; prowling in '83; and
8 spousal battery in 1990.

9 One of the things that I was waiting with
10 baited breath this morning for counsel and the defendant
11 to address is his DUI in July of 1996, in Washoe County.
12 And I did not hear any comment to the Court about that
13 offense.

14 And I think when the Court hears the attendant
15 facts of that case, you will know why you did not hear
16 anything about it.

17 That conviction was originally had under the
18 name Allen Voss, the defendant's brother. And he went
19 through the entire Court proceedings in Washoe County
20 using his brother's name, so his brother had a conviction
21 for DUI, until it was finally caught and this man was
22 properly convicted under his true and correct name.

23 That tells you the character of this man and
24 the ability for him to tell the truth. To use his own

1 brother and sustain conviction on his own brother and go
2 through the entire Court process, lying all the way.

3 Another insight into Mr. Voss is on page 7 of
4 the PSI. Not in his formal written statement to the
5 Department, but apparently in his interview with the
6 Department officials.

7 Mr. Voss has an excuse why he is convicted,
8 wrongfully so, according to him, and that is because of
9 many things. Number one, the District Attorney in this
10 case has an ego and bad blood problem between him and Mr.
11 Walker.

12 Well, last time I checked, a jury trial
13 doesn't occur where the District Attorney stands in front
14 of a jury and testifies as to what they think the
15 evidence is. And I am sure that didn't happen in this
16 courtroom.

17 He also attributes his problems to be an
18 election year. I fail to see the logic of connecting the
19 election year to his conviction.

20 THE COURT: If this case was supposed to do me
21 any good, it didn't.

22 MR. STANTON: And I think the logic doesn't
23 fall on the Court either, or at least compel the Court to
24 understand that.

1 Page 8, this is a good one. At the bottom of
2 page 8, the defendant, semi truthfully, tells the
3 Department: I have child support.

4 Well, of course the Department knows he has an
5 outstanding warrant for failing to pay child support.
6 But read his explanation. The defendant advises that
7 he's not followed through with required payments,
8 primarily due to the fact the child's mother will not
9 maintain contact with him, and will further not provide a
10 current address.

11 When is the last time this Court has ever
12 heard of a woman who needs child support, refusing to
13 give her address or location to the parent who owes
14 money? In all 50 states in the United States, payment is
15 -- payments can and usually is collected either by the
16 State Attorney General, or by the local District
17 Attorney's Office.

18 So there is absolutely no requirement
19 whatsoever for a woman, if there were some reason she did
20 not want to provide her address, and there certainly are
21 occasions where that's appropriate; but there is
22 absolutely no reason why the system cannot have a
23 location for the defendant to pay child support
24 payments.

1 And I think that statement speaks volumes of
2 Mr. Voss. And that is, frankly, Your Honor, he is a
3 chronic and habitual liar.

4 It's proven fact after fact, time after time.
5 Not only in this case, but in his criminal history and
6 his statements to the Division of Parole & Probation.

7 On page 9, his present employer -- well, I
8 know he's incarcerated, but prior to his arrest in this
9 matter and his incarceration, odd jobs, down on debts.
10 \$30,000 in debt, related to medical bills, loans,
11 foreclosures and something called legal fees.

12 All, I think, showing a pattern and a history
13 of what Mr. Voss's situation was when he decided to steal
14 money from Miss Baxter.

15 He did not have any income coming in from his
16 jobs. And he was, by his own admission, seriously in
17 debt.

18 The question, I think, as it comes to the
19 Court, contrary to Mr. Conway's's evaluation that this is
20 but for some other attendant facts, and I am not sure
21 what he's driving at, but I am sure it's probably obvious
22 to the Court, he didn't articulate what are the obvious
23 outside facts, other than the victim in this case is
24 still to this date missing.

1 A woman who was punctual socially and
2 professionally, all of a sudden vanishes from the face of
3 the earth at precisely the same time that the defendant
4 begins stealing significant quantities of money from
5 her.

6 Is that a fact that is hanging over this case?
7 Absolutely. And in my comments in just a moment, the
8 State would recommend how this Court should take that
9 fact into consideration.

10 Number one, and I think the two important
11 things that a Court appropriately addresses in sentencing
12 is the character and the history and the criminal
13 behavior of the defendant, and the attendant facts of
14 this case.

15 I have already addressed the character and the
16 criminal behavior of this defendant. While certainly
17 they are not felony convictions, what difference does it
18 make in this particular case, when you look at the
19 pattern of this man's criminal history? It runs
20 unabated, at least according to his arrest and formal
21 interaction with the system from 1980 -- actually 1979,
22 and every single year for over a decade and a half this
23 man is interacting practically with the law in a negative
24 fashion for a formal arrest or formal conviction.

1 His repeated attempts or comments to this
2 Court and to the Department, that are clearly based upon
3 the facts, lies.

4 Now the facts of this case: Should the Court,
5 when it looks at the parameters of the minimum and the
6 maximum of, say, for instance, Count 1, consider what is
7 the most aggravated burglary, and what is the most
8 mitigated burglary as far as time goes to give this
9 defendant?

10 Well, certainly we have addressed the criminal
11 history. But how about the aggravated and mitigated
12 section of the facts of this case?

13 Regardless, and putting aside the defendant's
14 criminal history and character, let's just look at the
15 facts of the crime itself, and what type of burglary does
16 this indicate to the Court as far as degree of
17 offensiveness?

18 This woman, Beverly Baxter, has vanished. The
19 evidence before this Court in the trial is that contrary
20 to what the defendant told the police, and his comments
21 in here in his written comments to the Court that he was
22 always truthful to the police -- I will get to that in a
23 moment, because he wasn't -- specifically his
24 untruthfulness to the police was when he was with Miss

1 Baxter.

2 And that's precisely at the time, as the Court
3 remembers, Mr. Voss in his pickup truck outside the ATM,
4 which is now recorded, as far as the time he was there at
5 Fourth and Keystone, 10:00 a.m., withdrawing money.

6 And the testimony was that in his truck was a
7 woman that entirely matched the description of Beverly
8 Baxter. The last time that she's seen alive, it's with
9 this man, right at the time that he is stealing money
10 from her.

11 And so when the Court considers the
12 aggravation and the facts, the State cannot present a
13 more aggravated set of thefts, cases to this Court, based
14 upon that fact alone, as to this woman, who by all the
15 testimony, was punctual both in her professional and
16 social life.

17 And this man, wanting and needing money, all
18 of a sudden gets some from the victim, who can't be found
19 anymore.

20 That is, as the State has indicated
21 previously, one of the most aggravating factors of a
22 burglary, of an uttering of a forged instrument, a
23 forgery and attempted theft.

24 In his written statement, as I know the Court

1 has read, he concludes several times that he was truthful
2 to the police.

3 Well, as the Court recollects the facts of
4 this case, he lied to the detectives about his
5 whereabouts on Thursday morning.

6 And he also, as the Court recalls, what his
7 version of events was that he told each of the bank
8 tellers when he attempted to pass this check. The
9 stories were inconsistent with one another. He didn't
10 tell Teller 1 that he had -- or didn't tell Teller 2 that
11 he had tried to attempt to pass a check to Teller 1 at a
12 different branch.

13 So for him to come in here and tell the Court,
14 that, hey, look, I'm a truthful person and I cooperated
15 with the police, is a flat out lie based upon the
16 evidence this Court heard during trial.

17 I think the process of the final DUI, using
18 his brother's name all the way through the conviction,
19 and representing to the court that he indeed is Allen
20 Voss, is once again something that if the Court hasn't
21 already viewed anything that Mr. Voss would say either by
22 himself, or through counsel to this Court, it should be
23 viewed with grave suspicion, unless there is absolute
24 facts to corroborate it.

1 And based upon all his statements and
2 allegations and his comments to the Department or
3 comments to the Court, not one of them is corroborated by
4 any independent evidence. Not one.

5 Based upon the two primary considerations from
6 the State's perspective of Mr. Voss; that is, his
7 character, his criminal history and attendant facts of
8 the instant offenses, the State's recommendation to the
9 Court is that these are all on the upper tier of
10 aggravation; therefore, the State's recommendation to the
11 Court is not only that probation is not viable, which I
12 believe my comments make obvious, but that his sentence
13 relative to Count 1 should indeed be the maximum.

14 The State would recommend to the Court that it
15 be 120 months as a maximum, 48 as the minimal. I concur
16 with the recommendation on Counts 2, 3 and 4, especially
17 relative to consecutive nature of those offenses.

18 I would recommend, however, that Count 4 and
19 5, the forgeries, because of the attendant nature and
20 elements of those counts, that that is indeed an
21 aggravated forgery, and that they should also be maximum
22 in nature.

23 My calculations show 48 months on the maximum
24 for counts 4 and 5; 19 months -- or actually I calculated

1 it at 19.2 months as the minimum on Counts 4 and 5. All
2 those to be consecutive in nature to Count 1, which the
3 State has indicated should be 120 to 48. That's the
4 recommendation from the State.

5 I have nothing further to add unless the Court
6 has specific questions.

7 Thank you, Your Honor.

8 THE COURT: Mr. Lorang, does the Division have
9 anything to add?

10 THE DIVISION: Nothing, Your Honor, except for
11 the disposition of the felony conviction. That's the
12 information we received from the Florida officials, and
13 we stand by that.

14 THE COURT: Mr. Voss, do you have anything you
15 want to say?

16 THE DEFT: I believe Mr. Conway has pretty
17 much addressed our side.

18 MR. CONWAY: I have a couple points I want to
19 address, if I may.

20 With respect to the character on record, that
21 certainly stands for what is in the Presentence Report,
22 except for what has been reported as a prior felony, that
23 we have tried to correct.

24 With respect to requesting the recommendation

1 the State requested with respect to the sentence they are
2 asking for, I would only point out the aggravated
3 circumstance that they are doing is based on speculation,
4 conjecture.

5 They are trying very hard to add a number of
6 years to this man's sentence based on something they
7 believe happened to this victim.

8 The problem is, is that if they knew that
9 happened, they would have charged. This is not the time
10 to punish him for what they think or what they speculate
11 would have happened.

12 The crime that occurred, as I pointed out, all
13 six counts relate to one transactional event. And I
14 think the most important thing to note, is even if the
15 Court doesn't find that Count 6 and I believe 3, which is
16 the uttering and attempted theft, may not fit under the
17 Merger statute; they certainly are the same event. These
18 are the same crime.

19 Your Honor, I believe that there is -- other
20 than the fact that his character may not allow him to be
21 a probationary candidate, it certainly -- there is
22 nothing in this case, this particular case, that warrants
23 anything above the minimums, or anything above running
24 them anything but concurrent.

1 And we would ask the Court to impose it in
2 that manner.

3 THE COURT: I have reviewed the Presentence
4 Investigation, and I have thought about this case a great
5 deal. All of us are human beings, and there is just no
6 way in the world that we can pretend that Miss Baxter was
7 here and that she testified. We know that's not true.

8 The last person she was seen with was Mr.
9 Voss.

10 It's says in his letter and his comments that
11 when she shows up alive, she will say that all of these
12 things are not true.

13 But to be very honest with you, I don't think
14 she's ever going to show up alive.

15 The jury listened to this case, the jury made
16 the decisions, and the jury convicted him on all six
17 counts.

18 When I look at his Presentence Investigation,
19 I see somebody who has, for the last 17 years, done
20 everything under his power to evade responsibilities for
21 his actions.

22 And his conduct, quite frankly, has been
23 escalating. When you combine that with the fact his most
24 recent encounter with the law, after this case arose, was

1 a driving-under-the-influence charge in this county.

2 And in order to evade responsibility, he lied
3 about who he was, and attempted to pass the blame off on
4 somebody else.

5 I think Mr. Voss is a menace. He's a menace
6 to society, a menace to this community. And because I
7 believe that way, I am going to sentence him as follows:

8 In addition to the \$25.00
9 administrative-assessment fee and \$750.00 in attorney's
10 fees, probation will be denied, and the defendant, Steven
11 Floyd Voss, is sentenced as follows on Count 1, burglary,
12 to a maximum term of 120 months, and a minimum parole
13 eligibility of 48 months in the Nevada Department of
14 Prisons.

15 Count 2, uttering a forged instrument, to a
16 maximum term of 48 months, and a minimum parole
17 eligibility of 16 months in the Nevada Department of
18 Prisons, consecutive to Count 1.

19 In Count 3, uttering a forged instrument, to a
20 maximum term of 48 months, with a minimum parole
21 eligibility of 16 months in the Nevada Department of
22 Prisons, consecutive to Counts 1 and 2.

23 On Count 4, to a maximum term of 48 months and
24 a minimum parole eligibility of 16 months in the Nevada

1 Department of Prisons, consecutive to Counts 1, 2 and 3.

2 On Count 5, forgery, to a maximum term of 48
3 months, and a minimum parole eligibility of 16 months in
4 the Nevada Department of Prisons, consecutive to Counts
5 1, 2, 3 and 4.

6 On Count 6, attempted theft, to a maximum term
7 of 48 months, with a minimum parole eligibility of 16
8 months in the Nevada Department of Prisons, consecutive
9 to all of the previously-entered counts.

10 With credit for 137 days time served.

11 That's the Court's order.

12 Mr. Voss, the law requires me to advise you
13 that you have the right to appeal this conviction, if you
14 chose to do so, you let Mr. Conway know and he will file
15 the proper notices.

16 You have 30 days from today's date to do
17 something.

18 THE DEFT: Yes, I'm aware of that. Thank
19 you.

20 ///////////////
21
22
23
24

1 STATE OF NEVADA)

2) ss.

3 COUNTY OF WASHOE)

4

5 I, RANDI LEE WALKER, Official Reporter of the
6 Second Judicial District Court of the State of Nevada, in
7 and for the County of Washoe, do hereby certify:

8 That as such Reporter, I was present in
9 Department No. 10 of the above court on said date, time
10 and hour, and I then and there took verbatim stenotype
11 notes of the proceedings had and testimony given therein.

12 That the foregoing transcript is a full, true
13 and correct transcript of my said stenotype notes, so
14 taken as aforesaid.

15 That the foregoing transcript was taken down
16 under my direction and control, and to the best of my
17 knowledge skill and ability.

18 DATED: At Reno, Nevada, this 29th day of
19 November, 1996.

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RANDI LEE WALKER, CSR #137

FILE

1 Case No. CR96-1581

'97 JAN 29 A8:16

2 Dept. No. 10

JUDICIAL

3 SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

DEPUTY

IN AND FOR THE COUNTY OF WASHOE

THE HONORABLE JAMES A. STONE, DISTRICT JUDGE

--oOo--

STATE OF NEVADA,)

Plaintiff,)

JURY TRIAL

(APPEAL)

Vs.)

10 STEVEN FLOYD VOSS,)

11 Defendant.)

12 =====

13 TRANSCRIPT OF PROCEEDINGS

14 October 8, 1996

15 Reno, Nevada

16 APPEARANCES:

17 For the State:

EGAN WALKER

Deputy District Attorney

19 Washoe County Courthouse

20 Reno, Nevada

21 For the Deft:

COTTER C. CONWAY

Deputy Public Defender

22 75 Court Street

Reno, Nevada

23 Reported by:

RANDI LEE WALKER, CSR #137

Computer-Aided Transcription

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ORIGINAL

CR96-1581 DC-9900025740-052
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 District Court 01/29/1997 08:16 AM
 Washoe County 4185

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1 TUESDAY, OCTOBER 8, 1996, 10:00 A.M.

2 //

3 THE COURT: Will counsel stipulate to the
4 presence of the Jury, Mr. Walker?

5 MR. WALKER: On behalf the State, I stipulate
6 to the presence of the jury and the alternate.

7 MR. CONWAY: Your Honor, the defense also
8 stipulates to the presence of the jury and the alternate.

9 THE COURT: Thank you.

10 Ladies and Gentlemen, it's my intention to go
11 through to about ten to 12:00 this morning without a
12 break, so we can take a little bit extra time for lunch.

13 Mr. Walker, call your next witness.

14 MR. WALKER: Tanya Campanile, Your Honor.

15

16 TANYA CAMPANILE,
17 called as a witness on behalf of the State herein,
18 having been first duly sworn, was examined
19 and testified as follows:

20

21 DIRECT EXAMINATION BY MR. WALKER:

22 Q. Good morning. If you would, ma'am, please
23 state your full name and spell your last name for the
24 record.

1 A. It's Tanya Campanile, C-a-m-p-a-n-i-l-e.

2 Q. Miss Campanile, where do you currently reside?

3 A. At 1909 Merchant Street in Sparks.

4 Q. How are you employed?

5 A. At California Federal Bank in Sparks.

6 Q. What is your current position at California
7 Federal?

8 A. Operations supervisor.

9 Q. How long have you been the operations
10 supervisor?

11 A. Since about '94, so two and a half years.

12 Q. How long have you worked in the banking
13 industry?

14 A. Eight years total.

15 Q. All with California Federal?

16 A. No, it's been about six and a half years with
17 California Federal.

18 Q. What -- just briefly, generally, are your
19 responsibilities as operations supervisor?

20 A. As operations supervisor, I am required to
21 work a drawer on the teller line, and I also supervise
22 the tellers on the teller line, and make sure that we
23 comply with federal regulations.

24 Q. Were you working as operations supervisor at

1 California Federal Bank on Thursday, June 13th, 1996?

2 A. Yes, I was.

3 Q. Did you have occasion to receive a telephone
4 call from a person who identified himself to you as
5 Steven Voss?

6 A. I received a phone call, but the person was
7 not identified -- he didn't identify himself.

8 Q. What was the subject of the phone call?

9 A. The subject of the phone call was regarding
10 fund's availability on a check.

11 Q. Do you recall, just to bounce forward for a
12 minute, giving a written statement in this case on June
13 17, 1996?

14 A. Yes, I did give a written statement.

15 Q. Do you recall in that statement indicating
16 that, quote, unquote, the same Steven Voss as had been
17 there on the 12th called on the 13th?

18 A. Yes.

19 Q. Why did you surmise that that was the same
20 Steven Voss?

21 A. After the phone call, I spoke with Duc
22 Hamilton, who finished the call, and we talked a little
23 bit about who it was and what the situation was at that
24 time that we knew about.

1 Q. What specifically was the request regarding
2 information about fund's availability?

3 A. To me it was just wanting to inquire about the
4 availability of funds on a check. At that time I wasn't
5 aware who it was, assuming it was a merchant; talked to
6 him about calling our 900 number to verify funds or
7 coming down to the branch and checking if the funds were
8 available on that.

9 The person on the phone wanted to speak with
10 the person he had done the transaction with the day
11 before, and that was Duc, so I handed the call to him at
12 that point.

13 Q. How long was this phone conversation, do you
14 recall?

15 A. It was very brief.

16 Q. Did you have occasion to meet with a person
17 later identified to you as Steven Voss on the next day,
18 Friday, June 14th?

19 A. Yes.

20 Q. What time was it you first met with Mr. Voss?

21 A. It would have been around 10:00, 10:30 at the
22 latest.

23 Q. What time did the bank open that morning?

24 A. We open at 9:00.

1 Q. Is Mr. Voss here in the courtroom?

2 A. Yes.

3 Q. Would you identify him and an item of clothing
4 he's wearing right now?

5 A. Okay, he's wearing the gray suit and black
6 tie. At the desk.

7 MR. WALKER: For the record, Your Honor, she's
8 identified Mr. Voss.

9 THE COURT: The record will so reflect.

10 BY MR. WALKER:

11 Q. Where were you at when you first met Mr. Voss?

12 A. I was on the teller line.

13 Q. I assume that means you were just working
14 customers as they came in the bank?

15 A. Yes, I was on the lobby side.

16 Q. What happened when you met with Mr. Voss?

17 A. He presented me with a check that he wanted to
18 cash.

19 MR. WALKER: Miss Clerk, may I have what has
20 been marked for identification as Exhibit 29, please?

21 BY MR. WALKER:

22 Q. Your Honor, I'm going to approach the witness,
23 and hand her what has been marked for identification as
24 Exhibit 29.

1 Do you recognize that item, ma'am?

2 A. Yes, that was the check that was presented to
3 me on Friday morning.

4 Q. Please go ahead and inspect both the front and
5 back of that check, if you would for just a moment.. Is
6 that check in the same or substantially the same
7 condition as it was when Mr. Voss presented it to you on
8 June 14, 1996?

9 A. Yes, it is.

10 MR. WALKER: Move 29 into evidence.

11 MR. CONWAY: No objection, Your Honor.

12 THE COURT: Exhibit 29 is admitted.

13 (Whereupon, Exhibit 29 is admitted into
14 evidence.)

15 BY MR. WALKER:

16 Q. What was the first thing you noticed about the
17 check when Mr. Voss handed it to you?

18 A. The obvious things about it, the payee line
19 being in blue ink and printed, and the rest of the check
20 being in cursive in black ink.

21 Q. Was the amount of any concern to you?

22 A. Yes, large amounts are always a concern.

23 Q. What did Mr. Voss request with regard to
24 cashing the check? I mean, was it your understanding you

1 were going to deliver \$5,000 in cash to him?

2 A. That's what he wished for us, yes.

3 Q. Did he ever make any mention to you about a
4 certified check or certified funds or anything of that
5 nature?

6 A. No, I believe his intent was to take cash for
7 it.

8 Q. What did you do when you were presented with
9 this item for cash?

10 A. First of all, we were required to verify the
11 signature of the maker against a signature card, and
12 anything over \$250.00 would require that. So the account
13 was held at our branch, and I pull the signature card on
14 it.

15 Q. Was there, in your opinion, a match between
16 the signature and the signature card?

17 A. No.

18 Q. Why did you determine that there was not a
19 match?

20 A. Basically she has on the signature card signed
21 her name out in full, Beverly A. Baxter. And on the
22 check here it's only initials, B. A. Baxter.

23 Q. If I represented to you, Miss Campanile, that
24 we have about eight, at least, of Miss Baxter's cancelled

1 checks and she signs them all B. A. Baxter, would that
2 cause you in any way to question what you had done on
3 Friday morning?

4 A. No. Especially for a check of this amount, we
5 would want to make sure that it was a good match, and
6 that we could determine it was exactly her signature, and
7 I wasn't really able to determine that.

8 Q. So do I understand from your response, really
9 what you wanted to do was talk with Miss Baxter?

10 A. Yes, we do that, we try and please the
11 customer. And in cases where we have a signature that
12 doesn't seem to match, we would have to reach them by
13 phone and get a verbal okay from them.

14 Q. Did you point this difficulty, if you will,
15 out to Mr. Voss?

16 A. Yes.

17 Q. What was his response?

18 A. Basically he felt that that should not be an
19 issue, that he had I.D. to verify that he was Steven
20 Voss, the payee on the check, and that should be
21 sufficient enough for us to cash the check.

22 Q. How did he act when you were contacting him?

23 A. When I was discussing it with him, he was
24 insistent, a little obnoxious with me, saying that he had

1 plenty of I.D., and he needed the cash and wanted it
2 cashed, and there shouldn't be a problem.

3 Q. What did you do in order to attempt to verify
4 the propriety of this check?

5 A. I tried to reach Mrs. Baxter by phone; first
6 of all with the phone number that's listed on the check,
7 and wasn't able to reach her in person, but left a
8 message on her machine.

9 And then we had a different phone number on
10 our system, on the computer, and I tried to call that and
11 it was an unknown business that had no knowledge of this
12 person.

13 Q. Did you ever ask Mr. Voss if he knew how to
14 get ahold of Miss Baxter?

15 A. Yes.

16 Q. What was his response?

17 A. I asked him if he knew where she worked or
18 knew where I could reach her, he said no. Because I
19 wasn't able to reach her with the information I had off
20 the check, and I was still trying to do that for him.

21 Q. Did you ask him if he knew where she worked or
22 if he had her work number?

23 A. Probably asked him first if he had her work
24 number, or where she worked after that.

1 Q. Do you recollect asking both, at any rate?

2 A. I believe so.

3 Q. And what was your purpose again for wanting to
4 know where she worked?

5 A. So I could reach her by phone. I could either
6 call her, or look up in the phone book and get the number
7 out of the phone book, the place where she worked.

8 Q. What did you do next after attempting to
9 contact Miss Baxter and get further information from Mr.
10 Voss?

11 A. After I was unable to reach her on the phone
12 or get anymore information from him on where she might
13 be, I said we would not be able to cash the check until I
14 could speak with her.

15 At that time he was still insistent that we
16 cash the check for him, and I referred it to my
17 supervisor, who is Yvonne Kline.

18 Q. Did you see Mr. Voss and Miss Kline engage in
19 conversation thereafter?

20 A. Yes.

21 Q. What was Mr. Voss's attitude and demeanor
22 while talking to Miss Kline?

23 A. He was very agitated and upset with her,
24 speaking loudly and -- not really sure what was said, I

1 could not hear, but I knew it was loud. And just -- he
2 was upset.

3 Q. How long did your interaction with Mr. Voss
4 last?

5 A. Five minutes, maybe.

6 Q. How long did he talk with Miss Kline?

7 A. About another five minutes.

8 Q. What happened after their conversation ended?

9 A. He stood up, said something to her, and then
10 left the building.

11 Q. Did you see Mr. Voss at anytime thereafter
12 that day?

13 A. A couple times that day.

14 Q. When was the next time you saw him?

15 A. I saw him probably about 1:30. He was coming
16 into the branch as Yvonne was leaving the branch for
17 lunch, and they spoke at the front doors. And then that
18 was pretty much it, it was just probably a brief
19 conversation, and a lot different, I mean he was much
20 nicer and they were smiling and talking. And then I
21 believe they both left the branch.

22 Q. When was the next time you saw Mr. Voss?

23 A. About 4:00 o'clock that afternoon back in the
24 branch. I was in the break room and came out of the

1 break room, he was sitting at her desk.

2 Q. How long was he there that time, do you
3 recall?

4 A. Speaking with Yvonne, probably about 45
5 minutes. And then he was there quite a bit longer with
6 the detectives that came to speak with him.

7 Q. At anytime, Miss Campanile, did Mr. Voss offer
8 an explanation to you for why he was entitled to this
9 money?

10 A. He did explain to me that this was repayment
11 of a loan to him from Mrs. Baxter.

12 Q. So your understanding of his communication was
13 that she owed him \$5,000?

14 A. Right.

15 Q. And he clearly communicated that to you, to
16 your recollection?

17 A. Yes.

18 Q. Was, at anytime, Mr. Voss interested in
19 banking procedures, how checks clear, that sort of thing,
20 in your conversations?

21 A. If anything, he was insistent that that was
22 her signature on the line, and that we could pull some
23 checks and look at them. However, we don't have checks
24 that are clearing in the branch, so that really wasn't an

1 option for us at the time.

2 MR. WALKER: No further questions.

3 THE COURT: Mr. Conway?

4 MR. CONWAY: Thank you, Your Honor.

5 CROSS EXAMINATION BY MR. CONWAY:

6 Q. You testified that first time you met Mr. Voss
7 was on July 14th at 10:00 a.m.

8 A. On Friday, yes.

9 Q. And that is when he came into negotiate this
10 check?

11 A. Yes.

12 Q. Has that check been endorsed?

13 A. No.

14 Q. That check is exactly as it was when it was
15 presented to you on June 14th?

16 A. It looks to be, yes.

17 Q. Now do you recall testifying at the
18 preliminary hearing?

19 A. Yes.

20 Q. You asked me whether he had -- do you remember
21 me asking: Had he endorsed the check?

22 A. Not specifically.

23 Q. I'm going to show you part of the transcript,
24 and I'm not asking to you read it, just see if it

1 refreshes your recollection as to whether we had that
2 conversation; okay?

3 A. Yes.

4 Q. Refer your attention to page 31, beginning at
5 line 24, and it does go on to the next page. Just read
6 that, see if that refreshes your recollection.

7 A. Okay.

8 Q. Does that refresh your recollection?

9 A. Yes.

10 Q. And did I ask you whether or not he had
11 endorsed that check?

12 A. Yes.

13 Q. What was your response?

14 A. My response was that, yes, I thought he had.

15 Q. Now when he gave you that check, because of
16 the amount you were required by your policies to check
17 the signature card; is that correct?

18 A. Yes.

19 Q. And does Miss Baxter have an account at the
20 Sparks branch?

21 A. Yes.

22 Q. So it was very easy to get ahold of the
23 signature card; is that correct?

24 A. We had the original.

1 Q. And when you compared that signature, the only
2 difference between the signature that's on that check and
3 the signature that's on the signature card, is that she
4 spelled her name Beverly out, and on this one she used
5 the initials; isn't that correct?

6 A. Right.

7 Q. Was there any difference that you noticed?

8 A. The difference in the styles of the
9 handwriting.

10 Q. But I mean with respect to the signature.

11 A. No.

12 Q. Now you also noticed when the check was given
13 to you, that there was -- the payee line was filled in
14 differently; is that correct?

15 A. Right.

16 Q. It's quite different, isn't it?

17 A. Right.

18 Q. In fact it's in a different color ink?

19 A. Yes.

20 Q. In a different handwriting style; isn't that
21 correct?

22 A. Well, it's printed versus cursive.

23 Q. It's a different handwriting style?

24 A. Right.

1 Q. And then you asked Steven Voss, did you not,
2 whether he filled in that name?

3 A. Yes.

4 Q. What was his response?

5 A. I believe he said yes.

6 Q. Had the signature line matched, would you have
7 been able to cash that check?

8 A. It would have been a little bit different
9 situation. We would have been more likely to cash it.
10 However, it was still a large amount compared to the
11 average balance in her account, so we might have still
12 tried to reach her by phone before we cashed it. It was
13 an unusual amount for her account.

14 Q. Do you remember testifying at the preliminary
15 hearing again?

16 A. Pretty much.

17 Q. There was a point where I asked you what
18 conversations that you had with Steven Voss at that time?

19 A. Uh-huh.

20 Q. And do you recall stating that you explained
21 to him the reason you couldn't cash the check is because
22 the signatures didn't match?

23 A. Right, that was the primary reason.

24 Q. You didn't give him any other reason?

1 A. Not at that time, no.

2 Q. In fact when he objected to that and explained
3 to you that he had plenty of I.D., you again explained to
4 him that the reason you weren't cashing it is because the
5 signatures did not match, isn't that correct?

6 A. Right.

7 Q. Now you stated that when you explained that to
8 him he became agitated and insistent; is that right?

9 A. Yes.

10 Q. At that time he asked to speak with your
11 supervisor; isn't that correct?

12 A. Yes, probably.

13 Q. Then you of course directed him over to Yvonne
14 Kline?

15 A. Yes.

16 Q. Now he came in later that day?

17 A. Uh-huh.

18 Q. And again did you tell us what time that was
19 that you thought that was?

20 A. Probably about 1:30 was the first time I saw
21 him again after that; again about 4:00.

22 Q. At that time he was calm and pleasant, was he
23 not?

24 A. Yes.

1 Q. And when you saw him again after he came out
2 of the break room around 4:00 o'clock, again he was calm
3 and pleasant, wasn't he?

4 A. Yes.

5 Q. Now you also testified about a conversation
6 you had with him -- who you believed to be him?

7 A. Yes.

8 Q. On the 13th of June?

9 A. Yes.

10 Q. And do you recall telling him at that time
11 that the funds would have cleared by Friday?

12 A. I don't know if I would have said that or
13 not. I don't remember pulling up the account or looking
14 at it to see when the funds were going to be available.

15 If anything, I would have just referred him to
16 Duc, and he may have expressed that to him.

17 Q. If I show you the preliminary hearing
18 transcript to refresh your recollection as to what you
19 told him on Thursday, would that help?

20 A. Sure.

21 Q. This is page 33 of the preliminary hearing
22 transcript. I will direct your attention to lines 2
23 through 6.

24 A. Okay.

1 Q. Does that help you refresh your recollection
2 as to what you advised him on Thursday?

3 A. Yes.

4 Q. What did you tell him on Thursday, June 13th?

5 A. According to that, that there would be -- the
6 funds would be released on Friday.

7 Q. That was because a two-day hold had been
8 placed on them?

9 A. Yes.

10 Q. Now given that Miss Baxter's account is at the
11 Sparks branch, do you have any familiarity with that
12 account?

13 A. Just from what is on the computer.

14 Q. During this transaction, did you bring up her
15 account on the computer?

16 A. I believe so, to look -- yes, to look at the
17 account history, and also for her phone number and
18 different things like that.

19 Q. And would you say that the amount of \$5,000 is
20 something that would be a normal balance for her to have
21 in that account?

22 A. No.

23 Q. Would she ever have a balance anywhere close
24 to that amount?

1 A. No.

2 Q. What, from your recollection, would be the
3 highest balance she would have had at that time?

4 A. Probably I would have focused on the average
5 balance, which is what we look at, which might have been
6 \$200.

7 Q. How is that average balance computed?

8 A. I am not really sure. It's a daily average
9 balance; probably for the month.

10 Q. So for the past -- the last month, from the
11 time you saw it, which would have been June 14th, it was
12 approximately \$200.00?

13 A. Yes.

14 Q. And are you also able to draw up on that
15 computer the activity on that account?

16 A. Uh-huh.

17 Q. And would it also show if any checks had
18 bounced because of insufficient funds?

19 A. Sure.

20 Q. Do you recall seeing any of that on the
21 computer?

22 A. No.

23 MR. CONWAY: Nothing further, Your Honor.

24 THE COURT: Mr. Walker?

1 MR. WALKER: Thank you.

2 REDIRECT EXAMINATION BY MR. WALKER:

3 Q. At anytime during the three visits to
4 California Federal -- I am assuming in the Iron Horse
5 Shopping Center out in Sparks?.

6 A. Yes.

7 Q. Did Mr. Voss communicate to you, or did
8 anybody report to you that he had communicated to them
9 that he had been at another branch that same day?

10 A. No.

11 Q. What time does the South Virginia branch open?

12 A. 9:00 o'clock also.

13 Q. And both of those branches were open on June
14 14?

15 A. Yes.

16 Q. Both of those branches were also open on June
17 13?

18 A. Yes.

19 Q. So the South Virginia branch would have been
20 open at 9:00 o'clock that morning?

21 A. Yes.

22 Q. Is it fair to say that Miss Baxter could have
23 gone to either one of those branches to communicate her
24 desire to cash that check, if that had been her desire?

1 A. Sure.

2 Q. So if she had received information Wednesday
3 afternoon that the bank wanted to talk to her, she could
4 have gone Thursday morning at 9:00 o'clock to South
5 Virginia?

6 A. Uh-huh.

7 Q. Whether or not Mr. Voss endorsed the check,
8 that is, sign it on the back, he did try to negotiate it,
9 did he not?

10 A. Yes.

11 Q. At the preliminary hearing you didn't see that
12 check, did you?

13 A. No, I saw a photocopy of the front of the
14 check.

15 Q. You did not get to see the back of the check?

16 A. No.

17 Q. If you had been inclined to negotiate that
18 instrument, would you have required that Mr. Voss endorse
19 it on the back?

20 A. Yes.

21 MR. WALKER: No further questions.

22 THE COURT: Mr. Conway?

23 MR. CONWAY: Thank you, Your Honor.

24

1 RECROSS EXAMINATION BY MR. CONWAY:

2 Q. You testified that Steven Voss did not tell
3 you he went to another bank?

4 A. Yes.

5 Q. Did you speak to him personally after you met
6 with him at 10:00 a.m?

7 A. No, I wouldn't have.

8 Q. So you only saw him in the bank, you never had
9 an opportunity to have a conversation with him?

10 A. Correct.

11 Q. So if he went to that second bank after he
12 went to your bank at 10:00 a.m., he would not have told
13 you that; is that correct?

14 A. No.

15 MR. CONWAY: Nothing further.

16 THE COURT: Thank you, you may step down.

17 (The witness was excused.)

18 MR. WALKER: Andrea Butters, Your Honor.

19

20 ANDREA ELIZABETH BUTTERS,
21 called as a witness on behalf of the State herein,
22 having been first duly sworn, was examined
23 and testified as follows:
24

1 DIRECT EXAMINATION BY MR. WALKER:

2 Q. Good morning. Please go ahead and scoot
3 forward and get comfortable, situated near that
4 microphone. If you would, please state your full name
5 and spell your last name for the record.

6 A. Andrea Elizabeth Butters, B-u-t-t-e-r-s.

7 Q. Ma'am, where do you currently reside?

8 A. I currently live at my parents' house.

9 Q. Here in Reno?

10 A. Yes.

11 Q. Are you employed?

12 A. Not currently, I am a student right now.

13 Q. Have you been employed in the recent past?

14 A. Yes.

15 Q. Where at?

16 A. At California Federal Bank.

17 Q. In what capacity?

18 A. I was a teller.

19 Q. How long?

20 A. For about a year and a half.

21 Q. Were you working as a teller at California
22 Federal Bank on June 14, 1996?

23 A. Yes, I was.

24 Q. That would be a Friday?

1 A. Yes.

2 Q. What hours of the day did you work that day,
3 do you recall?

4 A. I worked all day from 8:45 to 4:30.

5 Q. What area of the bank did you work in?

6 A. At the teller window, at the teller desk.

7 Q. That's inside the bank?

8 A. Yes.

9 Q. Did you have occasion to make contact with a
10 gentleman who identified himself to you as Steven Voss?

11 A. Yes, I did.

12 Q. Is that person here in the courtroom today?

13 A. Yes.

14 Q. Would you identify him and an item of clothing
15 he's wearing right now, please?

16 A. The gentleman in the light gray suit.

17 Q. To my left here?

18 A. Yes.

19 MR. WALKER: For the record, Your Honor, she's
20 identified the defendant, Mr. Voss.

21 THE COURT: The record will so reflect.

22 BY MR. WALKER:

23 Q. How did you come to make contact with Mr.
24 Voss?

1 A. He presented me a check to cash for him.

2 Q. Exhibit 29 is right in front of you. Is that
3 the check?

4 A. Yes.

5 Q. What did Mr. Voss tell you about that check
6 when he sought to cash it?

7 A. In general -- all he asked -- just presented
8 it to me, and I asked him if he wanted it cashed, and
9 that's all that ensued the first part of the
10 conversation.

11 Q. Did he present you with identification?

12 A. Yes, he did, he gave me a driver's license.

13 Q. And what did you do when you received the
14 check for negotiation?

15 A. First thing I did was I pulled up the screen
16 to see if the account, that this check is drawn on, had
17 the money there, had the money available.

18 Q. What did you find?

19 A. That the funds were on hold, which means they
20 can't be -- the money can't be taken out. And also there
21 was a full stop on the account.

22 Q. What did you do when you received that
23 information?

24 A. I told Mr. Voss that the check would not be

1 able to be cashed at this current time.

2 Q. How did he react when you told him that?

3 A. He just sort of continued to ask me questions
4 like: Why? Or can I ask you -- kept saying: Can I ask
5 you this about the account? I kept cutting him off,
6 saying: You're not on this account, so you don't have
7 access to that information; I can't help you with that.

8 Q. Did Mr. Voss tell you that he already had been
9 to the Sparks branch that day?

10 A. No, he didn't.

11 Q. What, if anything, or how, I guess I should
12 ask, did your interaction or conversation with him end?

13 A. I told him if he had any problem with the way
14 we handled it, or if he had anymore questions about the
15 funds being on hold, just go talk to the Sparks branch.

16 Q. And what was his reaction to that
17 communication by you?

18 A. I don't remember, other than he left. That
19 was basically the end of the conversation.

20 MR. WALKER: I have no further questions at
21 this time.

22 THE COURT: Mr. Conway?

23 MR. CONWAY: Thank you, Your Honor.

24

1 CROSS EXAMINATION BY MR. CONWAY:

2 Q. Now your testimony is that Steven Voss came
3 into the Reno branch that you worked at on June 14?

4 A. Yes.

5 Q. What time was that?

6 A. I don't know exactly, but around 11:00 a.m.
7 Between 11:00 and 12:00 in the morning. It was early
8 afternoon.

9 Q. Was it early afternoon or --

10 A. It was early -- I am sorry, between 11:00 and
11 12:00. We go from 11:00 a.m., to 12:00, sorry.

12 Q. At that time he presented that check, Exhibit
13 29, to you?

14 A. Yes.

15 Q. Is that check exactly as you remember it?

16 A. Yes.

17 Q. Now you stated that he identified himself as
18 Steven Voss?

19 A. As far as with his license. It's not like
20 he --

21 Q. Was it a license or a Nevada I.D?

22 A. A driver's license, Nevada driver's license.

23 Q. Now the account that he was negotiating the
24 check on, was that a Reno branch account or a Sparks

1 branch account?

2 A. A Sparks branch account.

3 Q. And at that time, because of the amount, is
4 that why you pulled up her account?

5 A. It's just procedure, protocol to check any
6 check that we cash, to check the balance of the account
7 first.

8 Q. And the reason that you denied him the
9 opportunity to negotiate that check, was because you
10 found out that the funds were not available?

11 A. Sorry?

12 Q. Sure. The reason you denied him the
13 opportunity to negotiate that transaction was because the
14 funds were not available?

15 A. Correct.

16 Q. The reason they were not available is because
17 there was still a hold on it; is that correct?

18 A. It was a combination of two things. The funds
19 were still on hold, as well as there was a full stop on
20 the account. Which when a full stop is placed on an
21 account, no access is allowed to the account.

22 Q. Do you remember testifying at the preliminary
23 hearing?

24 A. Yes, I do.

1 Q. Do you remember me asking you what was the
2 reason?

3 A. Yes.

4 Q. Do you remember me asking: Was the sole
5 reason you were unable to cash it was because the funds
6 had not cleared on the earlier deposit?

7 A. Correct.

8 Q. Do you remember what your response was?

9 A. That the funds were on hold still, I believe.

10 Q. You did not mention there was also a stop on
11 the account?

12 A. I am sorry? It's one of the -- it's one of
13 the two factors. I just didn't happen to mention that, I
14 am sorry.

15 Q. You do recall me asking: Were there any other
16 reasons for the hold on that account?

17 A. I am sorry, I don't recall, I don't have that
18 in front of me.

19 Q. Let me show you something that may refresh
20 your recollection. This is page 19 of the preliminary
21 hearing transcript that you were present at.

22 Now I am just going to refer your attention to
23 lines five, I think through 14. I'm not asking you to
24 read it, just asking you to refresh your recollection.

1 A. It's not -- the question wasn't very clear to
2 begin with. I am sorry, I don't --

3 Q. Did I ask you -- I asked that there were no
4 other reasons for the hold on that account; did I ask you
5 that?

6 A. Then you see there, I reworded the question,
7 and then answered it accordingly.

8 Q. You mean this part, me not being able to cash
9 it?

10 A. Yes.

11 Q. What was your response to your question?

12 A. I am sorry, I am just getting confused. I
13 don't want to say anything --

14 Q. Are you familiar with Beverly Baxter's
15 account?

16 A. Not personally.

17 Q. Do you recall what you brought up on the
18 computer?

19 A. As far as exact figures, monetary figures?

20 Q. Exactly.

21 A. Not off the top of my head.

22 Q. Do you recall what the normal balance for that
23 account would have been?

24 A. No.

1 Q. Do you recall whether anything came up on the
2 screen concerning whether she had checks denied, for
3 insufficient balances or bounced checks, of that nature?

4 A. I don't remember.

5 MR. CONWAY: Nothing further.

6 THE COURT: Mr. Walker?

7 MR. WALKER: Nothing further. Thank you,
8 ma'am.

9 THE COURT: Thank you. You may step down.

10 (The Witness Was Excused.)

11 MR. WALKER: Yvonne Kline.

12
13 YVONNE KLINE,
14 called as a witness on behalf of the State herein,
15 having been first duly sworn, was examined .
16 and testified as follows:

17
18 DIRECT EXAMINATION BY MR. WALKER:

19 Q. Good morning, ma'am.. If you would please
20 state your full name and spell your last name.

21 A. Yvonne J. Kline, K-l-i-n-e.

22 Q. Where do you currently reside?

23 A. At 650 Willington Way in Reno.

24 Q. Are you employed?

1 A. I am.

2 Q. Where do you work?

3 A. California Federal Bank.

4 Q. What is your position there?

5 A. Operations manager.

6 Q. How long have you been the operations manager;
7 at California Federal?

8 A. For about eight years.

9 Q. How long have you been involved in banking?

10 A. I have been with California Federal for about
11 10 years.

12 Q. Were you working as the operations manager at
13 the California Federal Bank, the Iron Horse Shopping
14 Center, Sparks, on June 14, 1996?

15 A. Yes, I was.

16 Q. Did you have occasion to make contact with a
17 gentleman identified to you as Steven Voss, who was in
18 the company of one of your employees, Tanya Campanile?

19 A. Yes, I did.

20 Q. Do you recall what time it was when you first
21 made contact with Mr. Voss?

22 A. It was before noon, mid-morning, I would guess
23 around 10:00.

24 Q. Is that person here in the courtroom today?

1 A. Yes, he is.

2 Q. Would you identify him and an item of clothing
3 he's wearing?

4 A. A gray suit, white shirt, and a dark-colored
5 tie.

6 Q. Gentleman to my left here? .

7 A. Yes.

8 MR. WALKER: For the record, she's identified
9 the defendant.

10 THE COURT: The record will so reflect.

11 BY MR. WALKER:

12 Q. What happened when you made contact with Mr.
13 Voss?

14 A. He approached my desk after Tanya had denied
15 the transaction for him, and he approached my desk to see
16 if I would not approve that transaction.

17 He was wanting to know why I could not cash
18 the check for him. And so I told him that based on the
19 information that I had seen, which was a check that he
20 was trying to cash, and a signature card, that I could
21 not cash the check, because the signature card on the
22 check did not match the signature on our signature card.

23 Q. How did he act when you told him that?

24 A. Irritated.

1 Q. Do you recall using the words angry and
2 intimidating to describe his behavior?

3 A. Yes.

4 Q. Are those accurate to describe his behavior?

5 A. Yes. When I reinforced the fact I was unable
6 to cash the check for him, then he became increasingly
7 loud and intimidating.

8 Q. Did Mr. Voss offer any explanation to you for
9 why he needed this money or why he was entitled to this
10 money?

11 A. He said he needed the money to close a loan or
12 to put on a down payment on a place to live or something
13 like that.

14 Q. How long did your contact with Mr. Voss last?

15 A. Probably about 15 minutes.

16 Q. Did you have any conversation with him during
17 that contact about the location or the possibility of
18 contacting the owner of the account, Miss Baxter?

19 A. Yes, I did. I had told him that we needed to
20 contact Miss Baxter in order to verify she had issued
21 this check to him, and if I was able to speak with her
22 and she verified the fact that she had issued the check
23 to him, then I would reconsider cashing that check.

24 Q. What was his response when you told him that?

1 A. He said he did not know how to get ahold of
2 her.

3 Q. Did he ever offer any explanation for why he
4 couldn't reach her himself or go find her himself?

5 A. He said he didn't know where she worked. He
6 knew we had called her at home and were unable to reach
7 her at home, and I asked him if he knew of a work number
8 where she could be reached, because we didn't have a
9 valid work number on file, and he said he did not know
10 where she worked.

11 Q. How did the interaction with Mr. Voss end?

12 A. He was a little bit loud as he was leaving the
13 branch, and he was saying in a loud voice that Miss
14 Baxter would be really upset with us that we didn't cash
15 her check for him, and that she would really be mad at
16 us, and that he was going to let her know that we didn't
17 treat him right.

18 Q. Did you see Mr. Voss at anytime thereafter?

19 A. Yes, I did.

20 Q. When was that?

21 A. He came in very briefly right after he went
22 out the door, he came back in, and left again, and then
23 he came in again about as I was leaving for lunch, and it
24 was around 2:00 o'clock, I think.

1 Q. Did you have a conversation with him?

2 A. Very briefly, because I was on my way out for
3 lunch.

4 Q. What was the conversation?

5 A. It had to do with check holds and how to
6 negotiate items. He had asked me if he could possibly
7 cash that check at another bank, at an account at another
8 bank.

9 Q. What was your response?

10 A. I said possibly, you know, it would be up to
11 the other bank, whether they would do that or not.

12 Q. How long was that interaction or contact with
13 Mr. Voss?

14 A. Very brief, because I was leaving for lunch
15 and I didn't want to be doing business on my lunch hour.

16 Q. Had you made any agreement with him that he
17 was going to keep coming back?

18 A. We had briefly discussed getting copies of
19 checks. He had suggested that I might get copies of
20 checks that had already cleared Miss Baxter's account, so
21 that I could determine whether she sometimes signed her
22 checks B. A. Baxter, as opposed to other times when she
23 might sign Beverly A. Baxter.

24 Q. Did you do that?

1 A. I am sorry, did I --

2 Q. Did you look for other checks?

3 A. I did call down to our research department to
4 order some copies of checks, yes.

5 Q. When you retrieved those checks and seen that
6 she signed her name B. A. Baxter, would you have
7 negotiated this instrument for him?

8 A. No.

9 Q. Why not?

10 A. Because there were too many things that made
11 me feel suspicious about the transaction.

12 Q. Did you see Mr. Voss at anytime after 2:00
13 o'clock?

14 A. Yes, he came in again at 4:00 o'clock.

15 Q. And what were the circumstances of your
16 contact with him at that time?

17 A. At that time he wanted to know if I had
18 received checks from our research department so we could
19 compare them to the one that he had, that he was trying
20 to cash. And we hadn't received anything from the
21 research department. I hadn't heard from them yet.

22 Q. What was his attitude and demeanor during this
23 visit?

24 A. He was calmer than he was before. He was

1 still anxious. He was willing to wait while we called
2 back down to the research department to see if they were
3 still working on getting copies of checks for us.

4 Q. Did Mr. Voss ever offer any explanation to you
5 for why Miss Baxter could not come to the bank?

6 A. No, he -- not that I recall. He just said
7 that he didn't know how to reach her.

8 Q. Did he ever tell you, for example, that it
9 would be too late when she got off of work for her to
10 come to the bank?

11 A. He may have. We discussed the hour that she
12 got off work. I remember asking him if she couldn't come
13 in after work, since we're open until 5:30 on Fridays,
14 and maybe if she got off at 5:00, she might have time to
15 come down.

16 Q. What was his response, if anything, to that
17 suggestion?

18 A. Well, he indicated he needed the funds before
19 that, that he needed the funds by 5:00, so that he could
20 close some sort of a deal on a loan or --

21 Q. How did your contact with Mr. Voss during the
22 4:00 o'clock episode end?

23 A. It ended when some people from the Washoe
24 County Sheriff's Office approached my desk and asked to

1 speak to Mr. Voss.

2 Q. At anytime during these three meetings with
3 Mr. Voss, did he tell you that he had also gone to the
4 California Federal branch on South Virginia?

5 A. No, he didn't.

6 MR. WALKER: No further questions.

7 THE COURT: Mr. Conway?

8 MR. CONWAY: Thank you.

9 CROSS EXAMINATION BY MR. CONWAY:

10 Q. Now you stated that when you first -- your
11 first contact with Steven Voss, that would have been
12 around 11:00 o'clock? That sound about right?

13 A. I believe it was little earlier, but I am not
14 sure of the exact time. It was mid-morning.

15 Q. But it was after he talked to Tanya Campanile?

16 A. Yes, it was.

17 Q. In fact she directed him over to your desk to
18 talk with you?

19 A. Yes.

20 Q. At that time you explained to him why you had
21 decided not to negotiate that check, isn't that correct?

22 A. That's correct.

23 Q. And one of the things you did do was that you
24 compared -- Just for the record, have you seen this

1 before? This is Exhibit 29, State's Exhibit 29.

2 A. Yes.

3 Q. Does that look like the check he was trying to
4 negotiate?

5 A. It looks like it, yes.

6 Q. Looks like it's the same as it was on the day
7 you saw it on June 14?

8 A. It does.

9 Q. Now you compared the signature on that check,
10 did you not, with of the signature card that the bank has
11 on file?

12 A. That's correct.

13 Q. And because the signature that's on the
14 signature card is Beverly A. Baxter, and this one is just
15 B. A. Baxter, and that's why you were concerned about
16 negotiating the check, isn't that correct?

17 A. That's correct. The signatures didn't match.

18 Q. And at that time, as you testified, Steven
19 Voss was agitated about not being able to negotiate this
20 check, isn't that correct?

21 A. Yes.

22 Q. Now he returned a short time after he left
23 that time, within a few minutes, did he not?

24 A. Yes.

1 Q. And at that time he was calmer, wasn't he?

2 A. Yes, he was a little calmer.

3 Q. And at that time he asked if you would look at
4 some cancelled checks that had cleared Miss Baxter's
5 account?

6 A. That's correct.

7 Q. And did you at that time advise him that you
8 would see if you could?

9 A. Yes, I did.

10 Q. Of course that might take some time, because
11 they're in storage?

12 A. Right. Actually we had to order them from
13 southern California.

14 Q. Now he also came in close to your lunch hour,
15 isn't that correct?

16 A. Yes.

17 Q. And he was calm at that time, was he not?

18 A. Yes, that encounter was very brief, it was
19 just like in the entry way.

20 Q. He was just trying to see if you had been able
21 to obtain cancelled checks, isn't that correct?

22 A. Yes. He also asked another question about
23 whether he could negotiate the check at a different bank.

24 Q. He was looking for alternatives to see if he

1 could negotiate this check, isn't that correct?

2 A. That's what it seemed.

3 Q. And when he came in at 4:00 o'clock,
4 approximately 4:00 o'clock, I guess that was the third
5 time you had seen him that day, he was calm at that time
6 too, was he not?

7 A. Yes.

8 Q. Now how long have you worked in a bank-type
9 employment?

10 A. Well, I have been 10 years with California
11 Federal. And --

12 Q. And for that full 10 years, have you been in
13 the position you have been in?

14 A. Not the entire time, but for about eight
15 years.

16 Q. Is one of your duties to deal with persons
17 having trouble negotiating a transaction?

18 A. Yes, that would be one of them.

19 Q. So I'm assuming you have seen a number of
20 people that have been agitated or anxious about a
21 transaction?

22 A. Occasionally I do.

23 Q. Are you familiar with Beverly Baxter's
24 account?

1 A. Yes.

2 Q. Did you bring up the account on that day?

3 A. Yes, I did.

4 Q. On your computer?

5 A. Yes.

6 Q. Were you able to verify the normal balance for
7 that account, or the average balance of that account?

8 A. Yes.

9 Q. What was the average balance?

10 A. It was under \$500.00.

11 Q. Were you also able to verify activity on that
12 account?

13 A. Yes.

14 Q. Did you note any bounced checks or checks that
15 were denied because of non-sufficient funds?

16 A. No.

17 MR. CONWAY: Nothing further, Your Honor.

18 THE COURT: Mr. Walker?

19 REDIRECT EXAMINATION BY MR. WALKER:

20 Q. Miss Kline, in your 10 years of experience at
21 California Federal Bank, would you say it's unusual for
22 somebody to try and cash a \$5,000 two-party check like
23 this?

24 A. I don't know what you mean by like this, but

1 just --

2 Q. I guess what I mean is the specific facts of
3 this case, is it unusual for somebody to hand you a
4 two-party check in the amount of \$5,000 on an account
5 that has an average daily balance of \$200.00 on it?

6 A. That is out of the normal transaction range,
7 yes, so it is unusual.

8 Q. Especially where the owner of the account
9 doesn't fill in the payee line?

10 A. Yes, the payee was filled in in blue ink, and
11 the balance of the check is in black.

12 MR. WALKER: Nothing further.

13 THE COURT: Mr. Conway?

14 RECROSS EXAMINATION BY MR. CONWAY:

15 Q. What is a two-party check?

16 A. It's a check drawn on an account holder being
17 the first party, and made payable to a second party.

18 Q. That's a normal check, is it not?

19 A. Yes.

20 Q. That's what normally happens with a check, the
21 maker of the check writes it to a payee?

22 A. Right.

23 Q. So that check is a two-party check?

24 A. It's a two-party check.

1 Q. And the only strange part about that check,
2 other than what you thought about the signature, was that
3 the payee line was clearly filled in at a later time by
4 someone else?

5 A. Yes. That and the transaction amount was
6 unusual for that particular account.

7 Q. When you brought up that account, did you note
8 that there had been an earlier deposit?

9 A. Yes, I did.

10 Q. Do you recall what that amount was?

11 A. I believe it was \$5,026.00.

12 MR. CONWAY: Nothing further.

13 THE COURT: Thank you. You may step down.

14 (The Witness Was Excused.)

15 MR. WALKER: Dave Boyd, Your Honor.

16 MR. CONWAY: May we approach before this
17 witness is called?

18 (Whereupon, Counsel approached the bench.)

19 MR. WALKER: I believe, Your Honor, we have a
20 stipulation as to an exhibit. I believe the stipulation
21 that Mr. Conway and I have entered into are that State's
22 Exhibit 23 will be admitted, and that the date and time
23 stamps on the exhibit are accurate.

24 MR. CONWAY: That's correct, Your Honor.

1 THE COURT: Exhibit 23 is admitted.

2 (Whereupon, Exhibit 23 is admitted into
3 evidence.)

4 MR. WALKER: I will wait to publish that to
5 the jury until we take up another matter.

6 THE COURT: Ladies and Gentlemen, we need to
7 have a meeting between the attorneys and myself here
8 briefly, we don't want you to sit in and listen to. So
9 we will send you back to the jury room.

10 While you are there, do not discuss this case
11 among yourselves, do not discuss it with anyone else.

12 Don't form any conclusions about the case
13 until it's been submitted to you as a jury.

14 You should not read, look at or listen to any
15 media of this case, if there should be any.

16 With that, we will excuse you for a few
17 minutes.

18 (Jury Excused.)

19 (The following proceedings were held out of
20 the presence of the jury:)

21 THE COURT: Mr. Walker, it's my understanding
22 that the State's next proposed witness is a gentleman by
23 the name of Vern Woodard.

24 MR. WALKER: Correct. I would make the

1 fooling good-faith offer of proof for the purpose of
2 argument, and make the argument the Court may need.

3 I was going to offer to the Court State's
4 Exhibit 23, the exhibit we just admitted. This is a
5 series of photographs derived from a videotape at an
6 automatic teller machine at a Bank of America location in
7 the Keystone shopping center at Fourth and Keystone here
8 in Reno, that shows that Mr. Voss made a withdrawal at
9 9:57 a.m. on June 13.

10 And Mr. Voss says in his statement, which will
11 be an exhibit in this case, that the reason he withdrew
12 money was to get gas for his truck.

13 Mr. Woodard is a civilian witness who twice
14 contacted Secret Witness, although I don't think that is
15 a matter that the jury needs to hear.

16 He ultimately was interviewed, and Mr. Woodard
17 stated that he saw Mr. Voss and Mr. Voss's very
18 distinctive truck at a gas station in that location at
19 10:00 a.m on June 13, 1996. And that in the truck was a
20 woman with dirty blond stringy hair, as he described it,
21 in the passenger seat of the truck.

22 Obviously what I'm going to argue to the jury
23 is that some circumstantial evidence that Mr. Voss was
24 not correct and not accurate with the detectives when he

1 said that he last saw Beverly at either 8:00 or 9:00
2 a.m.

3 And it goes to show an opportunity to commit
4 this crime, for the following reason: As I have
5 indicated all along when I have talked about this
6 evidence, I pointed out that the timing of Mr. Voss at
7 this ATM is a critical circumstantial event, because Mr.
8 Hamilton testified yesterday that he gave Mr. Voss one of
9 his business cards, and told Mr. Voss: Have Beverly
10 contact me in the morning about her account.

11 Clearly if Beverly was with Mr. Voss at 10:00
12 a.m. while he was getting gas in the area of Fourth and
13 Keystone, Mr. Voss had the opportunity to give Beverly
14 the card from Mr. Hamilton and communicate to Beverly the
15 information from Mr. Hamilton, that he needed to talk to
16 her about her account. That is why the evidence is
17 relevant.

18 And furthermore, as I have tried to be
19 consistent in saying, the evidence is part of the res
20 gestae, or are for the critical facts, the center facts
21 of this case.

22 And part of an opportunity, although it's not
23 a prior bad act, it's part of an opportunity idea similar
24 to the idea expressed in 48.045, Subparagraph 2.

1 I understand counsel's concern that this is
2 more prejudicial than probative, because counsel says
3 what this seeks to do is show the jury that Mr. Voss is
4 somehow responsible for Miss Baxter's disappearance.

5 The Court has already instructed them that
6 none of us knows where she's at, if she's in fact
7 disappeared forever, if she's come to foul play or
8 otherwise, and I don't intend to argue to the jury that
9 Mr. Voss has done anything to Miss Baxter.

10 What I do intend to argue to the jury,
11 however, is that Mr. Voss had specific intent to defraud
12 her, because he had the opportunity to commit the crime,
13 because he had the opportunity to tell her: Hey, call
14 your bank about these checks.

15 I suggest that therefore the prejudicial
16 impact of the evidence is that it tends to convict Mr.
17 Voss, not that it tends to inflame the jury or insight
18 the passions of jury.

19 And I think that if counsel continues --
20 understandably, I don't mean this in a denigrating way,
21 -- if counsel continues to be concerned that the jury
22 will use this information prejudicially, we can offer a
23 limiting instruction, which eventually the Court has
24 done, and tell the jury:

1 Ladies and Gentlemen of the Jury, you can only
2 use this information about the State's theory that this
3 is somehow circumstantial evidence that Miss Baxter was
4 with Mr. Voss that morning, to show his opportunity to
5 commit this crime. Not for any other reason and not to
6 draw or point any fingers.

7 And I will affirmatively get up and say, as a
8 proponent of the evidence, that I am not accusing Mr.
9 Voss of being responsible for the disappearance of Miss
10 Baxter.

11 That's my offer, Your Honor.

12 MR. CONWAY: Your Honor, there are a number of
13 problems. First of all, just with respect to testimony
14 itself, he can't even identify the woman. He says he
15 sees a woman, he sees the back of her head, that's it.

16 Here's the situation with his argument that
17 this should be brought in for opportunity:

18 The first problem is that it seems that the
19 first opportunity he's talking about is to give her the
20 card.

21 There is plenty of opportunity to give the
22 card that was testified to. He was seen at her residence
23 Wednesday night, and Thursday morning when he left, and
24 if he didn't -- they want to infer he never gave her the

1 card,, they have plenty of time to say he didn't give her
2 the card.

3 With respect to the opportunities to commit
4 the crime, I don't see how that evidence -- that suggests
5 she was in his car at around 10:00 a.m. getting gas; has
6 anything to do with his opportunity to commit the crime
7 of forgery or uttering a forged instrument or attempted
8 theft, or anything to that effect, because it has nothing
9 to do with it.

10 He can do that at anytime. And he did, he did
11 it the next day. So the fact she was maybe possibly in
12 his car at 10:00 a.m. on Thursday, has nothing to do with
13 the actions that he's alleged to have committed on the
14 14th, of cashing the check. And that's my objection to
15 this.

16 In addition, this idea that they are saying:
17 Well, it's the opportunity to give her the card, has very
18 little probative value as to whether or not he is
19 attempting to forge instruments and utter forged
20 instruments.

21 In addition, the prejudicial value is
22 extreme. The State seems to even admit that; he's trying
23 to limit it.

24 Once you start telling the jury don't consider

1 this, that he was the last person, then I didn't succeed
2 in what I was trying to keep out, which was anything to
3 do with that, because that's not relevant to this case.

4 This case happens to deal with something
5 that's a part from that. I mean, certainly she
6 disappeared, that's been brought before, and I don't have
7 a necessary objection to that, because the jury has the
8 right to know this woman is not going to be testifying.

9 That's fine. Once you go the step further to
10 put into the jury's mind that somehow he was the last
11 person with her, that's far too prejudicial. And I would
12 object to the testimony of Woodard.

13 MR. WALKER: In response, Your Honor, what Mr.
14 Conway is arguing with respect to whether or not he
15 actually made the identification, is an argument about
16 the weight of the evidence, not admissibility of the
17 evidence.

18 When he says that the State already has the
19 evidence, that's not a legal grounds to prevent the State
20 from putting on further circumstantial evidence.

21 This was clearly all of a series of events
22 happening over those two days. It's already going to
23 come before the jury that he's the last person seen,
24 because the videotapes that are going to go into

1 evidence, Detective Yaryan tells us: Well, Steven, were
2 the last person seen with her. Aren't you concerned
3 about her disappearance?

4 The jury has already heard that in this case,
5 will hear it again in the tapes, and it's going to be
6 clear to them that that's the case.

7 If Mr. Conway is concerned that giving a
8 limiting instruction will highlight it to them, then I'm
9 certainly prepared to withdraw the offer of limiting
10 instruction. I was just trying to be helpful.

11 THE COURT: Let me make sure I have the time
12 sequence correct in my head. He deposited the check on
13 Wednesday, the 12th?

14 MR. WALKER: Correct.

15 THE COURT: And at that time had a discussion
16 with Mr. Hamilton, who gave him his business card and
17 said to have Miss Baxter contact him.

18 MR. WALKER: Correct.

19 THE COURT: On the 13th -- He spent Wednesday
20 night at her apartment?

21 MR. WALKER: Yes.

22 THE COURT: And on the 13th --

23 MR. WALKER: He leaves --

24 THE COURT: They left within 15 minutes of

1 each other. He left in his vehicle, she left in hers.

2 MR. WALKER: Actually, it will come into
3 evidence later down, he gave a written statement saying
4 precisely this, and this will come into evidence later
5 on: She offered to help me, and she gave me a check for
6 \$5,000. We spoke briefly and left in separate vehicles
7 approximately 8:00 a.m. or so.

8 So in his written statement he says they left
9 at the same time. And that's important, because in his
10 statement to the police, he says, a couple of times,
11 arguably inadvertently, but he does say we left
12 together.

13 My point is, they leave close in time, and he
14 says first at 8:00 a.m, and then later in another
15 interview, says 9:00 a.m.

16 Of course already Miss Crumb has testified she
17 recollects it being about 9:00, another one leaving at
18 9:15.

19 The point is, he's then at an ATM an hour
20 later, thereabout, 45 minutes later, withdrawing forty
21 bucks in cash, for what he says is gas.

22 Mr. Woodard is going to come in and testify
23 that at the same time, or thereabout, 10:00 a.m on
24 Thursday, he sees Mr. Voss, Mr. Voss's truck, which is

1 the clear identifier, it's not even his description, per
2 se, of Mr. Voss, although he did --

3 THE COURT: Let me see the picture of the
4 truck.

5 MR. WALKER: What Mr. Woodard, as a good-faith
6 offer of proof, will describe, is he remembers the
7 diamond plating on the back of the truck, and the saddle
8 bag gas tanks from the truck, because he has a truck
9 similar to that or like it. And that's what he remembers
10 seeing. And he's quite clear in his description of it.

11 At any rate, he sees that truck, Mr. Voss
12 fueling it, and a woman sitting in the passenger seat.

13 THE COURT: But he can't say who the woman
14 was.

15 MR. WALKER: No, because he saw the back of
16 her head.

17 THE COURT: What is the relevance to this
18 trial -- Here's my concern: There is no question, under
19 normal circumstances, if this were a different kind of
20 trial, that I would allow this man to testify.

21 But here, I am afraid that we're going to
22 confuse the issues to the jury.

23 MR. WALKER: Well, the way I'm going to argue
24 this, Your Honor, is this: This evidence -- this is me

1 talking to the jury -- is relevant for two reasons:
2 Ladies and gentlemen, number one, it shows you that Mr.
3 Voss intended to thief the check the day before, and
4 forge the check the day before, had the intent to defraud
5 the check, which he deposited the day before, because he
6 stole it from Miss Baxter's apartment. And you know
7 that, because he never told her about it. He was
8 interested in withdrawing the funds, he tried to withdraw
9 the funds, and the only way he was ever going to get to
10 withdraw the funds was to tell Beverly, so she could call
11 the bank.

12 Well, Ladies and gentlemen, he had every
13 opportunity to do that. Wednesday afternoon, Wednesday
14 night, Thursday morning, Thursday morning as late at
15 10:00 o'clock while they are driving around in his truck,
16 he could have taken her to the bank, so that she could
17 talk to the people at the bank and say: Yeah -- go in
18 with them together, if you see my point, and say -- you
19 can cash this check.

20 THE COURT: But I guess my point is: You
21 cannot argue to the jury that that was her in his truck?

22 MR. WALKER: I can argue there is
23 circumstantial evidence. That's what I mean it's a
24 weight versus admissibility.

1 Mr. Conway, I think, is entitled to say:
2 Look, ladies and gentlemen, he could have been with
3 another woman.

4 But understand, Your Honor, on the tape he
5 never says anything about a woman being in his truck...In ..
6 fact, he's quite evasive about even admitting he goes to
7 the ATM.

8 Now the defense -- the defense may say: No,
9 he's never evasive, he just forgot about it.

10 But you'll see on the interview tape, the
11 detectives are quite pointed with him: Hey, Steve, we
12 had to go through every inch of videotape of the
13 automatic teller machine, which is in the same parking
14 lot where her car is found, Miss Baxter's car, to
15 identify you. How come you didn't tell us about it? ..
16 Well, I just forgot it.

17 THE COURT: You say that comes under 48.0352?

18 MR. WALKER: 48.0452 and 48.035. 035 is
19 roughly res gestae. 48.045 talks about prior bad acts,
20 but I'm drawing analogy to it, because it shows an
21 opportunity to commit the crime.

22 THE COURT: Let's take a brief recess. I want
23 to look at the two statutes.

24 MR. WALKER: Okay.

1 (WHEREUPON, A RECESS WAS TAKEN.)

2 THE COURT: I have had a chance to look at the
3 statutes, 48.025 and 48.035, Subsection 2.

4 The Court has already given the jury a
5 limiting instruction. It's the Court's belief that the
6 evidence is probative to the issue of res gestae and the
7 testimony will be allowed.

8 Counsel is certainly entitled to argue that
9 the woman in the truck was not Miss Baxter, and Mr.
10 Walker of course is going to argue that it was Miss
11 Baxter, and it will be up to the jury to decide.

12 But I've already advised them, they can draw
13 no inference from the fact that she's not present here,
14 and no one has been able to locate her.

15 So that's going to be my ruling.

16 MR. CONWAY: Does it also include that the
17 State will be limited in its argument to not say this
18 means he was the one last seen alive with her?

19 THE COURT: Nobody can tell me with a straight
20 face whether she's alive or not, and there will be no
21 argument to this jury as to what her health status is at
22 the present time.

23 MR. WALKER: That's correct, Your Honor. I
24 can't represent that I know whether she's alive or dead.

1 There is no doubt about that. I don't intend to argue
2 that to the jury.

3 THE COURT: I will not allow it.

4 MR. CONWAY: Thank you, Your Honor.

5 (The jury is present in the Courtroom for the
6 proceedings.)

7 THE COURT: Will Counsel stipulate to the
8 presence of the Jury? Mr. Walker?

9 MR. WALKER: On behalf of the State, Your
10 Honor, I stipulate to the presence of the jury and the
11 alternate.

12 MR. CONWAY: Your Honor, on behalf of the
13 defense, we also stipulate to the presence of the jury
14 and the alternate.

15 THE COURT: Thank you.

16 MR. WALKER: I call Vern Woodard to the
17 stand.

18
19 VERNON WOODARD,
20 called as a witness on behalf of the State herein,
21 having been first duly sworn, was examined
22 and testified as follows:

23
24 DIRECT EXAMINATION BY MR. WALKER:

1 Q. Good morning, sir. If you would, please state
2 your full name and spell your last name.

3 A. Vernon Clifford Woodard, W-o-o-d-a-r-d.

4 Q. Mr. Woodard, where do you currently reside?

5 A. 700 Wyoming Avenue, Reno.

6 Q. Are you employed, sir?

7 A. No, I am retired.

8 Q. What was your occupation or profession when
9 you retired?

10 A. I was a burner. I worked in line
11 manufacturing, cutting parts out of steel.

12 Q. Mr. Woodard, did you have occasion to be at
13 the Winner's Corner gas station at Fourth and Keystone on
14 Thursday, June 13, 1996?

15 A. Yes.

16 Q. What were you doing at that location at about
17 10:00, 10:30 in the morning?

18 A. Filling my truck up with gas.

19 Q. What kind of truck do you have, sir?

20 A. I got an '87 Chevy one-ton.

21 Q. And what type of body and/or bed does that
22 have on it?

23 A. It has -- the bed has the gas tanks on the
24 outside of the frame.

1 Q. Are those called saddle tanks, if you will?

2 A. Yes.

3 Q. Mr. Woodard, do you have a particular hobby
4 which involves some ability to at least have reasonable
5 eyesight?

6 A. Yes.

7 Q. What hobby is that?

8 A. I do a lot of shooting with a bow and arrow,
9 cross-bow.

10 Q. Do a lot of archery?

11 A. Yes.

12 Q. Were you in fact getting ready to do some
13 archery that day?

14 A. Well, I was out that morning, and then when I
15 came back in I went down and got gas.

16 Q. What pump did you fuel at, do you recall?..

17 A. I was on Pump 10.

18 Q. How is it you recall that with such
19 specificity?

20 A. It's the last pump facing Fourth Street. And
21 I was filling the right tank.

22 Q. Did you have occasion to notice a distinctive
23 truck?

24 A. Oh, yes.

1 Q. Describe this truck that you saw.

2 A. The truck was a flat bed, it had lights across
3 the top, yellow lights, and a flat bed. It was either
4 aluminum bed or stainless steel. It could have been more
5 aluminum than stainless.

6 Q. I am going to show you what has been admitted
7 as State's Exhibit 10. Do you recognize that truck
8 that's in that photograph?

9 A. Yeah, that's it.

10 Q. Is that the truck you saw that morning?

11 A. Yes.

12 Q. Did you see the person who was seemingly the
13 driver or owner of that car?

14 A. Yes.

15 Q. Is he here in Court today?

16 A. Yes, sitting right there.

17 Q. Please identify an item of clothing he's
18 wearing today.

19 A. He's wearing a narrow tie, white shirt and
20 kind of a striped suit.

21 MR. WALKER: For the record, Your Honor, he's
22 identified the defendant, Mr. Voss.

23 THE COURT: The record will so reflect.

24 BY MR. WALKER:

1 Q. Mr. Woodard, what did you see Mr. Voss doing
2 at the Winner's Corner station there that morning?

3 A. That morning he pulled into the pump about 30,
4 40 feet down at the end, on the inside, the other one,
5 and he filled up the tank on the right side. He put gas
6 in the tank on the right side.

7 Q. How is it you're able to remember that detail
8 with such specificity?

9 A. There was some guy that came up behind and he
10 turned around and slapped the tank, and the tanks were
11 high and off the ground. And it kinds of struck me,
12 because if they was hit, they would explode just like my
13 tanks would.

14 Q. It stuck in your mind, there is a guy driving
15 another bomb like me?

16 A. Yes, model-tough cocktail.

17 Q. Did you see anyone else in or around that car
18 at the time?

19 A. Yes, there was a party in the car, had long
20 hair, I did not see their face.

21 Q. Did you have an understanding or perspective
22 about whether it was a man or woman?

23 A. It looked like a woman's hair, because it was
24 long and stringy. Real small, curly stringy.

1 MR. WALKER: And I was just going to say for
2 the record, Your Honor, as he's saying stringy, he's
3 twirling his finger in a circular pattern.

4 BY MR. WALKER:

5 Q. It was tightly curled, as I understand it?

6 A. The small curls were tightly, but it was kind
7 of full.

8 Q. Also, Mr. Woodard, did you see anything else
9 about this person?

10 A. No, that's all I saw, was just the hair, and
11 there was another party in the truck.

12 Q. Where was this person sitting in the car?

13 A. On the passenger side.

14 Q. Was there anyone else in or around the car?

15 A. Just the defendant.

16 Q. Could you draw any conclusions about Mr.
17 Voss's attitude or demeanor as walking around the car or
18 doing anything? Did you really see him do much of
19 anything?

20 A. Well --

21 MR. CONWAY: Objection. I think it's asking
22 for character evidence. I don't know how it's relevant,
23 either.

24 MR. WALKER: Attitude and demeanor is not

1 character evidence.

2 THE COURT: The objection is overruled.

3 BY MR. WALKER:

4 Q. Okay.

5 A. Seemed a little uptight.

6 Q. Why do you say that? What did you see that
7 led to you believe that?

8 A. Well, it was just his expressions on his face.

9 MR. WALKER: No further questions.

10 THE COURT: Mr. Conway?

11 MR. CONWAY: Thank you.

12 CROSS EXAMINATION BY MR. CONWAY:

13 Q. Mr. Woodard, how often do you get gas at that
14 location?

15 A. About once a week. Once or twice.

16 Q. Is it always on Thursday, or is it different
17 times of the week?

18 A. Different times of the week.

19 Q. And why do you recall with such specificity,
20 to use the State's language, that it was that Thursday?

21 A. Because I was down at the Warehouse Market and
22 I hit four ducers, so I had money for gas, so I went and
23 filled the truck up.

24 Q. And you also recalled with such specificity

1 that you went to Pump 9 on that date?

2 A. Ten.

3 Q. Sorry, Pump 10?

4 A. Yes.

5 Q. And you're sure of that for the reasons you
6 stated earlier?

7 A. Yes, because the tank I filled was on the
8 right-hand side of the truck, that was facing Fourth
9 Avenue.

10 Q. Do you recall giving an interview to the
11 sheriff's office?

12 A. Yes.

13 Q. Do you recall telling them that you were on
14 Pump 9?

15 A. No, I did not say Pump 9, I said Pump 10.

16 Q. I'm going to show you what has a transcript of
17 your interview. This is on page 9. I am going to refer
18 your attention to lines 17 through 20. I don't want to
19 you read it, I just want to see if it refreshes your
20 recollection as to what you told the sheriff's office.

21 A. Yes, that does.

22 Q. Let me take that back from you. So indeed you
23 did tell the officers when you first interviewed with
24 them that it was Pump 9; correct?

1 A. Yep.

2 Q. But today you believe it was --

3 A. Pump 10.

4 Q. Now you stated that you saw someone in the
5 vehicle's passenger side, the vehicle you identified in
6 State's Exhibit 10?

7 A. Yes.

8 Q. But you didn't see that individual's face?

9 A. No.

10 Q. And other than the fact that you said it was
11 long curly hair, that's the reason you believe it was a
12 female?

13 A. Yeah.

14 Q. And do you recall -- that's all you saw,
15 though, was the back of her head?

16 A. Yes, that's all. The truck had California
17 plates on it.

18 Q. Let me ask you this: You stated that you were
19 -- did you go to archery that day?

20 A. Yes, that morning.

21 Q. And do you wear glasses when you do archery,
22 or do you take them off?

23 A. I use them.

24 Q. So you do need glasses to see far away?

1 A. Not necessarily. It's mostly up close.

2 Q. Are those glasses for up close?

3 A. They are for bifocals.

4 MR. CONWAY: Nothing further, Your Honor.

5 THE COURT: Mr. Walker?

6 MR. WALKER: Nothing further.

7 THE COURT: Thank you, Mr. Woodard. You may
8 step down.

9 (The witness was excused.)

10 MR. WALKER: Your Honor, My investigator, Mr.
11 Nevell, indicates that Mr. Sturdavant, the next witness,
12 who is staying across the street, is kind of in the
13 wing.

14 Was it my understanding that the Court was
15 inclined to stop at 10 to noon?

16 THE COURT: Around there.

17 MR. WALKER: If the Court is inclined, we
18 could stop now, or go ahead and offer up one of the
19 videotapes I think counsel and I were talking about
20 putting in. Neither one of the videotapes is 10 minutes
21 -- five or 10 minutes long.

22 THE COURT: I don't want to do that, if we get
23 things out of order here.

24 We will take a lunch break, and see everybody

1 back here at 1:30.

2 While on break, do not discuss this case among
3 yourselves, do not discuss it with anyone else. Don't
4 form any conclusions about this case until it's been
5 submitted to you as a jury.

6 You should not read, look at or listen to any
7 media accounts of this case, if there should be any.

8 I neglected to inquire this morning. It was
9 on television last night and in the paper this morning.
10 Did any of you see or hear any of those news casts or
11 read the reports? All right. Thank you.

12 (WHEREUPON, A RECESS WAS TAKEN.)

13 THE COURT: Counsel stipulate to the presence
14 of the Jury? Mr. Walker?

15 MR. WALKER: On behalf of the State, I
16 stipulate to the presence of the jury and the alternate.

17 THE COURT: Thank you.

18 MR. CONWAY: On behalf of the defense, we also
19 stipulate to the presence of the jury and the alternate.

20 THE COURT: Thank you.

21 Mr. Walker, please call your next witness.

22 MR. WALKER: Tim Sturdavant.
23
24

1 TIMOTHY STURDAVANT,
2 called as a witness on behalf of the State herein,
3 having been first duly sworn, was examined
4 and testified as follows:
5

6 DIRECT EXAMINATION BY MR. WALKER:

7 Q. Good afternoon. Please state your full name
8 and spell last name for the record.

9 A. My name is Tim Sturdavant, Timothy Leon
10 Sturdavant. Last name is spelled S-t-u-r-d-a-v-a-n-t.

11 Q. Mr. Sturdavant, what is your occupation or
12 profession?

13 A. I am an environmental engineer specialist with
14 Fire Call Corporation.

15 Q. What is your educational background?

16 A. I have my undergraduate degree in safety
17 management engineering technology out of San Diego
18 National University; and have worked as an enforcement
19 officer with the San Diego Air Pollution Control District
20 in a legal capacity there doing inspections and
21 investigations; and have worked as an environmental
22 engineer most of that remainder.

23 Q. Mr. Sturdavant, do you know a person by the
24 name of Beverly Baxter?

1 A. Yes.

2 Q. How do you know Miss Baxter?

3 A. She's my aunt.

4 Q. And how is she related to you? What is the
5 family tree, if you will?

6 A. Well, she's the youngest in my mom's family,
7 my mom's side of the family, and she's younger than my
8 mom by 10, 12 years, I believe.

9 My mom is now deceased, 1987. And they have
10 an older brother, which is the oldest in my mom's part of
11 the family there. And he passed away I believe in the
12 1986, '85 time frame.

13 Q. How old is Beverly?

14 A. I am going to guess around 50 years old.

15 Q. What has your relationship over the time been
16 with Miss Baxter?

17 A. Very very close when I was young, because we
18 were a very close family. We used to camp a lot as a big
19 family group down in the San Diego area, and Carlsbad,
20 big get-togethers three, four times in the summer. We'd
21 have camp fires, almost a routine thing.

22 Then after my generation kind of grew up and
23 seems like everybody located in different states, I now
24 reside in Utah, and so we weren't as close in the later

1 years, but we did stay in touch on a number of
2 occasions.

3 I think my Aunt Bev always looked towards me
4 as being somewhat of -- not trying to sound conceited --
5 as a success story, because I grew up in kind of a poor
6 area, and was able to go to school and get an education
7 and make something of myself, so she turned to me a lot
8 from time to time to talk to me about things.

9 Q. In that regard, did you have occasion to talk
10 with your aunt about the circumstances of the forced sale
11 of all of her property out of a storage rental unit?

12 A. Yes, I did. Back -- I will have to just give
13 a range on time frame. I am going to guess back around
14 the October time frame, something like that, of '95 --
15 excuse me, January of '96 would be more appropriate, she
16 called me and was explaining to me how all her
17 possessions that she had acquired through the years,
18 basically all she had left in the world, material-wise,
19 was in a storage area in southern California in the San
20 Bernardino area.

21 Q. Let me back you up for a minute. Do you have
22 personal knowledge as to why her stuff ended up in a
23 storage unit?

24 A. Yes.

1 Q. Why did that happen?

2 A. She had been married, I think briefly to a
3 gentleman named Ken Porter, who I did meet in Riverside,
4 California, at my brother's house, and it's kind of
5 confusing, but they had a house in Oregon, somewhere near
6 Portland, I suspect, or maybe further south, and they --
7 she didn't like Oregon very much, so they left the area,
8 still owned the house, and because of that temporary
9 state they were in, she did put her stuff in storage at
10 the time.

11 And I think they were trying to reestablish
12 themselves in southern California for a brief period of
13 time, and had maintained her agreement for the stuff
14 being in storage there through all this time frame.

15 I hope I am answering your question.

16 Q. Let me drive right to the heart of it. At one
17 point did she have to declare bankruptcy?

18 A. Okay, this happened after the southern
19 California stay, and I heard about the bankruptcy for the
20 first time when she called me in January. She was very
21 upset, distraught, and told me that -- I had always
22 looked at my aunt as being fiscally responsible and grew
23 up knowing that, and this really upset her.

24 Q. At some point did you have occasion to talk to

1 her about her receipt of -- call it either a settlement
2 or reimbursement check, representing the proceeds for
3 sale of her property?

4 A. Yes, I had some detailed discussions about
5 that issue. After she explained the circumstances
6 leading up to the bankruptcy and so forth, she told me
7 that all she had that was in storage, and that they had
8 claimed that she had not met her commitment by paying her
9 storage bill on time, and that they had the legal right
10 to sell everything she owned in that.

11 And she told me it was right around \$20,000
12 worth of goods, gatherings through the years, and that
13 she absolutely disagreed with that outcome, and wanted to
14 know what she could do.

15 Q. What advice did you give her about what to do
16 with this check?

17 A. First, it's important to understand, I don't
18 have anything -- my training says when you're going to
19 try to assess facts, you put the date in front of you and
20 you look at dates and times, see if it makes sense.

21 And I said probably the only recourse you
22 could do, is to take it as a civil matter, because she
23 said it was \$20,000 worth of goods, and Small Claims'
24 cutoff is at \$5,000.

1 Knowing that, I knew she would needs counsel,
2 advice of an attorney in the area, where the storage
3 company is.

4 So I told her to put all the facts together
5 and send them to me or fax them to me. That was my first
6 request, to fax them to me, and I'll look at them, use my
7 training, try to piece together times and dates, see if
8 indeed they prematurely sold her material or stuff before
9 her contract authorized them to do so.

10 And then I would look at the date of her
11 cancelled check and try to give her an idea of whether or
12 not she had something to go with.

13 Q. If I could interrupt you for a moment there.

14 Miss Clerk, may I have State's Exhibit 2?

15 Mr. Sturdavant, are the kinds of things that
16 you requested copies of, the bill of sale, the ad in the
17 paper placed by the storage company, the notice of sale
18 information and the auction company name and information?

19 A. I asked specifically for those items,
20 including an inventory of everything she had there, so we
21 could try and get some sort of aggregate value of
22 materials.

23 Q. By chance did you ask for those items sometime
24 around May 23rd?

1 A. That fits the time frame I'm familiar with,
2 yes.

3 Q. And as I understand it, Miss Baxter agreed to
4 fax those items to you when she received them from the
5 storage company?

6 A. She agreed to fax me all the information I
7 asked for. And then the time is important to get this
8 stuff going, if she's going to take a legal course of
9 action with that storage company. And I said to fax it
10 to me, I'll look it over and I'll get right back to you.

11 Our next conversation, she said that it was
12 too big of a package of material to fax. I said why
13 don't you send it to me over 24-hour Priority Mail, not
14 giving up on the need to review that stuff, at the same
15 time I committed to look for counsel in the area.

16 I do have some attorneys that I know in the
17 San Diego area where I had recently relocated from, and
18 would try, see if anybody knew anybody that was -- that
19 could take this issue for her.

20 Q. Did Miss Baxter ever make any specific
21 statements to you about her specific intent with regard
22 to what she was going to do with that check? For
23 example, cashing it, saving it, whatever?

24 A. That became the centerpiece, if you will, of

1 our discussions. I knew, just in my experience, that if
2 this check was the storage company's response back to her
3 to complete the contract agreement, that under no
4 circumstances would she want to cash that check, because
5 I said if she cashed it, it could be agreeing to the
6 terms of them selling all her stuff, and could hurt her
7 in her civil efforts to reclaim the \$20,000 worth of
8 property.

9 I felt that was very very important, and I
10 said -- I told her specifically: Do not cash the check,
11 and let us try to get you counsel and follow the advice
12 of counsel in the San Diego or San Bernardino area, and
13 from that you can get legal direction on what to do with
14 the check.

15 Q. Did you ever discuss with her the possibility
16 of signing the monies over to an attorney as a retainer?

17 A. I said that the first option for her would be
18 to try and seek an attorney that would take this on a
19 contingency basis, knowing that attorney's fees are very
20 expensive, and knowing that she possibly didn't have the
21 resources to pay for such fees.

22 I actually told her whatever the attorney
23 suggests to her, he may want to keep the check as a
24 retainer, he may want to have the check just go on hold

1 and take it on a contingency, or store it away, or may
2 even tell to you cash it, I don't know. But follow the
3 advice of counsel. That was my sole recommendation to
4 her.

5 Q. At least if I understand correctly, Mr.
6 Sturdavant, you did talk with her about the possibility
7 that she might give the funds over to an attorney as a
8 retainer?

9 A. Yes, I did. I said that was one possibility.

10 Q. How frequently were you talking with your aunt
11 during this period of time?

12 A. Oh, I think over the course of about from the
13 time she first told me about them selling her stuff, up
14 until her disappearance, I would guess we were talking at
15 least two to three times a week, something like that;
16 maybe a little less frequent.

17 Q. Mr. Sturdavant, I will represent to you that
18 we have an item in evidence which is a recording from
19 your aunt's answering machine. On that recording there
20 is a message from your wife to Miss Baxter, that seems to
21 have been left sometime around Friday, the 14th of June.
22 Would that comport with your recollection about the last
23 time you had tried to contact her before you found out
24 she was missing?

1 A. Right. I hadn't received that package of
2 material, and we were concerned about her emotional state
3 at this point, because of all the hardship with this.

4 And so my wife and I were constantly trying to
5 keep in touch with her, give her encouragement.

6 My wife did call. I do recollect that call
7 that you're speaking of.

8 Q. Do I understand correctly that at the time
9 that that call was made, you were still anticipating
10 receiving copies of all the documentation from your aunt?

11 A. Yes, actually that was the reason we were
12 trying to call, to find out why I hadn't gotten it yet.

13 Q. When was the last time you had talked to her
14 before this attempt to make contact?

15 A. You know, I have to just kind of give you a
16 range. I don't exactly remember, without looking at a
17 phone bill or something to jog my memory. I'm going to
18 guess probably within no more than a week or so prior to
19 that date I talked to her.

20 Q. During that conversation, did you have
21 specific conversation with her about her intent with
22 regard to that check?

23 A. Yeah. Actually, every time we had spoken that
24 check was discussed.

1 Q. Did she ever waffle or equivocate at all about
2 her intent with regard to that check, what she was going
3 to do?

4 A. She fully trusted my advice. I mean, she -- I
5 said don't cash the check and she told me she's not going
6 to cash the check, it's that simple.

7 Q. Did you ever ask her if she could do without
8 those funds?

9 A. I actually did. And my concern was knowing
10 she was trying to recover financially from where she was
11 at before, and I was concerned that she might be tempted
12 to cash it. And again, I wanted her to prevail in her
13 case with the storage company, because from what she told
14 me I felt they had really wronged her, and I knew this
15 would be like committing suicide, cashing that check
16 perhaps in prematurely or inappropriately, and so I told
17 her, and it was clear she agreed that she wasn't going
18 to.

19 Q. Do I understand from your testimony correctly
20 that the main circumstance or only circumstance under
21 which you told her to cash the check would be to give it
22 over to an attorney as a retainer?

23 A. Yes. The answer is yes. And again, fully
24 trusting in the advice of counsel, whatever the attorney

1 told her to do, is what she should do.

2 MR. WALKER: I have no further questions of
3 Mr. Sturdavant.

4 THE COURT: Mr. Conway?

5 MR. CONWAY: Thank you, Your Honor.

6 CROSS EXAMINATION BY MR. CONWAY:

7 Q. When was the first time that you spoke with
8 Miss Baxter about the storage company selling her
9 belongings?

10 A. As I said earlier, probably sometime in May,
11 third week of May, something like that.

12 Q. You said you talked to her first, January of
13 '96?

14 A. Yes.

15 Q. What was that about?

16 A. Just about her -- where she was at, that she
17 had relocated to the Reno area, just touching bases. And
18 she was also telling me about -- she was in tears at the
19 time.

20 I mean, I am guessing in tears. She was
21 crying, and she was stating that Ken had kind of fiscally
22 ruined her life, and she had filed bankruptcy and was
23 kind of ashamed about that, and things like that.

24 Q. So the first time you talked that over, the

1 storage stuff, was in May?

2 A. Yes.

3 Q. And at that time she had never -- she hadn't
4 shown you anything? In fact to today's date she hasn't
5 shown you anything?

6 A. Correct.

7 Q. You have never seen the check, never seen any
8 of the paperwork that came from the storage company or
9 anything related to this?

10 A. No, I have not.

11 Q. Now when she told you originally about
12 everything being sold, she was upset about that, I
13 assume?

14 A. Oh, very.

15 Q. And she disagreed with what they had done?

16 A. She disagreed, because she felt she had met
17 her contract agreement and paid her storage fee on time.

18 Q. So what you advised her to do was get all the
19 paperwork related to this case, including the paperwork
20 from the storage company, cancelled checks that she had
21 to pay the storage fee, get them altogether, so either
22 you or someone could review those and make appropriate
23 decisions; fair to say?

24 A. Yes. In my case it's just a preliminary

1 decision, to see if -- give her some encouragement
2 towards taking it further.

3 Q. As far as you're aware, I guess we decided the
4 date was February 23rd, that she was going about getting
5 all that paperwork together?

6 A. February 23rd?

7 Q. Sorry, May 23rd?

8 A. Yes, toward the end of May.

9 Q. And you wanted to review that to determine
10 what type of arrangement it was when they sent her the
11 check; is that correct?

12 A. My primary focus in reviewing that was to see
13 if she had -- they had cashed her check prior to the
14 termination period on her contract, that would allow them
15 to sell her stuff; that was what I was looking for.

16 Q. So you were trying to determine whether they
17 were wrong in their action?

18 A. That's correct.

19 Q. So there would be a claim against them, or
20 whether, unfortunately, Miss Baxter was wrong because she
21 didn't pay the storage fee on time and they were right in
22 selling her property?

23 A. That's correct.

24 Q. But at this point you don't know who was right

1 or who was wrong?

2 A. Well, you have got to understand, my aunt has
3 never lied to me.

4 Q. I understand that. What I am saying is you
5 had not reviewed the paperwork to make that
6 determination?

7 A. Right. But, I mean. I --

8 Q. That's fine.

9 A. I need to answer you.

10 Q. I realize that, and I will give you a chance
11 to explain in a minute.

12 Now you also just testified about the fact
13 that you were trying to determine the reason they had
14 sent the check to determine whether or not it was
15 something that would be considered a settlement, isn't
16 that correct?

17 A. I guess it depends on how you define
18 settlement. I was worried if they had indeed done
19 something inappropriate like prematurely sold her stuff,
20 that there could be some clause on that check that said
21 signing this check means you agree that we did the right
22 thing. And I was really afraid that that could be, could
23 kill her hopes of trying to recover her property or the
24 value of her property.

1 Q. I agree with that. What I am saying, I guess,
2 is: That that's why you wanted to review the paperwork,
3 see if there was that type of language or that type of
4 concern was warranted, and if she cashed it this would be
5 a final settlement?

6 A. Yes. Understand, in trying to answer your
7 question, verbally she had told me that they had sold her
8 stuff prematurely based on her knowledge.

9 I was going to be a second eyes and ears,
10 let's say, by looking at the paperwork to say: Yes,
11 you're right, and you should be encouraged, and you have
12 a good chance of perhaps prevailing at your civil case
13 with these folks.

14 Q. But the reason you wanted to review the
15 paperwork originally was to determine what should be her
16 next course of action; correct? That was the reason you
17 wanted to review it?

18 A. Actually to answer you completely there on
19 that, that wasn't -- you know, I think even if they had
20 sold her stuff -- let's say I looked at the paperwork and
21 they were within the written contract time frames that I
22 was looking for, I still thought she might have had a
23 case, just by virtue of all the circumstances leading up
24 to this.

1 She's been a customer with them for three-plus
2 years, maybe four, I don't know, a long time, she had
3 faithfully been paying this for all these years, and then
4 all of a sudden out of the blue like they were vultures
5 waiting for an opportunity to sell her stuff? And so I
6 felt that no matter what, she had an opportunity to
7 prevail, I just wanted to look at the facts and give her
8 some encouragement.

9 Q. So there were two reasons then you wanted to
10 look at the material? One was, what should she do about
11 the check? Two was, whether she had a viable claim
12 against them for doing something wrong?

13 A. No, the check was clear to me: Do not do
14 anything with that check without advice of counsel. And
15 that's the bottom line on that.

16 Q. Okay. You told her she should consult with an
17 attorney concerning this check and determine whether or
18 not she should give it to him, hold onto it? I think
19 also you said if he tells you you can cash, go ahead and
20 cash it?

21 A. That's correct.

22 Q. Now you stated that other than the bankruptcy,
23 I guess, Miss Baxter was a physically responsible --

24 A. Fiscally.

1 Q. Fiscally. Did I say it wrong? Is that right?

2 A. Yes.

3 Q. She's good at managing her money?

4 A. Yes.

5 Q. And always had been?

6 A. Always had been.

7 Q. She doesn't write checks on insufficient
8 accounts, doesn't bounce checks?

9 A. Well, it's an interesting question, and I want
10 to answer you in this respect: I'm basing my conclusion
11 of her being fiscally responsible of a lifetime of seeing
12 her and being around her.

13 Q. Understood.

14 A. After her bankruptcy, I don't know, things
15 fall apart, I guess. I can't say that I could make any
16 assessment of fiscal responsibility once I got away from
17 her when we all grew up.

18 Q. You stated when you were young, you were very
19 close, all lived in the same area?

20 A. Yes.

21 Q. Spent vacations together, summers together?

22 A. All in the same town, two-mile by two-mile
23 square-mile town.

24 Q. But after you all grew up, you grew up, you

1 guys moved onto your own things. From the time that she
2 spoke to you in January of 1996 about the bankruptcy, you
3 hadn't seen her, had you?

4 A. No, I had seen her in Riverside, like I told
5 you.

6 Q. When was that?

7 A. '92, '93 time frame.

8 Q. But from the time she told you about that she
9 had gone through bankruptcy in '96, you have not seen
10 her?

11 A. That's correct.

12 Q. Okay. And in fact the only contact that you
13 had with her is over the phone during that time?

14 A. That's correct.

15 Q. Now you stated that the frequency of contact
16 that you had with her concerning this transaction with
17 the storage company had been two to three times per week?

18 A. Yes, as an estimate.

19 Q. In January of -- back to January of '96, was
20 that the first time that you had heard from her in a
21 while?

22 A. It was the first time I had heard from her
23 since I had seen her in Riverside.

24 Q. Four years before?

1 A. I don't know if it was four years. Was it?

2 Q. You said '92, '93.

3 A. Okay.

4 Q. And that was the first time that she gave you
5 her new phone number; would that be fair to say?

6 A. That would be fair to say.

7 Q. She gave you the phone number that your wife
8 called on I guess around the 14th, left a message on her
9 machine; is that correct?

10 A. That's correct.

11 Q. And your wife's name is Debbie?

12 A. Debra.

13 Q. Does she call herself Debbie?

14 A. Debra.

15 Q. But now the last time you spoke to her
16 officially other than leaving a message, was
17 approximately a week before, so I guess the week of the
18 3rd?

19 A. From January, through May, there were casual
20 phone calls here and there, but probably no more than
21 about -- this is awful hard to recollect, but I'm going
22 to guess about three, maybe four calls in the interim.
23 And then of course in May, the frequency of calls sped up
24 considerably, as I told you, two to three times a week.

1 Q. So from towards the end of May, that we were
2 talking about, approximately May 23rd, maybe a little
3 before that, she called two, three times a week, which
4 means she would -- you had contact with her two, three
5 times a week, and that would have also included this
6 week, and the week of the 10th?

7 A. It would have -- some of the calls were from
8 us to her.

9 Q: That's what I mean, contact overall, two,
10 three times a week?

11 A. Yes.

12 MR. CONWAY: Your Honor, I believe that the
13 message machine has already been stipulated to as being
14 admissible, and I'd like to play that for the jury.

15 THE COURT: Do you have something to play it
16 on?

17 MR. CONWAY: Yes, I do.

18 We looked at it over lunch and made sure how
19 we can do this. I am just going to play it.

20 (Tape is being played.)

21 MR. CONWAY: I think she was trying to record
22 a message, and she left it on, and it recorded her
23 walking around her apartment.

24 (Tape being played.)

1 MR. CONWAY: Stop it right there for a
2 minute.

3 BY MR. CONWAY:

4 Q. Was that your wife's voice?

5 A. Yes, certainly.

6 Q. And that was your home phone number that she
7 gave?

8 A. Yes.

9 Q. At this time, Your Honor, I am going to play
10 the rest of the tape so everybody one can hear it, many
11 what the State has asked me to do and then I am done with
12 the witness.

13 (Tape being played.)

14 MR. CONWAY: That's the end of the tape, Your
15 Honor.

16 And I have no further questions for this
17 witness.

18 THE COURT: Mr. Walker?

19 REDIRECT EXAMINATION BY MR. WALKER:

20 Q. I would represent to you, Mr. Sturdavant,
21 actually the tape goes on for quite a long while more
22 with beeps and other stuff on it.

23 Can you help us with the timing? What was
24 your habit and practice about what time of day to call?

1 A. It would be in the evening.

2 Q. Would it be fair for us to assume your wife
3 then, based on habit and practice, actually called, if it
4 was on Friday, Friday evening?

5 A. That would be very appropriate, because she
6 would do it with me there.

7 Q. And if we know that the bank person must have
8 called earlier in the day, would you agree that probably
9 the tape is transposed in order, that what we heard was
10 the tape messages in reverse order from newest to oldest,
11 because your wife is on there first, and then if your
12 wife called Friday evening, how could the bank have
13 called Friday morning?

14 A. Oh, yes, without question, that makes sense.

15 Q. That's all I am getting at, if you could help
16 us out with the timing.

17 Two things. How did your aunt react? What
18 was her state of mind when you first talked to her about
19 the check she got that represented the sale of her
20 property?

21 A. She was still really upset about the loss of
22 her stuff. I don't think the money seemed to be the real
23 issue here. In other words, the \$5,000 check --

24 Q. Let me interrupt you there. Was she upset?

1 A. Very.

2 Q. Describe for the jury how you knew she was
3 upset.

4 A. Well, crying. I mean, she's pretty emotional
5 about these things, just like when she told me she had to
6 do bankruptcy, she was crying, she was upset, didn't know
7 what to do, and I was trying to tell her to calm down,
8 that I would help her, try and figure out a course of
9 action, try and remedy this thing.

10 It's important to know that with Beverly and
11 her -- the protection of her credit and what she had
12 before the bankruptcy, was really important. She kept
13 bringing that up. And the fact that the materials -- the
14 furniture she had in storage was all her worldly
15 possessions, if you will, and it's gone now. And I
16 recognized that when I was talking with her.

17 Q. Mr. Sturdavant, do you recall telling me that
18 she was so upset that you actually considered inviting
19 her to come live with you?

20 A. Yes. Actually I was worried that even here in
21 Reno, being alone and away from family, whether or not
22 somebody might get involved with her, whatever --
23 wouldn't give her the opportunity to get back on her
24 feet.

1 We have a relatively large house in North
2 Ogden, Utah, and we had plenty of room, and I was just
3 going to try and offer her an opportunity to come to a
4 place where crime is not very high, and families are
5 pretty much the way of life there.

6 And I thought maybe it would be a good
7 influence for her, and was going to give her that
8 opportunity.

9 Q. Whatever the situation, whoever was right or
10 wrong about the storage unit, whether she was wrong or
11 they were wrong, what was her unequivocal statement of
12 intent to you about what she was going to do?

13 A. She was going to try to get -- ultimately,
14 which I had to remind her was not a practical solution,
15 she was going to try and get her stuff back. She would
16 love to just go get her stuff back.

17 I even suggested, not being very trusting of
18 these kinds of operations, that perhaps they auctioned
19 her stuff and half the stuff was bought by the storage
20 company people themselves. I don't trust them. So I
21 encouraged her to prevail.

22 MR. WALKER: No further questions.

23 THE COURT: Mr. Conway?
24

1 RECROSS EXAMINATION BY MR. CONWAY:

2 Q. Fair to say from what you were describing
3 earlier in the beginning of your testimony when you first
4 got on the stand, that the family that you have now is
5 really just you and Beverly and your immediate family; is
6 that fair to say?

7 A. I don't know if I understand.

8 Q. I guess because you said that your parents
9 have passed away, and I guess one of your uncles has also
10 passed away?

11 A. Yes, her brother.

12 Q. Her brother and sister?

13 A. Right; correct.

14 Q. So it's just you and Bev at this time?

15 A. Well, no, that's not true.

16 Q. There are other members of the family?

17 A. Yes, there are. They are actually probably as
18 close to her as I am, but she looked to me for different
19 reasons, looked to me on the technical side. If you want
20 names, she has --

21 Q. That's not necessary. When my investigator
22 had spoken to you, I had heard it was just you and
23 Beverly Baxter, and I just want to make sure if there
24 were other members or not.

1 A. On this issue.

2 Q. Okay. So she spoke to you alone about this?

3 A. As far as I know.

4 Q. At one time did you speak with the police
5 concerning this case?

6 A. After her disappearance, Detective Canfield
7 had talked to me. I was concerned, because I did not
8 know where she was, and hadn't gotten the stuff, and was
9 total absence of communication with her.

10 My wife had called, and I was trying -- then I
11 heard she disappeared, and got information that wasn't
12 too pleasant as to the potential outcome.

13 Q. Did Detective Canfield ever tell you about an
14 automatic teller machine video?

15 A. Yes, he did.

16 Q. What did he tell you about that?

17 A. He told me -- oh, gosh, that there was a video
18 where they found her car -- and I hope I am recalling
19 this correctly -- where they had found her car abandoned,
20 and it showed her at the ATM with him or someone behind
21 her, and that some transaction was trying to occur. And
22 I didn't get any more details as to what he type of
23 transaction, but just that something was going on.

24 Q. Basically the police told you they had a

1 videotape with both her and some other man? I mean, I
2 guess they believed it to be Steven Voss, in this video?

3 A. They did not -- never disclosed to me ever a
4 name of an individual at that time.

5 Q. So they did disclose to you they had a
6 videotape of Beverly Baxter and another man?

7 A. That's correct.

8 Q. And right in front of the ATM doing a
9 transaction?

10 A. Correct. And later to find out in further
11 discussion it was Mr. Voss.

12 Q. Did they ever later tell you that in fact
13 Beverly Baxter was not in that picture?

14 A. I don't -- actually I can't recall whether
15 they had told me she was not in it or not, other than I
16 remember -- things get kind of fuzzy. I remember like
17 her being at the teller machine with somebody behind her,
18 and that's how I remember it.

19 MR. CONWAY: Thank you.

20 THE COURT: You may step down. Thank you.

21 (The Witness Was Excused.)

22 MR. WALKER: Dale Pappas, Your Honor.

23

24

1 DALE ALLEN PAPPAS,
2 called as a witness on behalf of the State herein,
3 having been first duly sworn, was examined
4 and testified as follows:

5
6 DIRECT EXAMINATION BY MR. WALKER:

7 Q. Good afternoon, sir. If you would, please
8 state your full name and spell your last name for the
9 record.

10 A. Dale Allen Pappas, P-a-p-p-a-s.

11 Q. Sir, what is your occupation or profession?

12 A. I am a sergeant with the Washoe County
13 Sheriff's Office, assigned to the detective bureau.

14 Q. How long have you been assigned to detectives
15 with Washoe County?

16 A. Since January of this year.

17 Q. Did you work as a peace officer prior to that
18 with the Washoe County Sheriff's Department?

19 A. Yes, I did.

20 Q. About how long?

21 A. Since November 10th, 1980.

22 Q. Detective Pappas, were you on duty on June
23 14th, 1996?

24 A. Yes, I was.

1 Q. Did you have occasion to respond to the
2 California Federal Bank in the Iron Horse Shopping Center
3 in Sparks at about 4:00 o'clock that afternoon?

4 A. Yes, I did.

5 Q. Why did you go to that location?

6 A. The entire story?

7 Q. Just enough facts so it makes sense why you
8 were there.

9 A. We were there to interview an individual who
10 had a check, that we felt the check was from a missing
11 person.

12 Q. Did you make contact with the person
13 identified to you as Steven Voss?

14 A. Yes.

15 Q. Mr. Voss here in the courtroom today?

16 A. He is.

17 Q. Would you identify him and an item of clothing
18 he's wearing right now?

19 A. Wearing a light green -- sorry, light gray
20 suit, sitting at the defendant's table.

21 MR. WALKER: For the record, he has identified
22 the defendant, Mr. Voss.

23 THE COURT: The record will so reflect.

24 BY MR. WALKER:

1 Q. Detective Pappas, what did you first do when
2 you made contact with Mr. Voss?

3 A. I just stood back and watched from the rear.

4 Q. Did someone else actually interview him?

5 A. Yes.

6 Q. Who was that?

7 A. Detective Stacy Hill.

8 Q. Did you have occasion to listen to Mr. Voss's
9 responses to Detective Hill's questions?

10 A. I did.

11 Q. What did Mr. Voss tell Detective Hill that he
12 was there for? What did he tell him basically about the
13 check that you were concerned about?

14 A. That he was there to cash that check, that it
15 had been given to him by Beverly Baxter.

16 Q. Did Mr. Voss ultimately issue a written
17 statement for you while you were there?

18 A. Yes, he did.

19 MR. WALKER: I would like this marked.
20

21 BY MR. WALKER:

22 Q. Did you see him write the statement, actually?

23 A. Yes, I did.

24 Q. What was the basic story Mr. Voss related

1 about how he got this check, what the purpose for the
2 check was?

3 A. He said that he had received it the previous
4 day from Beverly Baxter, and that it was to be used to
5 purchase a home.

6 Q. Did you attempt to confirm the story about the
7 home purchase?

8 A. Yes, I did.

9 Q. How did you do that?

10 A. He gave me a card, and I can't remember who
11 the real estate company was, but gave me the card. I
12 called and spoke with the real estate agent that -- he
13 said it was her card. I asked her if he was attempting
14 to purchase a home, she said yes.

15 Q. Was there an issue about the amount of the
16 down payment?

17 A. Yes, there was.

18 Q. Just to I guess drive to the heart of it, did
19 you learn that originally the down payment was supposed
20 to be \$2400?

21 A. Yes, I did.

22 Q. Did that comport with what Mr. Voss had told
23 you?

24 A. No.

1 Q. How much did he tell you the down payment was?

2 A. When I came back after talking with the lady
3 on the phone, I said, you know, you are going to buy a
4 house, but I don't understand, you tell me it's \$2400 --
5 I mean, she tells me it's \$2400, you tell me it's
6 \$5,000.

7 At that point he mentioned something to the
8 effect that: Well, there has been some changes.

9 Q. What happened next after you questioned him
10 about the purchase of the home, if you will?

11 A. We spoke a little bit more. Detective Hill
12 and I both requested he come to the station at 911 Parr
13 and make out a written statement.

14 He declined to do so.

15 We went outside, looked at his truck, asked if
16 we could take a look through his truck, he said yes.

17 We did take a look, see if there was anything
18 there that might be Beverly Baxter's.

19 Q. At any point did you ask him if you could look
20 through his residence?

21 A. Yes.

22 Q. What was his response?

23 A. He decline to let us do so.

24 Q. How did your contact with Mr. Voss end?

1 A. Detective Hill had checked Mr. Voss's record,
2 and found out he did not have a driver's license.

3 When we told him he was free to go, he went
4 over to get in his truck and start to drive away, and
5 before he could get out of the parking lot or even out of
6 the parking space, he'd moved just a few feet, I went
7 over and I said to him: Mr. Voss, this will probably be
8 the only break you get from me, but you don't have a
9 driver's license.

10 He didn't say a word. Pulled back into the
11 parking spot, turned the engine off, started walking
12 across the parking area towards McCarran Boulevard.

13 Q. Did you have occasion to follow him and see
14 where he went?

15 A. No, we didn't follow him.

16 Q. Do you know how he got home, or if he got
17 home?

18 A. We did see him walking. After this we had --
19 I looked at Detective Hill, and I said: You know, let's
20 just double check ourselves. Let's go see if Baxter's
21 car is in the parking lot over at the Western Hotel or --
22 And as we were driving over there, we saw Mr. Voss
23 walking.

24 Q. Do you know if he walked all the way to the

1 hotel, or if he got a ride part of the way or any of
2 that?

3 A. No, I don't know.

4 Q. I am going to approach, show you what has been
5 marked State's Exhibit 30 for identification, ask if you
6 recognize that document.

7 A. It looks like the document that Mr. Voss wrote
8 the day we were there.

9 Q. Is that a fair and accurate copy of the
10 document you saw him writing out?

11 A. It looks like it, yes.

12 MR. WALKER: I move 30 into evidence.

13 MR. CONWAY: No objection.

14 THE COURT: Exhibit 30 is admitted.

15 (Whereupon, Exhibit 30 was admitted into
16 evidence.)

17 MR. WALKER: May I publish that, Your Honor,
18 and the previous exhibit, 23, I believe it is --

19 THE COURT: Yes.

20 MR. WALKER: -- to the jury, please?

21 MR. CONWAY: Objection, Your Honor. Hold on
22 here. I don't think that the exhibit of the pictures has
23 been properly set forth by the detective.

24 I have no problem with the admission, but I

1 think this is not the time, because he didn't do that
2 investigation part of it.

3 THE COURT: They are going to see it anyway.
4 What difference does it make?

5 MR. CONWAY: Fine.

6 BY MR. WALKER:

7 Q. Detective Pappas, while the jury has an
8 opportunity to look at the written statement, I note the
9 written statement indicates how Mr. Voss got the check
10 allegedly from Miss Baxter.

11 Did you have occasion to learn about the
12 deposit of a \$5,026.00 check by Mr. Voss some days
13 previously?

14 A. I listened to Detective Hill talking to Mr.
15 Voss about it. He said he had received it and he would
16 make the deposit for -- did make the deposit for her.

17 Other than that, I have no knowledge of it.

18 Q. I note there is nothing about that in his
19 written statement. Was that significant to you at the
20 time?

21 A. All it did was make me wonder, you know, how he
22 could get this money from somebody else to deposit it.

23 Q. Do you recall signing a report reference your
24 contact with Mr. Voss?

1 A. Yes, I do.

2 Q. Do you recall saying in that report that Voss
3 stated that he had forgotten about depositing a check for
4 Miss Baxter?

5 A. Could I --

6 Q. Would it help refresh your recollection to
7 look at that?

8 A. Please.

9 Q. Please go ahead and read it to yourself. I am
10 showing you page 2, for the record.

11 A. Okay.

12 Q. Did that help refresh your recollection about
13 that sequence?

14 A. Yes.

15 Q. What do you recall now, Detective Pappas?

16 A. That I had asked about that. I remember going
17 up to one of the tellers and saying, you know, how did
18 this get to be here, Words to that effect. And she
19 said --

20 MR. CONWAY: Objection, hearsay, Your Honor.

21 MR. WALKER: I am just asking it as
22 foundation, not for the truth of the matter asserted, why
23 he did what he did, in terms of confront Mr. Voss.

24 THE COURT: I will allow it to show state of

1 mind, but the jury should keep in mind that any
2 statements testified to by this officer, someone else
3 said, are not offered for the truth of the statement.

4 BY MR. WALKER:

5 Q. Go ahead, if you would, please.

6 A. I learned through one of the tellers that he
7 had made the deposit. When I asked him about it, he said
8 I forgot about it, or it didn't seem to matter, that sort
9 of thing.

10 Q. What specifically do you recall him telling
11 you about how that deposit had occurred, and when it had
12 occurred?

13 A. It's my recollection that he told me that he
14 had made it either the day before, like on a Wednesday,
15 or -- Tuesday or Wednesday, I can't remember exactly, but
16 that because he was going by the bank, that he would drop
17 it off for her at her request.

18 MR. WALKER: No further questions of Detective
19 Pappas.

20 MR. CONWAY: Mr. Conway?

21 MR. CONWAY: Thank you, Your Honor.
22
23
24

1 CROSS EXAMINATION BY MR. CONWAY:

2 Q. When you approached Steven Voss at the
3 California Federal Bank, your inquiry was one that there
4 was -- you were investigating a disappearance of a
5 person; correct?

6 A. Correct.

7 Q. Your second inquiry was into this check that
8 he was attempting to cash; correct?

9 A. Yes.

10 Q. And when you requested him show you the check,
11 he did show you the check, did he not?

12 A. Yes, he did.

13 Q. He also, when you asked him why he had been
14 given this check, he did tell you that this -- it was for
15 a down payment on a mobile home?

16 A. Correct.

17 Q. And that that the down payment was \$5,000? Is
18 that what he told you?

19 A. Yes.

20 Q. And you of course wanted to confirm that; is
21 that correct?

22 A. Correct.

23 Q. You asked him for a point of contact, someone
24 to contact about that?

1 A. Yes.

2 Q. And he gave you a card?

3 A. A calling card; correct.

4 Q. Who were you to call -- what did that card
5 purport to you to call?

6 A. It was a real estate agent, and I cannot
7 remember -- it was a female real estate agent.

8 Q. If I told you her name was Carol Storey, does
9 that sound correct or not?

10 A. I -- I don't know.

11 Q. That's fine. But you did call this woman?

12 A. I did.

13 Q. At the real estate place?

14 A. Yes.

15 Q. And during your conversation with her, is it
16 your position she informed you that the down payment was
17 \$2400?

18 A. Yes.

19 Q. And that it had not gone up to \$5,000 at that
20 time?

21 A. Correct.

22 Q. In addition, before Steven Voss was allowed to
23 leave, either Stacy Hill or yourself asked to search his
24 vehicle; is that correct?

1 A. Yes.

2 Q. And he consented to that search, did he not?

3 A. Yes, he did.

4 Q. Now during the course of your investigation,
5 you testified that you found out that he had deposited a
6 check earlier?

7 A. Yes.

8 Q. And you had not inquired of him about that
9 check at that time when you found that out?

10 A. No, I didn't.

11 Q. When you brought that to his attention, he
12 admitted he had deposited a check, hadn't he?

13 A. Yes.

14 Q. And he also told you that he had met her at
15 work on which day, as your recollection?

16 A. He said he had met her. I don't know whether
17 it was at work or --

18 Q. Do you recall testifying at the preliminary
19 hearing?

20 A. Yes.

21 Q. If I show you a apportion of that preliminary
22 hearing, will that help refresh your recollection?

23 A. Yes, it will.

24 Q. I am showing you page 101 of that, I would

1 refer you to three through approximately 12.

2 A. Okay.

3 Q. Does that help refresh your recollection?

4 A. Yes.

5 Q. So again, do you recall when he told you he
6 deposited the check?

7 A. On Wednesday.

8 Q. Do you also recall whether he informed you
9 that he had met her at work on Wednesday to get the
10 check?

11 A. After reading that, yes.

12 MR. CONWAY: Nothing further.

13 THE COURT: Mr. Walker?

14 REDIRECT EXAMINATION BY MR. WALKER:

15 Q. Detective Pappas, as I understand it, you were
16 the first peace officer to make contact with Mr. Voss; at
17 least you and Detective Hill were the first peace
18 officers to make contact with Mr. Voss reference this
19 investigation?

20 A. Yes.

21 Q. At the time that you made contact with Mr.
22 Voss, did he offer any detail to you about where he had
23 gone on Friday in order to try and cash that check?

24 A. I don't remember. I think it was just at that

1 bank. I am not sure of that.

2 Q. Did you ask him if he knew how to get ahold of
3 Beverly Baxter?

4 A. Yes, I did.

5 Q. What was his response?

6 A. That he did not know where she was.

7 Q. Did you ask Mr. Voss anything about any
8 details about his relationship with Miss Baxter, such
9 that she would loan him or give him a check for \$5,000?

10 A. No, I didn't.

11 Q. Did he offer any explanation for that?

12 A. Not that I remember, no.

13 Q. When you spoke with Mr. Voss, did he give you
14 any detail, other than saying that he got the check from
15 her at work on Wednesday, about his contacts with her
16 that week, days and times, and that sort of thing?

17 A. That he had been out with her the night before
18 at -- that night, at Dilligas Bar.

19 Q. And in his statement it says that he talked
20 with her that night, the night they went out, about
21 having trouble getting a down payment. The statement
22 says it was that night that that conversation occurred.

23 A. Right.

24 Q. Based on your conversation with him and the

1 statement he gave you, would it surprise you to know he's
2 given subsequent interviews where he actually said the
3 conversation began earlier, like even as early as Monday
4 of that week?

5 A. Would it surprise me?..

6 Q. Yes.

7 A. No.

8 Q. Did Mr. Voss indicate to you at anytime that
9 he had retrieved that check or any items from the
10 victim's home as opposed to from the victim personally?

11 A. I don't remember him saying anything like
12 that.

13 Q. How forthcoming was he, in short?

14 A. The conversations were -- I am not sure how to
15 phrase this exactly, but many times one of us would ask a
16 question, he would ask the question right back: Is that
17 what you mean? Or something to that effect.

18 It was tough to get eye contact with him. It
19 was tough sometimes to get a straight answer out of him,
20 it seemed like.

21 You know, the question: Have you seen her?

22 Have I seen Beverly? No. Or words to that
23 effect.

24 Or: How did you get this check?

1 This check?

2 That sort of stuff.

3 Q. Why is it important for you to ask someone to
4 give a tape-recorded interview at the police station?

5 A. When we ask for that, what it does is it
6 allows us to clear up certain points we may be unclear
7 on. It gives us some additional information in many
8 cases.

9 Sometimes it just completely clears the air
10 and we never have to even worry about it again. And in
11 many cases you can -- you listen to a tape and think: I
12 should have asked this question, or something like that.
13 And in many cases that's what we use that for.

14 Q. Does the tape-recording also preserve the
15 statements for the benefit of the person giving the
16 statements?

17 A. You bet. It protects them, as well.

18 Q. It works both ways?

19 A. Yes.

20 Q. And Mr. Voss declined to do that?

21 A. Yes, he did.

22 MR. WALKER: No further questions.

23 THE COURT: Mr. Conway?

24 MR. CONWAY: Thank you.

1 RE CROSS EXAMINATION BY MR. CONWAY:

2 Q. When you first met with Steven Voss, that was
3 at the California Federal Bank, was it not?

4 A. Yes, it was.

5 Q. And at that time he did cooperate with you,
6 did he not?

7 A. Yes, he did.

8 Q. And he did attempt to answer your questions
9 and show you the check and allow you to search his car;
10 is that correct?

11 A. He did all those things, yes.

12 Q. Now he did decline at that time to go down to
13 the station to make a taped interview; correct?

14 A. Yes, he did.

15 Q. From your understanding of this case, he did
16 later, though, go down and actually give two taped
17 interviews, isn't that correct?

18 A. I know he came down to 911 Parr. I don't know
19 how many statements he gave.

20 MR. CONWAY: Nothing further.

21 THE COURT: Thank you, detective, you may step
22 down.

23 (The Witness Was Excused.)
24

1 MR. WALKER: Detective John Yaryan, Your
2 Honor.

3
4 JOHN YARYAN,
5 called as a witness on behalf of the State herein,
6 having been first duly sworn, was examined
7 and testified as follows:

8
9 DIRECT EXAMINATION BY MR. WALKER:

10 Q. Good afternoon.

11 A. Good afternoon.

12 Q. If would you, please state your full name and
13 spell your last name for the record.

14 A. John Yaryan, Y-a-r-y-a-n.

15 Q. Sir, what is your occupation or profession?

16 A. Detective with the Washoe County Sheriff's
17 Office.

18 Q. How long have you been a peace officer?

19 A. For 16 years.

20 Q. Detective Yaryan, were you on duty on June 14,
21 1996?

22 A. Yes, sir, I was.

23 Q. Did you have occasion to become involved in
24 the investigation involving allegations that a person by

1 the name of Beverly Baxter was missing?

2 A. Yes, I did.

3 Q. Ultimately did you have occasion to respond to
4 the area of the Western Village with Detective Larry
5 Canfield in order to attempt to contact a person by the
6 name of Steven Voss?

7 A. Yes, I did.

8 Q. Were you ultimately able to make contact with
9 Mr. Voss?

10 A. Yes, we did.

11 Q. Where did that occur?

12 A. In his room, I believe it was 135, 136 at the
13 Western Village Motel.

14 Q. What time was it that you made contact?

15 A. I believe I was notified by Canfield at about
16 9:00 o'clock, and it probably took me a half hour to get
17 to Western Village. I think we made contact with him
18 about 10:00, 10:30.

19 Q. And you said made contact with them. Who did
20 you make contact with?

21 A. I am sorry, with Mr. Voss and his mother.

22 Q. Let's back up. Is Mr. Voss here in the
23 courtroom?

24 A. Yes.

1 Q. Where is he at?

2 A. He's seated to defense counsel's left side,
3 wearing a light gray suit.

4 MR. WALKER: For the record, he's identified
5 the defendant, Mr. Voss.

6 THE COURT: The record will so reflect.

7 BY MR. WALKER:

8 Q. Is there another person in the courtroom right
9 now who was present when you made contact with Mr. Voss?

10 A. Yes, there is.

11 Q. Who is that?

12 A. I am sorry, I --

13 Q. Who is the person?

14 A. She's seated in the witness -- I mean the
15 gallery wearing the pink dress.

16 Q. Would that be Mary Duplin, his mother?

17 A. Thank you very much. Yes, it is.

18 Q. What did you do when you made contact with Mr.
19 Voss and his mother at the Western Village?

20 A. I expressed our concern that we had learned
21 that he had been attempting to pass a check earlier in
22 the day, and that the person that had the checking
23 account was a missing person, and that we needed to talk
24 to him a little bit more, because he was the last person

1 to see this person.

2 Q. What was Mr. Voss's attitude and demeanor when
3 you made contact with him and explained to him the
4 purpose of your visit?

5 A. He voiced to me that he had already been
6 inconvenienced, and that it had been a very long day and
7 he would rather not talk about it.

8 Q. Ultimately did he agree to talk?

9 A. Yes, he did.

10 Q. Was that in the presence of his mother?

11 A. Yes.

12 Q. Now to fast forward a little bit. Did you
13 also have occasion to make contact with Mr. Voss, and
14 Miss Duplin, the following day, that would be Saturday,
15 June 15, 1996?

16 A. Yes, at 12:00 o'clock.

17 Q. How did it come to pass you made contact on
18 that date at that time?

19 A. The evening before, I had asked that he please
20 think about this, it was very important that we talk to
21 him and find out every little detail of their last
22 contact with Beverly Baxter. And he agreed to it, so did
23 his mother.

24 Q. When you made contact with Mr. Voss and Miss

1 Duplin, was it your choice to interview them together?

2 A. No, it was not.

3 Q. How did that come to pass?

4 A. We wanted to interview the mother first,
5 obviously because we wanted to get some background on Mr.
6 Voss. And he was emphatic, he would not -- he wanted to
7 be there for the interview with Miss Duplin, and vice
8 versa.

9 Q. Why is it important to interview people
10 separate and apart from one another?

11 A. That's the only way you can tell if somebody
12 is not telling everything.

13 Q. Did you have occasion to try to make contact
14 with Miss Duplin on a subsequent date after interviewing
15 her son, yet a third time?

16 A. I believe that was Monday, the 17th.

17 Q. And how did it come to pass that you sought to
18 make contact with Miss Duplin? What were the
19 circumstances and what did you observe?

20 A. We had executed several search warrants and a
21 seizure order on Mr. Voss. Again, questioned him about
22 some inconsistencies he had given us on his previous
23 statements.

24 And once we returned him to the Western

1 Village area, Miss Duplin was there in the hotel room, we
2 asked if we could speak with her.

3 Q. How did Mr. Voss act when you arrived at the
4 Western Village?

5 A. Very annoyed.

6 Q. What did he do, physically?

7 A. He went into his room, and said he was done
8 talking to us.

9 Q. How did he react when you tried to talk with
10 his mother?

11 A. His mother always remained very cooperative.
12 She wanted to talk with us, at least that's the way she
13 seemed to us.

14 And as she walked out in the hallway, and he
15 would constantly keep looking out the door, telling her:
16 You don't need to talk to these guys. You have a phone
17 call right now. And she went to the room a couple times,
18 and she would immediately come right back out and she
19 said: I will talk to you.

20 Q. Let's back up again in time now, Detective
21 Yaryan.

22 What did Mr. Voss tell you Friday when he
23 finally agreed to talk with you, to some degree, about
24 the circumstances of his contact with Miss Baxter? We're

1 back to Friday now.

2 A. On Friday he told us that he had been burned
3 out of his apartment at the Park Vista Apartments on
4 Sparks Boulevard, and that he and his mother had been
5 looking for a place to stay to buy in the Sun Valley
6 area, and they had been looking at mobile homes.

7 And that on Monday, Miss Baxter had given him
8 a check that had already been received from a storage
9 company for some sort of a litigation, and he said he
10 made the deposit of that check on Monday, and that they
11 had been working out the deal, it was either going to be
12 \$2500 at the beginning for the purchase of this mobile
13 home, or at least the money he needed to get into the
14 mobile home. And later it was increased to \$5,000.

15 Q. When did he indicate to you during that
16 conversation that he and Miss Baxter had agreed -- had
17 first started discussing the possibility of this loan?

18 A. He made it sound as though it was that week.
19 I believe it was like Monday or Tuesday. And he said
20 that it was even her suggestion that he take the money to
21 help him get into this new home.

22 Q. Now did you know at the time that Mr. Voss had
23 already given a statement to Detective Pappas, that he
24 deposited the check on Wednesday and not Monday?

1 A. That was later on. I believe it was the
2 Saturday interview, that he later recalled that it was
3 Wednesday instead of Monday.

4 Q. So what I am getting at, though, is Friday
5 night when you first talked to him, did you have the
6 information yet from Detective Pappas that actually the
7 check had been deposited on Wednesday?

8 A. No, sir, we did not.

9 Q. When he told you he deposited it on Monday,
10 you didn't have the information to say: Wait a minute,
11 was it Monday or was it Wednesday?

12 A. You know, that's a very difficult area for me
13 to really recall. A lot of times when we interview
14 people, we don't put out exactly what we know about
15 something. We want them to tell their side of the story,
16 and we may have been holding that back at that time, and
17 then later on we were going to impeach him on that.

18 Q. Ultimately you did impeach him with that
19 information, as I understand it?

20 A. That's correct.

21 Q. How long was your contact with Mr. Voss on
22 Friday night?

23 A. I think we were probably there for an hour,
24 hour and a half, maybe.

1 Q. On Saturday, when you met with Mr. Voss and
2 Miss Duplin, was that interview tape-recorded?

3 A. I am sorry, Saturday?

4 Q. Yes.

5 A. Yes, sir, it was.

6 Q. Were they present, both of them, during the
7 entire interview?

8 A. During the entire interview.

9 Q. Were both of them interviewed?

10 A. Yes, they were.

11 Q. Who was interviewed first?

12 A. Mary Duplin.

13 Q. And Mr. Voss was present and listening to his
14 mother's statements about what had happened?

15 A. That's correct.

16 Q. And then if I understand correctly, Mr. Voss
17 would have been interviewed while his mother listened to
18 what he claimed happened?

19 A. That's correct, both. We were attempting to
20 separate them, but they would not separate.

21 Q. Now we see -- a couple tapes are going to come
22 into evidence, and we see at one point you ask Mr. Voss:
23 Are you sure you would like your mother to listen,
24 because this is embarrassing? Remember that?

1 A. Yes.

2 Q. Were there conversations with them in the
3 forya before they came in, about the issue of them
4 sitting together, that we don't see on the tape?

5 A. That's something Detective Canfield had told
6 me about, that they had talked about it.

7 Q. We can ask Detective Canfield about it.

8 As I understand it then, you met with Mr. Voss
9 once on the evening of June 14, once on Saturday, June
10 15, and once again on Monday, June 17?

11 A. That's correct.

12 Q. Did you ever personally interview Mr. Voss at
13 anytime thereafter?

14 A. No, sir, I haven't.

15 MR. WALKER: No further questions of Detective
16 Yaryan.

17 THE COURT: Mr. Conway?

18 MR. CONWAY: Thank you, Your Honor.

19 CROSS EXAMINATION BY MR. CONWAY:

20 Q. Your first contact with Steven Voss was on
21 Friday, June 14; correct?

22 A. That's correct.

23 Q. That was at approximately sometime between
24 10:00 and 10:30 p.m?

1 A. To the best of my recollection, yes, sir.

2 Q. And he did invite you into his Western Village
3 Motel room?

4 A. Yes, he did.

5 Q. And in fact at one point you or Detective
6 Canfield asked for the check; right?

7 A. I did.

8 Q. And he willingly showed that to you, did he
9 not?

10 A. Yes, he did.

11 Q. At one time did you also conduct a search -- I
12 guess it's Room 135. Is that what you recall at the
13 time?

14 A. Either 135 or 136, to the best of my
15 recollection.

16 Q. I know it's been a few months, so -- but you
17 did conduct a search?

18 A. Yes, sir, we did.

19 Q. That was with his consent?

20 A. Yes, sir, and his mother's.

21 Q. And in fact he cooperated in that search and
22 helped conduct the search, did he not?

23 A. Yes, he did.

24 Q. At that time both he and his mother were

1 cooperative with your presence at the motel room?

2 A. Yes.

3 Q. I am sure he was annoyed, but at the same time
4 he was trying to be cooperative?

5 A. Yes.

6 Q. And at that time both he and his mother agreed
7 to come down to the station for a taped interview;
8 correct?

9 A. Yes.

10 Q. And that was set up for approximately 12, noon
11 on June 15th?

12 A. That's correct.

13 Q. And did they arrive at that time?

14 A. I think they even arrived a little early.

15 Q. Now you stated that they wanted to be
16 interviewed together, so they were?

17 A. Right.

18 Q. During the interview, let's say of Miss
19 Duplin, did he interrupt at anytime?

20 A. I don't believe so.

21 Q. During his interview, she didn't interrupt,
22 did she?

23 A. No, I think there was some areas that she
24 added, but it wasn't an interruption.

1 MR. CONWAY: Nothing further, Your Honor.

2 THE COURT: Mr. Walker?

3 REDIRECT EXAMINATION BY MR. WALKER:

4 Q. Detective Yaryan, how did Mr. Voss tell you he
5 got from his contact with Detective Pappas to the Western
6 Village?

7 A. He told me he walked.

8 Q. Do you recall him mentioning something about
9 having his mother pick him up at the Outer Limits Bar?

10 A. Yes.

11 Q. What is the relationship of those three
12 locations to one another, Western Village, Outer Limits,
13 Cal Fed., and the Iron Horse Shopping Center?

14 A. They are -- the Cal Fed., is very close to the
15 intersection of Prater and McCarran. You have to travel
16 across McCarran to the south end by Mervyn's, where the
17 Outer Limits Bar is, to the south of that, and it's about
18 a block and a half, two blocks to Western Village from
19 there.

20 Q. Did he offer any explanation for why he got a
21 ride from his mom to go two blocks?

22 A. I don't believe he ever did. I may have asked
23 him, I just don't recall it now.

24 Q. Notwithstanding Mr. Conway's questions about

1 Mr. Voss being cooperative, what was the thing he told
2 you when you asked if he would give a tape-recorded
3 statement that night?

4 A. I am sorry, what?

5 Q. What did he tell you when you asked him to
6 come with you to the detectives' division and give a
7 tape-recorded statement Friday night?

8 A. He told me he had been interviewed and he was
9 tired and annoyed, and he felt that he had done
10 everything he could.

11 Q. Had you told him this was regarding a missing
12 person who had just written him allegedly a \$5,000 check?

13 A. Oh, yeah. I also asked: Why doesn't he act a
14 little bit more concerned about his friend missing.

15 MR. WALKER: I have no further questions.

16 THE COURT: Mr. Conway?

17 RECROSS EXAMINATION BY MR. CONWAY:

18

19 BY MR. CONWAY:

20 Q. Again, when you requested that he do this
21 tape-recorded statement on Friday at 10:30 in the
22 evening, that is when he said he did not want to do it at
23 that time; is that correct?

24 A. That's correct.

1 Q. During that same evening he also agreed he
2 would do an interview the following day at 12, noon?

3 A. That's correct.

4 Q. And in fact he came down to the station?

5 A. That's correct.

6 Q. And as you said, he actually arrived early?

7 A. Yes.

8 Q. Now we talked briefly about the discrepancy
9 between whether he deposited the check on Wednesday or
10 deposited the check on Monday, and obviously we're going
11 to -- I believe the State's going to introduce those
12 tapes.

13 When he discussed the actions of the day that
14 he did deposit the check, did he also mention the other
15 things he did that day?

16 A. He had mentioned that he had to photostat some
17 paperwork, and he drove out to Beverly Baxter's place of
18 work.

19 Q. He also mentioned, I assume at one point, that
20 he also went to her residence?

21 A. Yes.

22 Q. When he mentioned all these things, he said
23 that happened the same day as when he deposited the
24 check; is that correct?

1 A. Yes.

2 MR. CONWAY: Nothing further.

3 THE COURT: Thank you, detective, you may step
4 down.

5 (The Witness Was Excused.)

6 MR. WALKER: I don't know if this is a logical
7 point to take a break or not.

8 The next thing I would like to do is move into
9 evidence the tapes and display them. I could take a few
10 minutes to set up the VCR, if that's appropriate.

11 THE COURT: Well --

12 MR. WALKER: Or we can just dive right into
13 them, either way.

14 THE COURT: I have a meeting with some people
15 from both of your offices at 3:00 o'clock. I also need
16 to talk to the two of you on another matter. Let's go
17 ahead and do the tapes now, and then we will take a break
18 when we're finished with those.

19 MR. WALKER: At this time, Your Honor, while I
20 am moving the cart, I will seek to move and admit State's
21 Exhibits 3 and 4, which are two videotapes.

22 I believe Mr. Conway and I have a stipulation
23 in that regard.

24 MR. CONWAY: Yes, we do have a stipulation as

1 to their admissibility.

2 THE COURT: Then 3 and 4 are admitted.

3 (Whereupon, State's Exhibits 3 and 4 were
4 admitted into evidence.)

5 MR. WALKER: Likewise, I'd like to publish
6 those exhibits to the jury.

7 THE COURT: That will be the order.

8 How long is it?

9 MR. CONWAY: That's the problem. The first
10 one I think is little over a half hour, and the second
11 one is briefer.

12 THE COURT: Show the second one first, then we
13 will take a recess.

14 MR. WALKER: Well, only problem is, the one
15 gives context to the other, because -- and it's sort of
16 important they be done in order.

17 THE COURT: All right, we're going to go ahead
18 and take our afternoon recess in order to accommodate the
19 meetings I have to attend to.

20 While you are in recess, do not discuss this
21 case among yourselves, and do not discuss it with anyone
22 else.

23 Don't form any conclusions about this case
24 until it's been submitted to you as a jury.

1 You should not read, look at or listen to any
2 media accounts of this case, if there should be any.

3 With that, we will be in recess for at least a
4 half hour.

5 I will have to let you know when we're ready
6 to go back.

7 (WHEREUPON, A RECESS WAS TAKEN.).

8 THE COURT: Counsel stipulate to the presence
9 of the Jury? Mr. Walker?

10 MR. WALKER: On behalf of the State, Your
11 Honor, I stipulate to the presence of the jury and the
12 alternate.

13 THE COURT: Mr. Conway?

14 MR. CONWAY: The defense also stipulates to
15 the presence of the jury and alternate.

16 THE COURT: Mr. Walker?

17 MR. WALKER: Thank you, Your Honor. What we
18 propose to do by way of procedure, if it's all right with
19 the Court, is to go ahead and play the videotapes which
20 are about an hour in length, and put Detective Rich Hill,
21 who has an engagement tomorrow, and it might take us a
22 couple minutes after 5:00.

23 THE COURT: Okay.

24 MR. WALKER: What I am going to que up right

1 now for the record is State's 3, which is an interview of
2 Steven Voss on June 15, 1996.

3 (Video was played.)

4 MR. CONWAY: The next one is like half that
5 amount of time. I was going to suggest maybe put on Rich
6 Hill and show the other video tomorrow morning, first
7 thing.

8 THE COURT: Yes.

9 MR. WALKER: No objection.

10 Call Detective Rich Hill.

11 MR. WALKER: May I have Exhibit 23, 24 and 27,
12 28?

13 RICHARD WILLIAM HILL,
14 called as a witness on behalf of the State herein,
15 having been first duly sworn, was examined
16 and testified as follows:

17
18 DIRECT EXAMINATION BY MR. WALKER:

19 Q. Good afternoon. Please state your full name
20 and spell your last name.

21 A. Richard William Hill, H-i-l-l.

22 Q. What is your occupation or profession, sir?

23 A. I am a deputy sheriff with the Washoe County
24 Sheriff's Department currently assigned to the Detective

1 Division.

2 Q. Detective Hill, how long have you been a
3 deputy sheriff?

4 A. I first started in 1972. I then worked for
5 the District Attorney's Office as chief investigator for
6 approximately eight and a half years. And then I
7 returned to the sheriff's office in 1991, and was
8 assigned to the detective division again at that time.

9 Q. Were you working as a detective in the month
10 of June and the month of July of 1996, this year?

11 A. Yes, I was.

12 Q. Did you have occasion to assist in the
13 investigation of an allegedly missing person Beverly
14 Baxter?

15 A. Yes.

16 Q. Did that include assisting in the inventory
17 and inspection of items in her room at the Jacpine?

18 A. Yes.

19 Q. First, Detective Hill, I'm going to hand you
20 four envelopes that are marked on the bottom in each
21 instance, and ask you to go ahead and open those
22 envelopes up, each one at a time, and then we will ask a
23 series of questions about them.

24 A. The first envelope I will be opening is marked

1 State's Exhibit 24. Do you by any chance have a small
2 knife or something I can --

3 Q. I don't have, but I have the point to a pen.

4 A. Thank you.

5 Q. Do you recognize the contents of Exhibit 24?

6 A. I do not, no.

7 Q. Go ahead and open Exhibit 27, 28 next in
8 order. Do you recognize that item, Detective Hill?

9 A. I recognize these, having looked at them
10 before, yes.

11 Q. Were those items secured from the residence of
12 Miss Baxter?

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

14 Q. What is it that you're looking at?

15 A. I apologize, the second information envelope I
16 opened was State's Exhibit 25, and it indicates phone
17 records of Room 135.

18 Q. Sooner or later somebody was going to have to
19 open it. Go ahead with 27.

20 A. Yes, I recognize this.

21 Q. What is that?

22 A. This is a copy of a letter that also has a
23 copy of a check written in the amount of \$5,026.00 to
24 Beverly Baxter, that I located in her motel room on June

1 17.

2 Q. Is that Exhibit 27 then in fact a letter that
3 you found in her room?

4 A. That's correct.

5 MR. WALKER: I move 27 into evidence.

6 MR. CONWAY: May I see it, Your Honor?

7 MR. CONWAY: No objection, Your Honor.

8 THE COURT: Exhibit 27 is admitted.

9 (Whereupon, Exhibit 27 was admitted into
10 evidence.)

11 BY MR. WALKER:

12 Q. So you found a copy of a letter dated May 8th,
13 and a check dated May 8th in her motel room. Do you
14 recall where you found that in the motel room?

15 A. As I recall, this was in a plastic container,
16 a series of drawers sitting next to the north wall.

17 Q. Is there a desk in the motel room?

18 A. Not that I recall.

19 Q. Is it fair to say this plastic set of drawers
20 was where a lot of paperwork and bills and those sort of
21 items were stored by Miss Baxter?

22 A. Yes, absolutely.

23 Q. Do you remember, was that in the top drawer,
24 or which of the drawers was that in?

1 A. I believe it was in one of the lower drawers.

2 Q. Would you agree that what you have there is a
3 copy of this check, which has been admitted as Exhibit 1,
4 and the third page of what has been admitted as Exhibit
5 2?

6 A. Yes, I would agree that's a copy of Exhibit 1.

7 Q. Thank you. Let me go ahead and take the
8 evidence items back from you.

9 I'm going to ask you to go ahead and open --
10 is that Exhibit 28 you have?

11 A. Yes, the last envelope I have is State's
12 Exhibit 28.

13 MR. WALKER: Just for the record, I just
14 pointed out to counsel, that inadvertently we have marked
15 two 28s.

16 Detective Hill has an item in front of him
17 that has an exhibit sticker on it, Exhibit 28, and I
18 would just refer to the Clerk another envelope that also
19 has an exhibit -- State's Exhibit 28 on it. I would
20 recommend, just so the record is clear, we make the
21 second one 28(a).

22 THE COURT: Let's do that.

23 (Whereupon, State's 28(a), marked for
24 Identification Purposes.)

1 BY MR. WALKER:

2 Q. Let's talk about the 28 you have, Detective
3 Hill. Do you recognize those items?

4 A. I do.

5 Q. What do you recognize those to be?

6 A. I recognize these to be cancelled checks
7 written on the account of a B. A. Baxter from the
8 California Federal Bank.

9 Q. Are those in fact items again seized from her
10 residence during an inventory of her residence?

11 A. Yes.

12 MR. WALKER: I move 28 into evidence.

13 MR. CONWAY: May I look at them, Your Honor?

14 THE COURT: Yes.

15 MR. CONWAY: They were all sealed up before.

16 No objection.

17 THE COURT: Exhibit 28 is admitted.

18 (Whereupon, Exhibit 28 was admitted into
19 evidence.)

20 BY MR. WALKER:

21 Q. Where were these items in reference to the
22 copy of the check from Inland Moving & Storage?

23 A. In the same plastic container. I don't recall
24 if they were actually in the same drawer or not, but they

1 were in the same container.

2 Q. So there were banking records in the same area
3 where the copy of the Inland Moving & Storage check was?

4 A. Yes, that's correct.

5 Q. Let me hand you now 281(a), if I might.

6 A. The envelope I just opened was State's Exhibit
7 28(a).

8 Q. Do you recognize the items contained therein?

9 A. Yes, I do.

10 Q. What are those items?

11 A. Two of the items are envelopes, appear to be
12 business type envelopes, with a return address stamped on
13 the envelopes of Inland Moving & Storage, 120 South
14 E Street, P.O. Box 15, in San Bernardino, California.

15 Also are two or possibly one is connected to
16 invoice from the same company, Inland Moving & Storage.
17 This invoice appears to be made out to a Beverly Porter.

18 Q. Where did you find those items?

19 A. These items were found in the trash can,
20 garbage can next to the kitchen area in Beverly Baxter's
21 motel room.

22 Q. Detective, I chuckle when I ask somebody with
23 your career this, but what else was in the garbage, do
24 you recollect? Was this garbage garbage, or something

1 else?

2 A. There was a variety of trash, and there were
3 other items we removed from this trash can as well.

4 Q. Did it appear that this was a garbage
5 receptacle that had been normally used in the course of
6 everyday living?

7 A. Absolutely, it was for trash.

8 MR. WALKER: Counsel is right now inspecting
9 them, Your Honor. I will go ahead and move them into
10 evidence. And when counsel has had a chance to look at
11 them, allow him a chance to respond at that time.

12 MR. CONWAY: Your Honor, my only objection
13 would be its relevance. This seems to be dated
14 11-15-93. So I am not positive as to its relevance to
15 the events that transpired in June of 1996.

16 THE COURT: Well, I think that goes to weight
17 and not admissibility. The jury can decide what weight,
18 if any, to give it.

19 The objection is overruled, and Exhibit 28(a)
20 Is admitted.

21 (Whereupon, Exhibit 28(a) was admitted into
22 evidence.)

23 BY MR. WALKER:

24 Q. Detective Hill, what was the purpose for

1 seizing items involving Inland Moving & Storage?

2 A. Well, I was aware of the fact that the \$5,000
3 check had come from Inland Moving & Storage, and that it
4 did have to do with the storage of personal property
5 belonging to Miss Baxter.

6 So when I saw this particular document, I felt
7 that at some point it may be needed. This item also came
8 from that envelope.

9 MR. CONWAY: For the record, there seems to be
10 one other document that's dated 2-24-96 I didn't see, so
11 I withdraw that objection anyway, because that seems to
12 be more relevant.

13 THE COURT: All right.

14 BY MR. WALKER:

15 Q. So it appears that Miss Baxter had stored in
16 her residence documents from Inland Moving & Storage,
17 copies of documents from Inland Moving & Storage, and
18 cancelled checks and that sort of thing all in the same
19 general area, other than the items that were tossed in
20 the trash?

21 A. That's correct.

22 MR. WALKER: No further questions of Detective
23 Hill.

24 THE COURT: Mr. Conway?

1 MR. CONWAY: Thank you, Your Honor.

2 CROSS EXAMINATION BY MR. CONWAY:

3 Q. Officer, you testified concerning various
4 items that you seized during the execution of a search
5 warrant; is that correct?

6 A. Yes.

7 Q. And I want to talk first about Exhibit 27
8 which was the copy of a letter, and you were determining
9 where that had been found. At this time I want to show
10 you State's Exhibits 15 and 21, which are two
11 photographs. See if you can identify these photographs.

12 A. Yes, I can.

13 Q. What do those photographs appear to represent?

14 MR. WALKER: Those are already in evidence, so
15 I have no objection if counsel points out to him -- gets
16 to the heart of the question.

17 MR. CONWAY: I just want to tell him what it
18 is, then I will --

19 THE WITNESS: State's Exhibit 15 is a
20 photograph of the north wall in Beverly Baxter's room,
21 and it shows the white plastic container or drawer system
22 that I referred to earlier.

23 BY MR. CONWAY:

24 Q. So that's the drawer where you found a couple

1 of the items that you have identified?

2 A. It's actually a series of -- appears to be six
3 drawers, and I believe they're referred to as stackable
4 drawers.

5 Q. What is the other exhibit?

6 A. State's Exhibit 21 is a photograph of the
7 plastic stackable drawer affair we referred to, with the
8 top drawer actually being opened, and that shows the
9 photograph of the Inland Moving & Storage Company letter
10 that was referred to earlier as well.

11 Q. And you had referred to that letter being
12 found in a lower drawer. Would that statement probably
13 have been found in that drawer that was open?

14 A. Absolutely.

15 Q. And also in one of those drawers is also where
16 you found Exhibit 28, the cancelled checks?

17 A. Yes.

18 Q. Now referring your attention to Exhibit 28,
19 the cancelled checks, did you have an opportunity to
20 review those when you found them?

21 A. I did not review them entirely. I looked at
22 them to get a grasp of what they actually were.

23 Q. What did you do with them after you had
24 located them? What did you do with them after you had

1 found them?

2 A. I probably would have pointed them out to
3 Investigator Stevenson, requested that he photograph them
4 and seize them.

5 Q. But other than that, you didn't really review
6 it to see what was contained in those documents?

7 A. I did not look at each and every check, no.

8 Q. Did you also execute a search warrant on the
9 residence at Western Village, Room 135?

10 A. Yes, I did.

11 Q. During that search warrant, did you find a
12 check written on the account of B. A. Baxter?

13 A. I did.

14 Q. I want to show you what has been marked
15 State's Exhibits 5 and 6. They have not been admitted
16 yet, but I want to have you identify them, if you can.

17 MR. WALKER: I will stipulate to the admission
18 of 5 and 6.

19 MR. CONWAY: Have him identify them, and then
20 I have no problem with them being admitted.

21 THE WITNESS: I recognize that check, yes.

22 BY MR. CONWAY:

23 Q. You recognize what is depicted in the picture?

24 A. I do.

1 Q. Does that reflect a true and accurate
2 depiction of what you observed when the check was found?

3 A. Not as I recall, no.

4 Q. But does that show the check that you found
5 during your search of the room?

6 A. Yes, I believe it does.

7 Q. Do you recall if you were the one that found
8 that check?

9 A. Yes, I was.

10 Q. Did that check appear to be hidden in any
11 strange place?

12 A. I felt it was, yes.

13 Q. Where was it found?

14 A. As I recall, it was hidden beneath some
15 lingerie.

16 Q. It was in a drawer -- where was it found
17 exactly, do you recall?

18 A. It was in a dresser drawer. The drawer was on
19 the left side of the dresser, and the dresser was
20 positioned against the north wall of the room. And as I
21 indicated, as my recollection tells me, it was found
22 underneath some lingerie type of clothing.

23 Q. Would that have been panty hose?

24 A. Something of that nature.

1 Q. Were there others items found in this drawer?

2 A. As I recall, that was the only item of value
3 that we seized or removed.

4 MR. CONWAY: I would move for the admission of
5 State's 5 and 6.

6 MR. WALKER: Stipulate.

7 THE COURT: Exhibits 5 and 6 will be admitted.

8 (Whereupon, Exhibits 5 and 6 were admitted
9 into evidence.)

10 MR. CONWAY: No further questions, Your Honor.

11 THE COURT: Mr. Walker?

12 REDIRECT EXAMINATION BY MR. WALKER:

13 BY MR. WALKER:

14 Q. How did the location of the check differ from
15 the photographs we see?

16 A. I don't see the lingerie that I recall in the
17 drawer.

18 Q. So those photographs -- in those photographs,
19 the check has been removed from the drawer and exposed,
20 and that's different than the way you found it?

21 A. Yes, obviously while searching through the
22 drawer I pulled it out, and then when I opened the
23 envelope, I at that time realized that was the check that
24 had come to our attention earlier, and that's when I

1 asked Investigator Stevenson to photograph it.

2 MR. WALKER: No further questions.

3 THE COURT: Mr. Conway, anything further?

4 MR. CONWAY: Nothing further, Your Honor.

5 THE COURT: Thank you, detective. You may be
6 excused.

7 (The Witness Was Excused.)

8 THE COURT: All right. We will recess for the
9 evening. We will come back tomorrow morning at 9:30.

10 While you are at home tonight, do not discuss
11 this case among yourselves, do not discuss it with anyone
12 else.

13 You should not form any conclusions about this
14 case until it's been submitted to you as a jury.

15 You should not read, look at, or listen to any
16 media of this case, if there should be any.

17 It appears to the Court, and we will discuss
18 it with counsel afterwards, that this trial may very well
19 be over tomorrow, hopefully.

20 We're not making any absolute promise, but we
21 have moved along fairly quickly.

22 So with that, I will see you all tomorrow
23 morning at 9:30.

24 (WHEREUPON, A RECESS WAS TAKEN.)

1 STATE OF NEVADA)
2) ss.
3 COUNTY OF WASHOE)
4

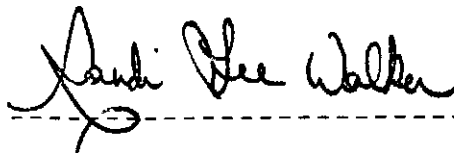
5 I, RANDI LEE WALKER, Official Reporter of the
6 Second Judicial District Court of the State of Nevada, in
7 and for the County of Washoe, do hereby certify:

8 That as such Reporter, I was present in
9 Department No. 10 of the above court on said date, time
10 and hour, and I then and there took verbatim stenotype
11 notes of the proceedings had and testimony given therein.

12 That the foregoing transcript is a full, true
13 and correct transcript of my said stenotype notes, so
14 taken as aforesaid.

15 That the foregoing transcript was taken down
16 under my direction and control, and to the best of my
17 knowledge skill and ability.

18 DATED: At Reno, Nevada, this 23rd day of
19 January, 1997.

20 
21 -----

22 RANDI LEE WALKER, CSR #137
23
24

FILE

1 Case No. CR96-1581

'97 JAN 29 A8:16

2 Dept. No. 10

JUDICIAL

3 SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

DEPUTY

IN AND FOR THE COUNTY OF WASHOE

THE HONORABLE JAMES A. STONE, DISTRICT JUDGE

--oOo--

STATE OF NEVADA,)

Plaintiff,)

JURY TRIAL
(APPEAL)

Vs.)

STEVEN FLOYD VOSS,)

Defendant.)

=====

TRANSCRIPT OF PROCEEDINGS

October 9, 1996

Reno, Nevada

APPEARANCES:

For the State:

EGAN WALKER
Deputy District Attorney
Washoe County Courthouse
Reno, Nevada

For the Deft:

COTTER C. CONWAY
Deputy Public Defender
75 Court Street
Reno, Nevada

Reported by:

RANDI LEE WALKER, CSR #137

Computer-Aided Transcription

ORIGINAL

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Washoe County 4185
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1 WEDNESDAY, OCTOBER 9, 1996, 10:00 A.M.

2 //

3 THE COURT: Good morning. Mr. Walker, do you
4 stipulate to the presence of the jury?

5 MR. WALKER: On behalf of the State, I
6 stipulate to the presence of the jury and the alternate.

7 THE COURT: Mr. Conway?

8 MR. CONWAY: Thank you. On behalf of the
9 defense, we also stipulate to the presence of the jury
10 and the alternate.

11 THE COURT: Thank you. I believe, Mr. Walker,
12 you wanted to play your second tape.

13 MR. WALKER: Please. For the record, I will
14 publish State's Exhibit 4 to the jury at this time.

15 (The videotape is being played.)

16 MR. WALKER: That's it. I'd call Detective
17 Larry Canfield to the stand.

18

19 LARRY CANFIELD,

20 called as a witness on behalf of the State herein,

21 having been first duly sworn, was examined

22 and testified as follows:

23

24 DIRECT EXAMINATION BY MR. WALKER:

1 Q. Good morning. If you would, sir, please state
2 your full name and spell your last name for the record.

3 A. Larry Canfield, C-a-n-f-i-e-l-d.

4 Q. What is your occupation or profession?

5 A. I am a detective for the Washoe County
6 Sheriff's Office.

7 Q. How long have you been a detective?

8 A. For 11 years.

9 Q. How long have you been a peace officer?

10 A. 18 and a half.

11 Q. Did you have occasion to work a case as a
12 detective with the Washoe County Sheriff's Department
13 involving allegations of a missing person by the name of
14 Beverly Baxter?

15 A. Yes, I did.

16 Q. As a consequence of that case, did you have
17 occasion to make contact with a subject identified to you
18 as Steven Voss on June 14, 1996, at the Western Village
19 Motel?

20 A. Yes, I did.

21 Q. Later that evening, did you have occasion to
22 travel to a parking lot in the area of Albertson's
23 supermarket approximately Fourth and Keystone here in
24 Reno?

1 MR. CONWAY: Objection to the relevance to
2 this line of questioning, Your Honor.

3 THE COURT: What is the relevance?

4 MR. WALKER: I am going to ask the detective
5 if he found Miss Baxter's car at that location.

6 THE COURT: The objection is overruled.

7 BY MR. WALKER:

8 Q. What time did you go there?

9 A. To the parking lot?

10 Q. Yes.

11 A. I believe it was approximately 2:30 a.m on the
12 next morning, which would be the 15th.

13 Q. Why did you go to that parking lot at 2:30
14 a.m. Saturday morning?

15 A. Well --

16 Q. Not looking for donuts, I take it?

17 A. No. It was on my way home, and I remembered a
18 case from Reno P.D. from years ago where a missing person
19 was actually found in their car in that location, and it
20 was just something I felt I had to do, was check that
21 parking lot.

22 Q. A hunch?

23 A. Yes.

24 Q. Did you find her car there?

1 A. Yes, I did.

2 Q. Was anybody near the car?

3 A. No.

4 Q. How far is that car from the automated-teller
5 machine owned or operated by Bank of America on the north
6 end of the parking lot?

7 A. I would say it's approximately 50 yards. I
8 did not walk it or measure it.

9 Q. Can you see the automated teller machine from
10 that car?

11 A. Yes.

12 Q. Can you see the car from the automated-teller
13 machine?

14 A. From standing at the machine, yes.

15 Q. Was there construction going on in that
16 parking lot at the time?

17 A. Yes, the whole parking lot in front of the
18 automated-teller machine, and on that side, was torn up
19 and dirt and a lot of work going on.

20 Q. Did any of that construction or any of the
21 construction equipment impede or interfere the view of
22 that vehicle and the automated-teller machine?

23 Was there anything in between which would
24 block somebody's view?

1 A. No.

2 Q. Was the car locked?

3 A. Yes, it was.

4 Q. Ultimately did you have occasion to open the
5 car?

6 A. Yes, we did.

7 Q. Keys ever found in the car?

8 A. No.

9 Q. I take it you had occasion to conduct a series
10 of interviews with Mr. Voss?

11 A. Yes, I did.

12 Q. During one of those interviews, Mr. Voss
13 provided an ATM card to Detective Yaryan. Do you recall
14 that?

15 A. Yes, I do.

16 Q. Whose ATM card was that?

17 A. It was in the name of Mary Duplin.

18 Q. In the context of investigating this case,
19 incidentally, what was your role or assignment in this
20 case?

21 A. I was assigned as the case agent in the case.
22 In other words, I would oversee most things that occurred
23 on the case.

24 Q. It was your responsibility?

1 A. Yes.

2 Q. What did Mr. Voss tell you his employment
3 status was at the time in June?

4 A. Self-employed.

5 Q. Did he offer you any detail or explanation for
6 how he was self-employed or what he was doing?

7 A. He stated with the flat-bed truck that he had
8 he did electrical work. He was hoping to get work
9 working on traffic signals in town.

10 Q. Was he currently working at that time?

11 A. No.

12 Q. In the context of your interviews and
13 discussions with Mr. Voss, did you discover that he and
14 his mother possessed two storage units?

15 A. Yes, I did.

16 Q. Where were those storage units located?

17 A. One in Sparks, the Sparks Self Storage, I
18 believe. And one was off of North McCarran Boulevard in
19 Reno, called the McCarran Annex.

20 Q. When, to your knowledge, had those storage
21 units been rented?

22 A. Without looking, all I know is it was prior to
23 June 14th.

24 Q. What was in the storage units?

1 A. Furniture, clothing, lamps.

2 Q. Is it fair to say that the storage units
3 contained the household possessions of Mr. Voss and his
4 mother subsequent to the fire which essentially evicted
5 them from their apartment?

6 A. Yes.

7 Q. And they had two of those units that they had
8 to rent, as I understand it?

9 A. Yes.

10 Q. That was in addition to paying the rent at
11 Western Village?

12 A. Yes.

13 Q. Just by way of name, I don't want to know what
14 anybody told you other than Mr. Voss, but by way of name,
15 what other persons did you interview in an attempt to
16 track down the sequence of events in this case?

17 A. Personally or, you know, the Division or --

18 Q. You're right, that's a bit of an articulate
19 question. You were responsible for the case?

20 A. Yes.

21 Q. Did you see that Gary Plank was interviewed?

22 A. Yes, I did.

23 Q. Who is Gary Plank?

24 A. Gary Plank, at the time, was represented to us

1 as a possible boyfriend to Beverly Baxter.

2 Q. Did you interview his sister?

3 A. Yes, Barbara Jacobson.

4 Q. Did you interview all the friends and
5 acquaintances of Miss Baxter of Microflex Medical
6 Corporation?

7 A. Yes.

8 Q. Did you talk to her family?

9 A. Yes.

10 Q. Did you talk to every person who was
11 identified to you that had contact with her?

12 A. Yes.

13 Q. Did you ask Mr. Voss to identify friends and
14 acquaintances of his to you?

15 A. Yes, I did.

16 Q. What was his response?

17 A. He told me he wouldn't tell me any of his
18 friends or acquaintances, that he did not want me to talk
19 to.

20 Q. One thing before I forget. Detective
21 Canfield, do you know a person by the name of Tim
22 Sturdivant?

23 A. Yes, I do.

24 Q. Mr. Sturdivant came in and testified for the

1 jury yesterday. Did you ever tell Mr. Sturdivant that
2 the ATM video showed Beverly on it?

3 A. No, I did not.

4 Q. What did you tell him about what the ATM video
5 showed?

6 A. I believe I told him at the time we were
7 trying to obtain the ATM video, to see who was on it.

8 Q. Would it be fair to describe the location of
9 her car with reference for the location of a person
10 standing at the video and the position of the video
11 camera and the car, Bev's car, being behind a person at
12 the ATM, as if they were accessing it?

13 A. Yes, you could say it was behind, and if they
14 were facing the machine, it would be behind and over
15 their left shoulder.

16 Q. Did you tell Mr. Sturdivant anything of the
17 nature, for example, that her car was located behind the
18 ATM machine?

19 If you would, Detective Canfield, I have
20 handed you what is Exhibit 23. Would you point out to
21 the jury from the reference of the camera taking those
22 pictures, where Miss Baxter's car would have been
23 located?

24 A. It would have been up in this corner area

1 right here, which is -- this is the left side of the
2 photo, but my right -- you can't really see what it is,
3 but it's right up in here.

4 Q. Can you identify any vehicles in those photos?

5 A. No, I can't.

6 Q. Can you tell from that photo whether or not
7 the position of her car would be in the field of view of
8 those pictures?

9 A. No.

10 Q. Do you know from your own personal knowledge
11 whether it's in the field of view or out of the field of
12 view, or you just can't tell?

13 A. I can't tell.

14 Q. Did you offer that information at any point to
15 Mr. Sturdivant?

16 A. I may have said that from the ATM machine, not
17 the machine itself, but you could see where her car was
18 parked. And that we had hopes that it was in the
19 photographs also.

20 MR. WALKER: Miss Clerk, may I have Exhibit
21 24, please? And just to make it easy while you're at it,
22 Exhibit 30.

23

24

1 BY MR. WALKER:

2 Q. I am going to hand you what has been marked
3 for identification, detective, as Exhibit 24. I am going
4 to ask you to just open this envelope to yourself, and
5 tell us if you recognize what is contained therein?

6 A. Yes, I do.

7 Q. What is that?

8 A. This is a check for California Federal Bank,
9 belonging to Beverly Baxter.

10 Q. Let me stop you there. How do you recognize
11 that?

12 A. I took this check from her residence.

13 Q. When did you do that?

14 A. I took it on, which I date on here, on June
15 18th in the afternoon.

16 Q. Is that check in the same condition as it was
17 when you retrieved it from her residence on June 18?

18 A. Yes, it is.

19 MR. WALKER: Move 24 into evidence, Your
20 Honor.

21 MR. CONWAY: May I see it?

22 THE COURT: Yes.

23 MR. WALKER: For the record, I have provided
24 counsel a copy of this check, Your Honor.

1 MR. CONWAY: I just have not seen the
2 original, that's all, Your Honor.

3 Thank you.

4 No objection.

5 THE COURT: Exhibit 24 is admitted.

6 (Whereupon, Exhibit 24 was admitted into
7 evidence.)

8 MR. WALKER: May publish it to the jury while
9 I continue my questioning, Your Honor?

10 THE COURT: Yes.

11 BY MR. WALKER:

12 Q. Why did you seize that check, detective?

13 A. Because it was a check dated in February of
14 '96, made out to Steven Voss, in the amount of \$200.00.

15 Q. Did you have information that Miss Baxter had
16 paid Mr. Voss for some services?

17 A. I had had information from friends of hers
18 that she had.

19 Q. Is that what you associated that check with?

20 A. That's correct.

21 Q. Detective Canfield, we saw a videotape of an
22 interview with Mr. Voss on June 17th, 1996. Do you
23 recall that interview?

24 A. Yes, I do.

1 Q. Just describe for the jury how that interview
2 ended.

3 A. I believe -- I think Mr. Voss stood up and
4 stated he wanted to go home.

5 Q. What was his attitude and demeanor when he
6 said that?

7 A. He seemed to be upset.

8 Q. I am going to hand you what has been marked
9 for identification as State's Exhibit 31, ask you if you
10 recognize what is depicted in that photograph?

11 A. Yes, this is a Polaroid picture of Beverly
12 Baxter.

13 Q. Where did you get that picture?

14 A. I got it from our photo lab, which this
15 picture is cropped out of a large photograph of Beverly
16 Baxter with several of her fellow employees at Microflex.

17 Q. Was it a company function fairly recent in
18 time?

19 A. Yes.

20 Q. Does that fairly, accurately depict Beverly
21 Baxter?

22 A. According to them, yes. I have never met her.

23 Q. You showed that photograph to people who know
24 her?

1 A. Yes.

2 Q. And they identified her in that photograph?

3 A. Yes.

4 MR. WALKER: I move 31 into evidence.

5 MR. CONWAY: I object as to relevance to this
6 proceeding.

7 MR. WALKER: It identifies Miss Baxter, Your
8 Honor, and there is significant testimony, for example
9 from Mr. Woodard, or as a general appearance of somebody
10 in the car on Thursday.

11 THE COURT: I believe it goes to weight, not
12 admissibility.

13 It will be admitted, and the jury can give it
14 whatever weight they deem appropriate.

15 MR. WALKER: If I may publish that to the jury
16 at this time.

17 I have no further questions of Detective
18 Canfield, Your Honor.

19 THE COURT: Mr. Conway?

20 MR. CONWAY: Thank you, Your Honor.

21 CROSS EXAMINATION BY MR. CONWAY:

22 Q. When you first met with Steven Voss, were you
23 informed that he had been -- he and his mother had been
24 one of the fire victims of the Park Vista Apartments?

1 A. Yes.

2 Q. Were you able to confirm that had actually
3 happened?

4 A. I remembered it from the news earlier on in
5 the prior week.

6 Q. You testified that the ATM card that the
7 jurors saw, handed to -- not sure, you guys aren't in the
8 video of the interview -- but handed to Officer Yaryan,
9 was Mary Duplin?

10 A. Right.

11 Q. Who is Mary Duplin?

12 A. His mother.

13 Q. And she's in the courtroom today?

14 A. That's correct.

15 Q. Now you testified about some storage units.

16 A. Yes.

17 Q. And in fact they told you that they had
18 storage units?

19 A. Yes.

20 Q. And that's one of reasons they had the storage
21 units, is because they had to put their belongings there
22 after the fire?

23 A. That's correct.

24 Q. Now did you ever have an opportunity to listen

1 to the tape of the answering machine in Beverly Baxter's
2 apartment?

3 A. I believe I heard a portion of it. But, no, I
4 did not listen to the whole tape.

5 Q. So you don't recall what was on it; who was on
6 it?

7 A. No.

8 Q. There were a number of references to the
9 Baxter check, the check that was written on Bev Baxter's
10 account in the amount of \$5,000. Did you request to see
11 that on the night of June 14th?

12 A. Actually Detective Yaryan did, and Mr. Voss
13 showed it to him, and I came over and looked at it also.

14 Q. It was produced willingly?

15 A. Yes.

16 Q. You were able to review it?

17 A. Yes.

18 Q. At that time you actually gave it back to him?

19 A. That's correct.

20 Q. Now you stated with respect to Exhibit 24, the
21 check in the amount of \$200.00 --

22 A. Yes.

23 Q. Do you know what that check was for?

24 A. One of the witnesses -- without reviewing my

1 reports I can't tell you which one -- had told me that it
2 represented some work on Beverly Baxter's car.

3 Q. Did that check represent for labor or parts?

4 A. That I don't know.

5 Q. And it doesn't say so on the check, does it?

6 A. No, it doesn't.

7 Q. Now there was some reference to testimony of
8 Tim Sturdivant. You know who Tim Sturdivant is?

9 A. Yes.

10 Q. Have you had any personal contact with Tim
11 Sturdivant?

12 A. The first time I met him was when -- I believe
13 Monday when he flew into town and showed up here.

14 Q. So the rest of your contact has been --

15 A. Over the phone.

16 Q. And there was some reference to Tim's
17 testimony, of a statement you had made to him. It's your
18 position that statement was never made, concerning
19 Beverly Baxter being seen in the ATM machine photographs?

20 A. Correct.

21 Q. You testified you found Miss Baxter's vehicle
22 at 2:30 a.m on the morning of June 15?

23 A. Yes.

24 Q. Do you know when these photographs were taken?

1 A. Those photographs were taken on Thursday, the
2 13th. I believe it was 9:50 -- around 9:50 in the
3 morning. There is a period of time there that they were
4 taken.

5 Q. If I said 9:57, does that sound about right?

6 A. Yes.

7 MR. CONWAY: Nothing further.

8 THE COURT: Mr. Walker?

9 REDIRECT EXAMINATION BY MR. WALKER:

10 Q. You repeatedly asked Mr. Voss about what time
11 it was he left Miss Baxter's company Thursday morning,
12 didn't you?

13 A. That's correct.

14 Q. What times did he give you?

15 A. 9:00 a.m.

16 Q. When he finally gave up the facts about the
17 ATM -- what was the sequence in which he told you he went
18 there? Where had he been right before going to the ATM,
19 according to him?

20 A. Beverly Baxter's.

21 Q. According to him, he left at 9:00 and went
22 right to the ATM?

23 A. Right.

24 Q. Did he offer any explanation why it took him

1 an hour to get there?

2 A. No.

3 Q. Did he offer any explanation why in his
4 written statement he says they left at 8:00?

5 A. That he left -- Beverly Baxter's at 8:00?

6 Q. Yes.

7 A. No.

8 Q. It was actually water damage that damaged Miss
9 Duplin's apartment and Mr. Voss's apartment, wasn't it?

10 A. I believe that's correct.

11 Q. Theirs wasn't the apartment that burned, but
12 legitimately they had water damage to their apartment?

13 A. Right.

14 Q. Was the work on Miss Baxter's car done
15 expeditiously?

16 A. The only knowledge I have of that is from
17 other witnesses that --

18 Q. Mr. Conway asked you about what they told you,
19 was that money for work. Did that witness say that
20 according to Miss Baxter it had been done quickly, or was
21 she happy with it?

22 A. According to Miss Baxter, she was upset about
23 the work, and she felt it was not done completely.

24 Q. What about the time frame in which it was

1 done? Was there a lag, do you recall?

2 A. I don't recall.

3 Q. Do you recall the witness making a statement:
4 Baxter complained there had been like a month when he
5 just disappeared?

6 MR. CONWAY: Objection, Your Honor.

7 THE COURT: Sustained.

8 MR. WALKER: No further questions.

9 THE COURT: Mr. Conway?

10 MR. CONWAY: Thank you.

11 RE CROSS EXAMINATION BY MR. CONWAY:

12 Q. Again, you don't recall what that check was
13 for, whether it was for parts, labor, or if it had
14 anything to do with the car; correct?

15 A. Other than what witnesses told me.

16 Q. If it had been for parts, you don't even know
17 if he had to order parts, or what he had to do with the
18 car over that period of time?

19 Do you recall what was wrong with the car?

20 A. As a matter of fact, Mr. Voss had told me
21 prior to me knowing about this check, that he had done
22 work on her car, and I believe told me that he got some
23 parts from a wrecking yard to work on it.

24 But as far as the time sequence and so forth,

1 I'm not sure of.

2 Q. There was some testimony about the time he
3 left. Do you recall if he was ever sure exactly when he
4 left? Did he ever give you an exact time that he left?

5 A. In the end he told me he thought it was right
6 at 9:00 o'clock.

7 Q. Do you recall whether he said he left with
8 Beverly Baxter, or did he leave before she left?

9 A. Said he left before she did.

10 MR. CONWAY: Nothing further.

11 THE COURT: Thank you. You may step down.

12 (The Witness Was Excused.)

13

14 DEBRA MOBERLY,
15 called as a witness on behalf of the State herein,
16 having been first duly sworn, was examined
17 and testified as follows:

18

19 DIRECT EXAMINATION BY MR. WALKER:

20 Q. Good morning. If you would, please state your
21 full name and spell your last name.

22 A. Debra Moberly, M-o-b-e-r-l-y.

23 Q. What is your occupation or profession?

24 A. I am a vice president of a corporation.