

**IN THE SUPREME COURT OF THE  
STATE OF NEVADA**

MICHAEL PHILLIP ANSELMO,

Appellant,

vs.

STATE OF NEVADA,

Respondent.

**Supreme Court No. 81382**

Electronically Filed  
Nov 06 2020 05:51 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

Second Judicial District Court  
Case No. 271359

Appeal from Second Judicial District Court, State of Nevada, Washoe County  
The Honorable Lynne K. Simons, District Judge

---

**APPELLANT'S APPENDIX  
VOLUME 1 OF 8  
(APPN 0001 – APPN 0190)**

---

J. Robert Smith, Esq.  
Nevada Bar No. 10992  
Sydney R. Gambee, Esq.  
Nevada Bar No. 14201  
Jessica E. Whelan, Esq.  
Nevada Bar No. 14781  
HOLLAND & HART LLP  
9555 Hillwood Drive, Second Floor  
Las Vegas, Nevada 89134  
Jennifer Springer  
Nevada Bar No. 13767  
Rocky Mountain Innocence Center  
358 South 700 East, B235  
Salt Lake City, UT 84102

*Attorneys for Appellant Michael Phillip Anselmo*

## INDEX TO APPELLANT'S APPENDIX IN CHRONOLOGICAL ORDER

<b>Date</b>	<b>Document</b>	<b>Vol. No.</b>	<b>Page Nos.</b>
04/12/1972	Trial Transcript Part 1, Case No. 271359	1	APPN 0001 – APPN 0131
04/12/1972	Trial Transcript Part 2, Case No. 271359	1 2	APPN 0132 – APPN 0190 APPN 0191 – APPN 0379
04/12/1972	Trial Transcript Part 3, Case No. 271359	3	APPN 0380 – APPN 0591
04/12/1972	Trial Transcript Part 4, Case No. 271359	4	APPN 0592 – APPN 0780
04/12/1972	Trial Transcript Part 5, Case No. 271359	5	APPN 0781 – APPN 0936
10/31/2018	Post-Conviction Petition Requesting Genetic Marker Analysis of Evidence	5	APPN 0937 – APPN 0945
11/02/2018	Post-Conviction Petition - refiled	5	APPN 0946 – APPN 0954
03/11/2019	Notice of Entry of Order Granting, in Part, Post-Conviction Petition Requesting Genetic Marker Analysis of Evidence; Order to Set Hearing; and, Order Directing Preservation and Inventory of Evidence	5	APPN 0955 – APPN 0965
04/19/2019	Transcript of Proceedings - Hearing Re: Evidence	5	APPN 0966 – APPN 0992
05/06/2019	Washoe County Sheriff's Office's Response to Court Order of March 7, 2019	5	APPN 0993 – APPN 1003
06/06/2019	Respondent's Notice of Inventory	5	APPN 1004 – APPN 1009
06/28/2019	Petitioner's Motion for Order to Show Cause	5	APPN 1010 – APPN 1021
07/08/2019	Respondent's Opposition to Motion to Compel	6	APPN 1022 – APPN 1028
07/08/2019	Washoe County Sheriff's Office's Response to the Motion for Order to Show Cause	6	APPN 1029 – APPN 1031


<b>Date</b>	<b>Document</b>	<b>Vol. No.</b>	<b>Page Nos.</b>
08/01/2019	Order Denying Motion for Order to Show Cause; and, Order Denying Motion for Order Shortening Time	6	APPN 1032 – APPN 1039
11/27/2019	Response to Petition for Genetic Marker Analysis	6	APPN 1040 – APPN 1238
12/13/2019	Petitioner's Motion for Leave to File Reply Brief	6	APPN 1239 – APPN 1263
12/19/2019	Respondent's Opposition to Motion for Leave to File Reply	7	APPN 1264 – APPN 1267
12/31/2019	Petitioner's Reply in Support of Motion for Leave to File Reply	7	APPN 1268 – APPN 1271
01/10/2020	Order Granting Motion for Leave to File Reply; Order to Set Hearing	7	APPN 1272 – APPN 1275
01/21/2020	Petitioner's Reply in Support of Petition for Genetic Marker Analysis	7	APPN 1276 – APPN 1284
02/25/2020	Transcript of Proceedings - Petition for Genetic Marker Analysis	7	APPN 1285 – APPN 1336
03/10/2020	Respondent's Post-Hearing Brief	7	APPN 1337 – APPN 1388
03/10/2020	Petitioner's Supplemental Points and Authority in Support of Petition Requesting Genetic Marker Analysis of Evidence Within the Possession or Custody of the State of Nevada	7 8	APPN 1389 – APPN 1502 APPN 1503 – APPN 1644
05/19/2020	Notice of Entry of Order Dismissing Petition for Genetic Marker Analysis	8	APPN 1645 – APPN 1654
06/18/2020	Petitioner's Notice of Appeal	8	APPN 1655 – APPN 1672
06/18/2020	Petitioner's Case Appeal Statement	8	APPN 1673 – APPN 1682

## INDEX TO APPELLANT'S APPENDIX IN ALPHABETICAL ORDER

<b>Date</b>	<b>Document</b>	<b>Vol. No.</b>	<b>Page Nos.</b>
05/19/2020	Notice of Entry of Order Dismissing Petition for Genetic Marker Analysis	8	APPN 1645 – APPN 1654
03/11/2019	Notice of Entry of Order Granting, in Part, Post-Conviction Petition Requesting Genetic Marker Analysis of Evidence; Order to Set Hearing; and, Order Directing Preservation and Inventory of Evidence	5	APPN 0955 – APPN 0965
08/01/2019	Order Denying Motion for Order to Show Cause; and, Order Denying Motion for Order Shortening Time	6	APPN 1032 – APPN 1039
01/10/2020	Order Granting Motion for Leave to File Reply; Order to Set Hearing	7	APPN 1272 – APPN 1275
01/21/2020	Petitioner's Reply in Support of Petition for Genetic Marker Analysis	7	APPN 1276 – APPN 1284
06/18/2020	Petitioner's Case Appeal Statement	8	APPN 1673 – APPN 1682
12/13/2019	Petitioner's Motion for Leave to File Reply Brief	6	APPN 1239 – APPN 1263
06/28/2019	Petitioner's Motion for Order to Show Cause	5	APPN 1010 – APPN 1021
06/18/2020	Petitioner's Notice of Appeal	8	APPN 1655 – APPN 1672
12/31/2019	Petitioner's Reply in Support of Motion for Leave to File Reply	7	APPN 1268 – APPN 1271
03/10/2020	Petitioner's Supplemental Points and Authority in Support of Petition Requesting Genetic Marker Analysis of Evidence Within the Possession or Custody of the State of Nevada	7	APPN 1389 – APPN 1502
		8	APPN 1503 – APPN 1644
11/02/2018	Post-Conviction Petition - refiled	5	APPN 0946 – APPN 0954
10/31/2018	Post-Conviction Petition Requesting Genetic Marker Analysis of Evidence	5	APPN 0937 – APPN 0945
06/06/2019	Respondent's Notice of Inventory	5	APPN 1004 – APPN 1009

Date	Document	Vol. No.	Page Nos.
12/19/2019	Respondent's Opposition to Motion for Leave to File Reply	7	APPN 1264 – APPN 1267
07/08/2019	Respondent's Opposition to Motion to Compel	6	APPN 1022 – APPN 1028
03/10/2020	Respondent's Post-Hearing Brief	7	APPN 1337 – APPN 1388
11/27/2019	Response to Petition for Genetic Marker Analysis	6	APPN 1040 – APPN 1238
04/19/2019	Transcript of Proceedings - Hearing Re: Evidence	5	APPN 0966 – APPN 0992
02/25/2020	Transcript of Proceedings - Petition for Genetic Marker Analysis	7	APPN 1285 – APPN 1336
04/12/1972	Trial Transcript Part 1, Case No. 271359	1	APPN 0001 – APPN 0131
04/12/1972	Trial Transcript Part 2, Case No. 271359	1 2	APPN 0132 – APPN 0190 APPN 0191 – APPN 0379
04/12/1972	Trial Transcript Part 3, Case No. 271359	3	APPN 0380 – APPN 0591
04/12/1972	Trial Transcript Part 4, Case No. 271359	4	APPN 0592 – APPN 0780
04/12/1972	Trial Transcript Part 5, Case No. 271359	5	APPN 0781 – APPN 0936
05/06/2019	Washoe County Sheriff's Office's Response to Court Order of March 7, 2019	5	APPN 0993 – APPN 1003
07/08/2019	Washoe County Sheriff's Office's Response to the Motion for Order to Show Cause	6	APPN 1029 – APPN 1031

DATED this 6th day of November 2020.

  
 J. Robert Smith, Esq.  
 Nevada Bar No. 10992  
 Sydney R. Gambia, Esq.  
 Nevada Bar No. 14201

Jessica E. Whelan, Esq.  
Nevada Bar No. 14781  
HOLLAND & HART LLP  
9555 Hillwood Drive, 2nd Floor  
Las Vegas, Nevada 89134

Jennifer Springer  
Nevada Bar No. 13767  
Rocky Mountain Innocence Center  
358 South 700 East, B235  
Salt Lake City, UT 84102

*Attorneys for Appellant Michael Anselmo*

## CERTIFICATE OF SERVICE

Pursuant to NRAP 25, I certify that I electronically filed the foregoing **APPELLANT'S APPENDIX – VOLUME 1 OF 8 (APPN 0001 – APPN 0190)** with the Clerk of Court for the Supreme Court of Nevada by using the Supreme Court of Nevada's e-filing system on November 6, 2020.

I further certify that service of the foregoing has been accomplished to the following individuals by the methods indicated below:

- ☒ Electronic: by submitting electronically for filing and/or service with the Nevada Supreme Court's e-filing system and served on counsel electronically in accordance with the E-service list to the following listed below:

Division of Probation & Parole  
Jennifer Noble, Esq.  
Marilee Cate, Esq.  
Appellate Division  
Washoe County District Attorney  
1 S. Sierra Street, South Tower, 4th  
Floor  
Reno, NV 89501

Keith G. Munro, Esq.  
Washoe County District  
Attorney's Office  
1 S. Sierra Street, South  
Tower, 4th Floor  
Reno, NV 89501

Aaron Ford, NV Attorney General  
Office of the Attorney General  
State of Nevada  
100 N. Carson Street  
Carson City, NV 89701

- ☒ U.S. Mail: a true copy was placed in Holland & Hart LLP's outgoing mail in a sealed envelope addressed to the following:

Michael P. Anselmo  
655 W. 4th Street  
Reno, NV 89503

/s/ Valerie Larsen

An employee of Holland & Hart LLP

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

No. 271359

Dept. No. 6

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

THE STATE OF NEVADA,

Plaintiff,

v.

MICHAEL PHILLIP ANSELMO,

Defendant..

VOLUME I

(Pages 1 - 128)

FILED

JUL 7 8 51 AM '72

TRIAL TRANSCRIPT H. K. BROWN, CLERK

BY [Signature] DEPUTY

BE IT REMEMBERED that the above-entitled matter came  
on for trial in Department No. 6 of said court on Wednesday,  
April 12, 1972, at the hour of 10:15 a.m. thereof, before the  
Honorable James J. Guinan, District Judge, and a jury.

The State of Nevada was represented by Robert E. Rose,  
Esq., District Attorney of Washoe County, Nevada, and John  
Madariaga, Esq., Deputy District Attorney of Washoe County,  
Nevada.

The defendant was present in court and represented  
by Jerome M. Polaha, Esq., and Jack Grellman, Esq., Deputy  
Public Defenders of Washoe County, Nevada.

Reporter: W. Sullivan.

FILED  
JUL 7 8 51 AM '72  
H. K. BROWN, CLERK  
LM



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

I N D E X  
WITNESSES

<u>STATE'S WITNESSES:</u>	<u>Dir.</u>	<u>Cross</u>	<u>Redir.</u>	<u>Recr.</u>
PADILLA, Louis	16	22	32	34
BRENT, Patsy	36	42	47 52	49
KELLER, William Charles	54	57		
LINDNER, Carol	60	70	86	87
COCHRAN, Carol A.	89	95		
WEIDER, Marlayne	104	118		

EXHIBITS

<u>STATE'S EXHIBITS:</u>	<u>Id.</u>	<u>Adm.</u>
A Set of keys on chain	56	
B Pair of woman's shoes	56	
C Woman's coat	56	
D Brown leather purse and contents	56	
E-1 )		
E-2 ) Three photographs	110	114
E-3 )		

State's Opening Statement	- 2
Defendant's Opening Statement	-12

1 THE COURT: Will the Clerk please call the roll  
2 of the jury and the alternate jurors.

3 (Roll of the jury called by the Clerk.)

4 THE COURT: Are counsel ready to proceed?

5 MR. ROSE: Ready for the State, your Honor.

6 MR. POLAHA: The defense is ready, your Honor.

7 THE COURT: The Clerk will please read the indictment,  
8 and the plea thereto, to the jury.

9 (Indictment read to the jury by the Clerk.)

10 THE CLERK: To which indictment the defendant  
11 entered a plea of not guilty.

12 THE COURT: Thank you.

13 Ladies and gentleman, the next step is to hear the  
14 opening statement of the District Attorney, and thereafter, if  
15 counsel for the defendant wishes to make his opening statement  
16 he may do so, or he may reserve it until the close of the State's  
17 case. As I indicated to you earlier, nothing that counsel say  
18 in their opening statements or at any other time during the  
19 trial is evidence. You will get your evidence from the witnesses  
20 and any documentary evidence or physical evidence which is  
21 introduced. You may proceed, Mr. Rose, if you wish.

22 MR. ROSE: Thank you, your Honor.

23 Counsel, ladies and gentlemen of the jury: At  
24 this time the State always makes its opening statement. And, as  
25 the judge has instructed you this opening statement is not  
26 evidence in this case. What we will attempt to do is to give  
27 you a thumbnail sketch of the evidence we will be showing you  
28 for the next few days, so that you will know what is happening  
29 and have a general idea of what this case is all about.

30 I would like you to keep two things in mind. First

1 of all, we have many witnesses that we may possibly call here.  
2 In all probability, we will not call them all, because we don't  
3 need them all, in all of the relevant facts in this case. So,  
4 while we may be calling many of the witnesses, there are some  
5 that saw the same thing, and it would be a duplication of  
6 testimony, and for that reason several of them will not be  
7 testifying.

8           Second of all, when a witness takes the stand they  
9 must tell all they know about a given incident, and they might  
10 testify about something that happened on Wednesday, something  
11 that happened on Friday, and something that happened next  
12 Thursday, and then the next witness may come back and tell  
13 something that happened Tuesday. So the evidence does come  
14 in at times disjointed or kind of jumbled, not in perfect  
15 sequence. And so you really should keep that in mind as you  
16 receive the testimony, and try to fit it in the chronological  
17 period where it belongs. Otherwise, we would be shuffling witness-  
18 es back and forth, because when a witness gets on the stand he  
19 or she must tell everything he knows about the case. So do  
20 try to put it in chronological form.

21           The defense, as the Judge has indicated to you,  
22 can make his opening statement immediately after I finish, or  
23 can reserve their opening statement about what their case  
24 will entail until they start their case in chief. And that will  
25 be after I put on all my evidence. When we say case in chief  
26 that means the State trying to discharge its burden, and  
27 thereafter the defense can put on whatever evidence it may  
28 chose. So the defense may or may not elect to make its opening  
29 statement after mine.

30           In receiving evidence in this case, I would recommend

1 to you that there are three time periods involved. First of all,  
2 is the general time period when Trudy Hiler becomes missing.  
3 That was on the early morning of Thursday, July 15th.

4 The second time period that you will be concerned  
5 with in this case is when the body of Trudy Hiler was found  
6 two days later in the early morning hours of Saturday, July  
7 17th.

8 The third period of time with which you will  
9 generally be concerned is when Michael Anselmo made incriminating  
10 statements to the police, and then took the police officers to  
11 the scene, and pointed out where various transactions took  
12 place. And that occurred on July 19th and July 20th, which  
13 would be the Monday and the Tuesday after the Saturday when the  
14 body was found.

15 So, if you can follow me in that, the body was  
16 found on a Saturday, July 17th, Trudy Hiler became missing  
17 two days prior to that, which was July 15th in the early morning  
18 hours, and incriminating statements were made by the defendant  
19 on July 19th and 20th, which were a Monday and a Tuesday. If  
20 you keep that in mind, those dates, you can pretty well fit  
21 the testimony in, because you must realize that the body was not  
22 found--and we will show this--until two days later, two days  
23 after Trudy Hiler became missing. And if you keep those two  
24 areas separate in your mind it will be a lot easier to receive  
25 the evidence and not be confused.

26 With regard to these three time periods, what will  
27 we show you? The first time period is when Trudy Hiler became  
28 missing, and this was on Thursday, July 15th. We will show you  
29 that in early June six college coeds came to Lake Tahoe to work  
30 for the summer, and they all lived together in a condominium  
in California. We will show you that they were working at the

1 Cal Neva Lodge, and they worked there up until the latter part  
2 or the mid part of July. Shortly after this unfortunate  
3 matter occurred, they left.

4 We will show you that on July 14th, which was a  
5 Wednesday, Trudy Hiler was working from 5:00 to 1:00, which  
6 would be from 5:00 p.m. Wednesday evening to 1:00 a.m. on  
7 Thursday morning. In other words, she got off shortly after  
8 midnight on Thursday morning at 1:00 o'clock. At least two of  
9 the other girls were working from 6:00 to 2:00. Carol Cochran  
10 and Marlayne Weider were the names of those other two girls.  
11 They were working 6:00 to 2:00, and Trudy Hiler was working  
12 5:00 to 1:00. So in the early morning hours of Thursday morning  
13 Trudy Hiler was getting off an hour earlier than the other two  
14 girls who were generally on that shift.

15 We will show you that there was a fourth girl, and  
16 her name was Carol Lindner--and I know it will take you a while  
17 to piece all these girls out, because it did me initially when  
18 I was reviewing the case. But Carol Lindner was going to work  
19 at 2:00 a.m. Thursday morning, and going to work until 10:00  
20 o'clock that morning--in other words, she was working what they  
21 call the graveyard. And the plan was, or had been, the routine  
22 had been for Trudy Hiler, who got off at 1:00 o'clock on  
23 Thursday morning, to go and drop the car off with Carol Lindner,  
24 and either take her back to the Club so she could start work at  
25 2:00, or leave her with the car and let her drive the car back--  
26 her being Carol Lindner.

27 We will show you that the last time Trudy Hiler  
28 was seen was Thursday morning at approximately 12:30 a.m.,  
29 July 15th, in the early morning hours. Her expressed intention  
30 was to go home and to give the car to Carol Lindner, so that she

1 could come back. She also expressed the intention that she  
2 was not feeling well all that day and wanted to go to sleep,  
3 get some rest. Other than her not feeling well, the evidence  
4 will indicate that her physical demeanor, as observed, was  
5 normal and nothing unusual about her.

6 At 12:30 Trudy Hiler walked out of the Cal Neva  
7 and was not found again until her body was discovered two  
8 days later. Obviously, Carol Lindner was not picked up. So  
9 Carol Lindner and Carol Cochran called each other, Carol  
10 Cochran being at the Club and getting off at 2:00, and Carol  
11 Lindner at the condominium, coming to work at 2:00. The con-  
12 versation was why has Trudy Hiler not come to pick me up. They  
13 didn't know why. Soe Carol Cochran got in her car and drove to  
14 the condominium residence in California, and brought Carol  
15 Lindner back and dropped her off to start work on the 2:00  
16 o'clock shift.

17 Now, Carol Cochran and Marlayne Weider, the two  
18 roommates, were getting off at 2:00, an hour after Trudy, and  
19 on this Thursday morning they decided they had better go  
20 look and find out where Trudy might be. And as they started  
21 out of the parking lot of the Cal Neva Lodge, where all the  
22 girls were working, they noticed that the car was still there  
23 that Trudy was going to use, and this car belongs to Marlayne  
24 Weider. And Marlayne had given the keys to Trudy Hiler as she  
25 left, for the intention to go pick up her roommate, one of the  
26 roommates, and bring her back. And they went over to this car,  
27 and one of the things they noticed immediately was that the  
28 brake lights were on. And Marlayne Weider will testify that  
29 occasionally they would get stuck when pressed down, and they  
30 would remain on, instead of just coming off when the brake was

1 released. She will testify that, to the best of her recollection,  
2 they were not on when she left the car there at 6:00 o'clock  
3 the previous day, 6:00 p.m. the previous day.

4 We will also show you that other things were ob-  
5 served about this car. One thing was that the clutch was  
6 depressed and stuck. The girls also noticed that the horn rim  
7 on the steering wheel was very much ajar. We will show you  
8 that later the girls were able to observe that the driveshaft  
9 had fallen out of the car, and that there were spin marks under  
10 the wheels of the vehicle.

11 I don't know if you understand this, but I can  
12 explain it maybe in simple terms. If you have ever seen a  
13 drag race, where the wheels of the car spin and the car doesn't  
14 go anywhere, this leaves skid marks under the wheel. And the  
15 car did not move at all, from the testimony that these girls  
16 will give. But it was shown that there were skid marks under  
17 the wheel. And the driveshaft was down on the ground. The  
18 girls then notified the authorities about what had occurred, and  
19 that Trudy Hiler was missing.

20 We will show you that at this time the defendant,  
21 Michael Anselmo, was in the area. In fact, that Wednesday  
22 evening he, with his roommate, had walked around the Clubs until  
23 about 9:00 o'clock, and then at 9:00 that night they had gone  
24 home, and from 9:00 to 11:00 they had played cards and were  
25 in the room. We will show you that Michael Anselmo was staying  
26 at one of the cottages very close to the parking lot and very  
27 close to the Cal Neva Lodge where many of the younger employees  
28 stayed. We will show you that at 11:00 p.m. Michael Anselmo  
29 left the room and did not return to the room at all that night.  
30 That would be the night of late Wednesday and all Thursday

1 morning. The next time he was seen by his roommate was late  
2 Thursday morning, in the Cal Neva Lodge.

3 That basically will be the evidence the State will  
4 show you with regard to the first area of time when Trudy  
5 Hiler became missing.

6 The second area of time we will be concerned with  
7 is when the body was found. The body was found in the early  
8 morning hours of Saturday, July 17, 1971, and this was two days  
9 after she was missing. Her body was found under a large rock,  
10 and when I say under, I don't mean under it, but I mean under  
11 a ledge (drawing). The body would be generally here, that's  
12 a very rough diagram, but we will show you pictures of the  
13 location and of the boulder, but it was under the ledge of a  
14 large rock in very heavy manzanita and shrubbery, with bushes  
15 piled over it.

16 As I said, the body was photographed and then  
17 removed. It was taken down to Reno, and an autopsy was made  
18 of the body by Dr. Laubscher. He will tell you basically two  
19 things. That there were numerous external marks, which con-  
20 sisted of (1) a good many bruises around the body, and (2) there  
21 were 15 cuts that appeared to be made by a small, medium-sized  
22 knife. Four of them were in the neck area, eleven of them were  
23 in the chest area just above the breasts. We will also show  
24 you photographs of those wounds.

25 We will show you the facts that surrounded the  
26 discovery of this body. Shortly after midnight on Friday night,  
27 this would be the very early morning hours of Saturday, Michael  
28 Anselmo came to one of the security guards at the Cal Neva Lodge  
29 and said that he had seen somebody forcing a girl down Somers  
30 Drive, one of the drives around the Cal Neva. When this



1 information was received the Sheriff's Office was called,  
2 and two or three security guards, along with three carloads  
3 of Deputy Sheriffs, who searched the area pointed out by  
4 Michael Anselmo. Obviously, it was the middle of the night,  
5 and it was very dark, and nothing was uncovered by this search,  
6 which lasted approximately one hour.

7           We will show you that when the Sheriff's Deputies  
8 decided to call off the search, at least until it got light,  
9 that Michael Anselmo was very reluctant to abandon the search  
10 or to leave the area. We will show you that all the searchers  
11 did leave this general area--and, by the way, this will be  
12 the area where the body is ultimately found. We will show you  
13 that Michael Anselmo came back to the Cal Neva Lodge and again  
14 began to insist that the search continue. And he was told by  
15 one of the security guards, who is named Randall Rose--and no  
16 relation to me, at least as far as I know, and I don't think  
17 to our Mrs. Rose on the jury, either--and he insisted that he  
18 continue the search. And they said no. Finally, he said to  
19 Randall Rose, "Let me borrow your spotlight," the large  
20 flashlight, "and I'll go down and make the search myself."

21           We will show you that reluctantly Randall Rose  
22 did give the searchlight to Michael Anselmo. Now, Michael  
23 Anselmo left, and fifteen minutes to half an hour later came  
24 back and said he had found the body. That he was searching the  
25 area and he had fallen off a large rock and onto or near a  
26 body, and that is the way he discovered it in this heavy  
27 manzanita grove in the middle of the night, after it had been  
28 searched by three carloads of Deputy Sheriffs just shortly  
29 before.

30           The area was then thoroughly searched after the

1 discovery of the body, and about thirty feet from the rock  
2 where the body was found were found Trudy Hiler's shoes. And  
3 probably more than a hundred feet away, across the dirt road,  
4 was found her purse, this is Trudy Hiler's purse, and all of  
5 the garments she was wearing, stuffed into the purse.

6 I know I have not been particular with regard to  
7 the exact dimensions and area that I have talked about, and  
8 their location. We have requested that the court permit you  
9 to take a view of the crime scene, of the area involved in  
10 what I have just said, and the Public Defender has agreed  
11 that this would certainly be beneficial to the case. So that  
12 at the end of our case in chief we will get on a bus and view  
13 the crime scene for probably half a day or so. So you will have  
14 the chance to observe this area where the body was found, and  
15 see for yourself the tremendously heavy growth of manzanita and  
16 other shrubbery in this area.

17 A third area of time that we will be concerned with  
18 is two and a half days after the discovery of Trudy Hiler's  
19 body. That is on Monday and Tuesday, July 19th and 20th, when  
20 the defendant made incriminating statements concerning this case,  
21 and also then took officers up to the crime scene and explained  
22 various transactions to them.

23 On Monday, while the defendant was in custody, he  
24 was being questioned by Sergeant Gordon Jenkins of the Sparks  
25 Police Department, and at that time he admitted to the killing  
26 of Trudy Hiler. We will read to you his entire statement,  
27 which isn't that long, but is much longer than I would like to  
28 read to you at this time, because, as I said, this is simply  
29 a thumbnail sketch for you. But his statement was basically this:  
30 That he and Trudy had met in the lounge or game area at the

1 Cal Neva about an hour before she got off work, and that Trudy  
2 had given him and he had taken with him some acid--acid being  
3 the slang word or common word for L.S.D. That they had  
4 planned to meet secretly in the parking lot, and that Trudy  
5 did this. That they got in the car, and the car did not work,  
6 and then they started walking toward the beach, close to the  
7 area where the body was found, Trudy said, "Let's ball," which  
8 is a slang expression for, "let's have sexual intercourse."  
9 And that they both took their clothes off and, as Mr. Anselmo  
10 says in his statement, "Got it on."

11           Thereafter, Mr. Anselmo's statement goes on to say  
12 that Trudy produced a knife, and that they were both getting  
13 very stoned then--stoned meaning getting high on a drug. And  
14 that they started talking about wanting to die. And she said  
15 to Michael Anselmo that she wanted to die. And Michael Anselmo  
16 accommodated her, saying that he just put her clothes around  
17 her neck and strangled her. And he then stated that thereafter  
18 he stuck her with the knife four times or so in the body.

19           We will show you that the autopsy indicates that  
20 death did indeed take place by strangulation, with multiple  
21 stab wounds being the secondary cause of death, not being the  
22 prime cause, but being a contributing cause.

23           We will show you that Michael Anselmo, in his  
24 statement, then says that he went up to one of the stores and  
25 bought a soft drink, and then came back and took the body and  
26 put it where it was ultimately found, hid it under the rock  
27 ledge. However, we will also show you that--and I have already  
28 stated this--when Trudy left everyone that observed her said  
29 she was perfectly normal, aside from the fact that she wasn't  
30 feeling very well, and her expressed intent to several people

1 was to go home and get some sleep and pick up her roommate.

2           The next day after this confession the defendant  
3 went with law enforcement officers to the scene and showed  
4 them generally where the body was, and generally what took  
5 place in the transactions I have given you. He also took them  
6 down to the lakefront and he said, "I threw her coat down in  
7 this hole, in this well." And it was a hole that was formed  
8 by the rocks very close to the shore, and it had water in it  
9 about eight to ten feet deep. And a Deputy did go down to  
10 that hole and did indeed retrieve the coat.

11           And he also stated that he threw the keys out into  
12 Lake Tahoe in approximately that area (pointing). We will show  
13 you that a diver by the name of Dan Wallace went out there  
14 with deputies, and dove down and searched the bottom and did  
15 indeed find the keys in the same area where Michael Anselmo  
16 said he threw them.

17           We will show you that attempts were made to locate  
18 the knife, but while many knives were retrieved, we really have  
19 not been able to identify with any firm identification the  
20 knife used that night.

21           That basically is what the State will show you in  
22 its case in chief. At the end of our case, ladies and gentlemen,  
23 we will have proven beyond a reasonable doubt that Michael  
24 Anselmo is guilty of first degree murder. And in our closing  
25 arguments we will give you what we feel, what the State feels,  
26 the appropriate recommendation is as to penalty.

27           Thank you, very much.

28           THE COURT: Mr. Polaha, do you wish to make your  
29 statement at this time, or reserve it?

30           MR. POLAHA: Your Honor, I wish to make a statement

1 at this time.

2 If it please the Court, Mr. Prosecutor, ladies  
3 and gentlemen of the jury: You just heard the District Attorney  
4 tell you what he intended to prove in this case, namely, that  
5 my client, Michael Anselmo, will clearly be shown to have  
6 murdered Trudy Hiler. This is my first opportunity and  
7 privilege to address you concerning the proof in this case.

8 Mr. Rose made a very good opening address, and I'm  
9 sure that most of you have an indication as to your feelings of  
10 guilt concerning Michael Anselmo. Ladies and gentlemen, I need  
11 not remind you that this is a death case, and I ask you, I beg  
12 you to keep an open mind until all the evidence is in, you have  
13 heard both sides of the story, and you get in the jury room to  
14 deliberate.

15 Now, the Court pointed out to you that what the  
16 District Attorney says and what I say is not to be treated by  
17 you as evidence in this case. We were not there. We don't  
18 know what happened that particular night. We're taking the  
19 words told to us by other people and presenting them to you.  
20 And what we say is not evidence. The only evidence you are to  
21 consider is the believable evidence that comes to you from  
22 the witness chair.

23 The Clerk read an indictment. This, too, as the  
24 Court will instruct you later on, is not evidence in this case.  
25 It is not an indication of guilt whatsoever of my client. All  
26 it is, is an accusation. The District Attorney, the State of  
27 Nevada, is accusing Michael Anselmo, accusing him of this crime.  
28 The District Attorney has to prove each and every element  
29 beyond a reasonable doubt.

30 On the other hand, Michael Anselmo has to prove

1 nothing. He does not have to put on any witnesses, he does not  
2 have to take the stand in order to establish his innocence.  
3 The law says throughout these proceedings he is presumed by  
4 you, and you have been sworn to uphold this law, presumed by  
5 you to be innocent. However, Michael Anselmo will take the  
6 stand. We will put on a defense. We will show you that he  
7 means it when he says he is not guilty of this charge.

8           We will show you why he cannot be guilty of this  
9 charge. We will show why the admissions, the so-called con-  
10 fession, should not be considered by you as any indication of  
11 guilt in this case.

12           Mr. Rose pointed out three important items with  
13 which we would like you to be concerned relating to these  
14 events. We are going to show the entire time period. We want  
15 you to be concerned with the entire period from the time of  
16 July 15th on through Monday, July 20th, and every hour throughout  
17 this period is extremely important to this case.

18           Now, I pointed out to you in the voir dire question-  
19 ing that if and when the defendant takes the stand he will  
20 tell you that he has a prior felony conviction. He will tell  
21 you that when he was eighteen years old, in Las Vegas, he  
22 pleaded guilty to the crime, which is a felony, which is  
23 unlawfully using a credit card. The Court will also instruct  
24 you that the only purpose for which you can use this prior  
25 conviction is to weigh his evidence, how much belief do you  
26 want to ascribe to it because of this prior fall sometime in  
27 his early life.

28           Ladies and gentlemen, I am asking once again do  
29 not decide this case, do not decide the issue of guilt until  
30 all the evidence is brought in and you have a chance to consider

1 it and digest it. Look especially carefully at the witnesses  
2 for the State, hear what they say, listen to the cross-examination,  
3 see how the testimony of the State's witnesses is added to  
4 or subtracted from. I ask you to pay considerable attention  
5 to that particular aspect of the testimony, the adding to and  
6 the subtracting from. When you have had a chance to digest it,  
7 I will ask you to return a verdict that is consistent with  
8 logic and justice. And, if you can say with a clear conscience  
9 that you are convinced beyond a reasonable doubt, then it is  
10 your duty, ladies and gentlemen, to either strike down  
11 Michael Anselmo or deprive him of his liberty for life. But  
12 I ask you, ladies and gentlemen, this is a very serious case,  
13 give it your full consideration, and I'm sure you will.

14 I thank you.

15 THE COURT: Mr. Rose, are you ready to proceed  
16 with your case?

17 MR. ROSE: The State is ready, your Honor.

18 THE COURT: You may call your first witness.

19 MR. ROSE: May I approach the bench for one  
20 second, your Honor?

21 (Court and counsel conferred, off the record.)

22 A JUROR: Your Honor, I was wondering if I might  
23 be excused, just for a moment.

24 THE COURT: All right. We will take a ten minute  
25 recess at this time. The jury is instructed not to discuss  
26 the case among yourselves or with anyone else, nor to listen  
27 or read any information or any matter relating to the case.  
28 We will be in recess for ten minutes.

29 (Short recess taken.)

30 THE COURT: Will counsel stipulate that the jury

1 is present?

2 MR. ROSE: Stipulated by the State, your Honor.

3 MR. POLAHA: So stipulated, your Honor.

4 Your Honor, prior to the State's calling of its  
5 first witness, I would ask the Court to invoke the rule of  
6 exclusion as to any other witnesses that may be present in  
7 court.

8 THE COURT: The rule is invoked that all witnesses  
9 or prospective witnesses will remain outside the courtroom  
10 until called to testify. Do you have someone in mind?

11 MR. POLAHA: Yes, your Honor. I just saw Mr.  
12 Pinkerton walk in. Depending upon the unveiling of the evidence.  
13 We may be calling him.

14 THE COURT: All right.

15 You may proceed, Mr. Rose.

16 MR. ROSE: Thank you, your Honor. The State will  
17 call as its first witness Louis Padilla.

18 LOUIS PADILLA

19 called as a witness on behalf of the State,  
20 and being first duly sworn herein, testified  
21 as follows:

22 DIRECT EXAMINATION

23 BY MR. ROSE:

24 Q Please state your full name and address.

25 A Louis Padilla, Crystal Bay, Nevada.

26 Q And what is your employment, Mr. Padilla?

27 A Presently I am working at the North Shore Club.

28 Q And during the week of July 12--July 12th was a  
29 Monday, was it not?

30 A Yes, sir.



1 Q What was your employment during that week?  
2 A I was working as a bar boy at the Cal Neva, Crystal  
3 Bay.  
4 Q Do you know Michael Anselmo?  
5 A Yes, sir.  
6 Q And do you see him in this courtroom?  
7 A Yes, sir. He's sitting on the end over there  
8 (pointing).  
9 MR. ROSE: May the record show, your Honor, that the  
10 defendant has been identified?  
11 THE COURT: You mean the gentleman at the end of the  
12 table, next to the two attorneys; is that correct?  
13 THE WITNESS: Yes.  
14 THE COURT: Yes, the record will show that he has  
15 identified the defendant.  
16 BY MR. ROSE:  
17 Q When did you first make his acquaintance?  
18 A It was on that Monday, of July 12th.  
19 Q Where's talking about 1971, last summer?  
20 A Last year, yes.  
21 Q Could you tell us how you first came to know Mr.  
22 Anselmo?  
23 A Yes. See, he came into the dorm and he wanted a  
24 room. He was looking for a room, a place to stay.  
25 Q And did he stay in your room that night?  
26 A Yes, sir. I let him in. There was a vacant bed  
27 there.  
28 Q This was Monday night. What time was it?  
29 A Monday, in the afternoon sometime.  
30 Q Did you go to work that day?

1           A       Yes, sir.

2           Q       And what schedule were you working that week?

3           A       On that particular Monday I had 6:00 p.m. to

4 4:00 o'clock in the morning.

5           Q       So you went to work at 6:00 p.m.?

6           A       Yes, sir.

7           Q       And worked into the morning of Tuesday?

8           A       Tuesday morning, yes, sir.

9           Q       Did you have any days off that week?

10          A       My days off were Tuesday and Wednesdays.

11          Q       When was the next time you saw Michael Anselmo?

12          A       Tuesday morning, when I went to bed, he was

13 sleeping.

14          Q       Do you recall seeing him thereafter that Tuesday?

15          A       No, sir. When I woke up he had left. He was gone.

16          Q       Do you recall seeing him that Tuesday evening?

17          A       I don't recall, sir.

18          Q       When is the next time that you recall seeing

19 Michael Anselmo?

20          A       I saw him Wednesday night, Wednesday early evening,

21 8:00 o'clock, 9:00 o'clock, something like that.

22          Q       And where did you see him?

23          A       We went around the Clubs there for a while and put

24 a few nickels in the slot machines that Wednesday night. Then

25 we went back, we went back to the dorm and we played cards

26 for maybe an hour. Then he left, he took off somewhere.

27          Q       And this was Wednesday, July 14, 1971?

28          A       Wednesday, yes, sir.

29          Q       And when did he leave that evening, that night?

30          A       I would say around 11:00 o'clock that night.

1 Q When you were playing the slot machines that  
2 evening, prior to going to the room to play cards, did you use  
3 all your money?  
4 A Yes, we did. We spent all the change we had--or  
5 all the money I had, anyway.  
6 Q And did that go for Mr. Anselmo?  
7 A As far as I knew. He told me he was broke, yes, sir.  
8 Q When was the next time you saw Michael Anselmo?  
9 A Thursday morning.  
10 Q Could you tell me approximately at what time  
11 Thursday morning?  
12 A About 10:00 or 11:00 o'clock in the morning.  
13 Q And where did you see him?  
14 A I was coming out of the Club, and I met him outside  
15 the Club there.  
16 Q Is that the first time you saw him, after he left  
17 that Wednesday evening?  
18 A Yes, sir, that's the next time I saw him after he  
19 left.  
20 Q Did Mr. Anselmo return to his room and go to sleep  
21 that night?  
22 A No, sir.  
23 Q How do you know that?  
24 A Well, I was off that night, and I stayed up until  
25 around 2:00 or 3:00 o'clock in the morning, because I couldn't  
26 sleep nights anyway. And when I woke up the next morning the  
27 bed hadn't even been touched. It was still made up.  
28 Q So you saw him late Thursday morning?  
29 A Yes, sir.  
30 Q Okay. And where did you say you saw him?

1           A       Behind the Cal Neva Club, outside the Club.  
2           Q       And what did you then do, if anything?  
3           A       Well, the first thing he told me, he said, "I must  
4 have driven the police crazy last night."  
5           Q       Did you know what he meant by that?  
6           A       No, sir. And then he told me, "First they saw me  
7 over here and then over there," and he just kept pointing like  
8 that (indicating).  
9           Q       Did he indicate where he had been that night?  
10          A       He told me he had gone to Carson City.  
11          Q       Did he say how he got there?  
12          A       He told me he walked, that he walked all the way  
13 to Carson City.  
14          Q       That Thursday morning, July 15th, did you have an  
15 occasion at this time to observe his demeanor, his appearance?  
16          A       He seemed perhaps nervous and sort of flustered,  
17 I would say.  
18          Q       And that was the observation you made?  
19          A       Yes, sir.  
20          Q       And you had the opportunity to make that observation,  
21 did you not?  
22          A       Yes, sir.  
23          Q       Did the defendant offer you any money at that time?  
24          A       Yes, sir. He pulled out his wallet and he says,  
25 "Here, take a five."  
26               And I says, "No. Just give me a dollar. I want to  
27 go eat a hamburger."  
28               And he says, "Oh, all right." And he says, "I'll  
29 go along, I'll go with you."  
30               So we went up to the restaurant and we had a

1 hamburger apiece, ate a hamburger.

2 Q Did it surprise you that he had this money?

3 A Yes, it did, because the previous night we were  
4 both broke.

5 Q Now, when was the next time you saw Michael  
6 Anselmo?

7 A Well, after we had the hamburger we went and we  
8 shot a couple of games of pool. And then I went back to the  
9 Club, we both went back to the Club, and he darted off to the  
10 personnel office. He said, "I've got to go see these people  
11 here."

12 And I went into the Club and I picked up my check,  
13 it was payday that day. And after that I didn't see him until  
14 while I was on duty I saw him at work that night.

15 Q That would be Thursday evening?

16 A Thursday night, yes, sir.

17 Q Did you see him the next day?

18 A Friday, yes, sir.

19 Q And could you tell me generally what you did Friday?

20 A He was in the room and I said, "I have to go to  
21 the laundromat to wash out some socks and things."

22 And he said, "Well, that's all right, I'll come  
23 with you."

24 So both of us--we had a fellow that was outside  
25 working on his car, and he run us down to the laundromat, and  
26 we did our laundry. And then the man left, but then he came  
27 back in about thirty minutes and picked us up and took us back  
28 to the Club.

29 Q So generally then on Friday your activity consisted  
30 of you and Michael Anselmo doing your laundry?

A Yes, in the afternoon.

1 Q During the early part of that week did Michael  
2 Anselmo ever make any indication to you, on Monday, Tuesday or  
3 Wednesday, that he had been down to the lake?

4 A Yes, sir. He told me on one of those dates he  
5 went down to the lake, and was just wandering around the area.  
6 That's the idea I got from him.

7 MR. ROSE: Thank you, Mr. Padilla.

8 Your Honor, I have no further questions. You may  
9 cross-examine.

10 THE COURT: Mr. Polaha, before you proceed, I have  
11 something I would like to say to the spectators. Ladies and  
12 gentlemen, you are spectators, and nothing more. You will  
13 please remain silent while you are in the courtroom. If you  
14 have any conversation to engage in, please step outside.

15 You may proceed.

16 MR. POLAHA: Thank you, your Honor. Mr. Grellman  
17 will handle the cross-examination of this witness.

18 CROSS-EXAMINATION

19 BY MR. GRELLMAN:

20 Q Now, Mr. Padilla, how long have you worked at  
21 Lake Tahoe?

22 A Approximately three years.

23 Q And in what capacity have you worked there, general  
24 capacity?

25 A Well, I worked in maintenance and at the bar.

26 Q And at this particular time that you were working  
27 at the Cal Neva Lodge in what capacity were you employed?

28 A I was a bar boy, sir.

29 Q And how long had you been employed at the time?

30 A I had just started on July 2nd.

1 Q And at that time you were employed as a bar boy;  
2 is that correct?

3 A Yes, sir.

4 Q Being familiar with Lake Tahoe for approximately  
5 three years, you are familiar with the area and the surrounding  
6 areas?

7 A Yes, sir.

8 Q Is there anything unusual about people coming to  
9 Lake Tahoe and, to the best of your knowledge, about observing  
10 the sight at the Lake?

11 A No, sir. That's probably the main attraction.

12 Q And the area in which you were living, would that  
13 describe that area for me please?

14 A It is a sort of a dormitory-type building, provided  
15 for the employees by the Club--or it was at that time. They  
16 don't do that any more.

17 Q Now, could you give me a general indication of  
18 what the room that you shared with Mr. Anselmo looked like?

19 A Well, it's like an army barracks type room, just  
20 two beds and a closet to hang your clothes in. It's very  
21 spartan, spartan-type living.

22 Q You indicated to us that the first time you saw Mr.  
23 Anselmo was on Monday morning; is that correct?

24 A Yes, sir.

25 Q And on that morning do you remember if you saw him  
26 once or twice, or how many times you saw him on Monday.

27 A Sir, he knocked on the door in the morning, and he  
28 asked me if there was a vacant bed in there. And at the time  
29 I told him no, there isn't.

30 So he went away. And later in the afternoon he

1 knocked on the door again, and this time I felt sorry for him  
2 and I said, "Yes, there's a vacant bed here. You can move in  
3 if you like."

4 Q Do you know of any reason why Mr. Anselmo knocked  
5 on your particular door?

6 A Well, he was looking for a place. I guess he was  
7 knocking on every door.

8 Q Now, when he came back later in the afternoon, and  
9 you indicated to him that he could have a place to stay, do you  
10 happen to remember what kind of suitcase or clothing he brought  
11 with him?

12 A He carried a small suitcase. Just a small suitcase  
13 was all he had.

14 Q Do you remember how he unpacked his things, where  
15 he put them?

16 A Yes. Well, he hung up what clothes he had in  
17 the closet, and straightened out his toothbrush and shaving gear  
18 and things like that, on the dresser thing.

19 Q Now, did you notice anything peculiar about this?

20 A The first impression I got when I saw him, the way  
21 he was doing this layout thing, I thought he might at sometime  
22 have had some military training, because everything was precise  
23 and very orderly.

24 Q Did he make his bed at that time?

25 A Well, I think he went to the Club to draw his bedding,  
26 like the sheets and blankets and that type of thing.

27 Q Now, your observation at the time was that he was  
28 a very neat and fastidious person?

29 A Yes.

30 Q Did he always keep his bed neat and orderly?



1           A       Yes.

2           Q       Did you happen to notice the times that Mike was  
3 sleeping what his habits were when he got up in the morning?

4           A       I don't recall, sir, because I would sleep during  
5 the day, and most of the time when I woke up he would be gone.

6           Q       Did you happen to notice, the time when you woke up  
7 in the mornings, the time he was gone, whether his bed was made  
8 or not?

9           A       To the best of my recollection, he always kept  
10 it made up and neat.

11          Q       So then on this Wednesday morning when you got up  
12 you assumed that Mike had not been there because his bed was  
13 made up; is that correct?

14          A       Yes, sir.

15          Q       Excuse me. That would be early Thursday morning;  
16 is that correct?

17          A       Thursday morning.

18          Q       Mr. Padilla, what type of sleeper are you? Are you  
19 a heavy sleeper, a light sleeper, or what?

20          A       I think I'm a light sleeper, because I--perhaps the  
21 first couple of hours I'll sleep very deep. But after that it's  
22 touch and go.

23          Q       Do you think you would be the type of sleeper that  
24 would be able to sleep and not know if your roommate came in and  
25 left?

26          A       I doubt very much. I think I would have heard.

27          Q       Now, on the Wednesday evening you indicated that you  
28 and Mike went down to one of the local casinos, just walking  
29 around; is that correct?

30          A       Yes, sir.

1 Q And on that evening you indicated that you played  
2 some of the pinball machines or slot machines?  
3 A Yes, sir.  
4 Q Or what was that?  
5 A That slot machines, yes.  
6 Q Did Michael play those at that time?  
7 A No, he didn't, because he couldn't play because  
8 he wasn't twenty-one. But he handed me the change and I played.  
9 Q What kind of change did he hand you?  
10 A Well, he had a one dollar chip and a few quarters  
11 and nickels and dimes.  
12 Q Did he indicate that he had any additional money,  
13 other than that?  
14 A After we played the last dollar he says, "Well,  
15 that's it. We're broke."  
16 Q And what did you do after that? Did you return  
17 to the dorm?  
18 A We returned to the dorms, yes, sir.  
19 Q And at that time you proceeded to play cards for  
20 a while?  
21 A Yes, sir.  
22 Q Did anything transpire at that time? Did you have  
23 a discussion about anything at all?  
24 A Nothing, no.  
25 Q Approximately at what time did Mike leave?  
26 A About 11:00 o'clock that night, sir.  
27 Q And what did you do after Mike left?  
28 A I stayed up and read until about 2:00 or 3:00 o'clock  
29 in the morning.  
30 Q Now, did anything unusual happen that evening?

1           A       No. I was just there by myself.

2           Q       Did you have any opportunity to look out one of  
3 the windows at that time?

4           A       Oh, yes. I happened to look out the window when  
5 I saw a Sheriff's Deputy's car out there.

6           Q       Would you describe the view that you see as you look  
7 out the window of the dorm in which you were living?

8           A       There is a road, sort of a little street there,  
9 about from here (indicating) to your table from the window,  
10 and I saw that Deputy's car parked there, and I just wondered  
11 to myself, I wondered what happened, you know.

12          Q       Did you happen to see any other people around the  
13 car, or anybody in the car?

14          A       No, sir.

15          Q       Looking out that window do you have an opportunity  
16 to view into the employee's parking lot at the Cal Neva?

17          A       No, sir.

18          Q       You are unable to see the employee's parking lot?

19          A       No.

20          Q       How were the lighting conditions there at that time?

21          A       I believe there's lights--I don't remember, sir,  
22 about the lighting. There's street lights out in the parking  
23 lot, but --

24          Q       Now, you indicated to us that you worked on Monday  
25 evenings, 6:00 to 4:00, and Tuesday and Wednesday evenings were  
26 your nights off; is that correct?

27          A       Yes, sir.

28          Q       On these nights that are your night off what gen-  
29 erally are your sleeping habits? You work the swing shift and  
30 late hours, and you stay up most of the night and sleep in the

1 morning?

2 A Yes, sir. I sleep during the day most of the time.

3 Q How about particularly on Wednesday night and early  
4 Thursday morning, do you remember what time you went to sleep?

5 A I probably went to sleep around 3:00 or 4:00 o'clock  
6 in the morning, Thursday morning.

7 Q And the next thing you remember waking up about what  
8 time was that?

9 A Sometime, oh, around 9:00 o'clock, 10:00 o'clock  
10 in the morning.

11 Q And at that time you indicated--let me ask this  
12 question: What was the importance of Thursday to you?

13 A Oh, Thursday was our payday. That's what I was  
14 looking for.

15 Q And were you anxious to get paid that day?

16 A Yes, sir.

17 Q And so what was the first thing you did when you  
18 got up in the morning?

19 A I went to the casino, but the checks weren't ready,  
20 so I had a cup of coffee.

21 Q And after you returned from having coffee, is that  
22 when you met Mr. Anselmo?

23 A Yes, sir. I was coming out of the Club after having  
24 coffee, and I met him outside.

25 Q Now, you indicated to us that the first thing Mike  
26 said to you was that he had walked to Carson City?

27 A Yes, sir.

28 Q Did he say to you that he had walked all the way to  
29 Carson City, or that he had started walking to Carson City, or  
30 that he had walked part of the way and received a ride the rest

1 of the way, or what?

2 A He told me, he said, "I walked all the way to Carson  
3 City."

4 Q Did he make any indications that he went any other  
5 place in the interim?

6 A He might have said something, but all I recall was  
7 him telling me about the Carson City thing.

8 Q Mr. Padilla, you were asked the question as to  
9 Mike's demeanor, and you said he seemed nervous. Was he nervous?  
10 Could you give us a better description of what his demeanor was  
11 at that time?

12 A He seemed perhaps flustered, would be a better word.

13 Q Would this seem unusual to you if a man had in fact  
14 walked to Carson City?

15 A I guess it wouldn't be unusual.

16 Q Let me ask you this question: During the couple  
17 of days and the acquaintanceship that you had with Mike, what  
18 was his general demeanor at those times? Was he noisy, bolster-  
19 ous, or was he very quiet, reserved?

20 A He seemed very quiet and reserved.

21 Q And did he kind of in those days give you any  
22 attitude or any inference that he might have been flustered?

23 A No, sir.

24 Q Mr. Padilla, did you have an opportunity at some-  
25 time during the sequence of events give a statement to the Dis-  
26 trict Attorney?

27 A Yes, sir.

28 Q Did you in fact give a written statement to the  
29 District Attorney?

30 A No, I don't--they might have written it down, the

1 statement that I told them.

2 Q Prior to coming into court today, and within the  
3 last few days, have you had an opportunity to review any  
4 statements or any conversations that were made at that time?

5 A No, sir. I haven't seen any statements that I  
6 had given prior to this time.

7 Q Now, on that Thursday morning that you woke up,  
8 Mr. Padilla, and you went over to the Cal Neva to get your  
9 payroll check and eventually ran into Mike, what did you and  
10 Mike do after you talked?

11 A We went up to another restaurant. We had a hamburger.

12 Q Did you subsequently go back and get your payroll  
13 check?

14 A Yes, sir.

15 Q Did Mike have one there?

16 A No, sir.

17 Q Do you happen to know whether or not Mike worked  
18 any of the shifts up until that time, Tuesday night or Wednesday  
19 night?

20 A He hadn't worked a shift up--I think Thursday night  
21 was the first shift, as far as I know.

22 Q Now, how long did you and Mike stay together that  
23 afternoon, on Thursday afternoon, after you had something to  
24 eat?

25 A We walked back to the Cal Neva, and he went into the  
26 personnel office, and I walked into the casino and picked up  
27 my check. That was the last time I saw him.

28 Q So you don't know what Mike did after that time  
29 you left?

30 A No, sir.

1 Q Did you see him at work that night?

2 A Yes, sir.

3 Q And how did you see him while he was working that  
4 night? What were the conditions, the circumstances?

5 A Well, I used to wash my bar glasses in the dish-  
6 washing machine, and I saw Mike picking out silverware, or  
7 something, doing something there in that area.

8 Q Now, going back a little bit, Wednesday night in  
9 particular, and Thursday morning when you talked to Mike while  
10 you were out, did you really know Mike very well at that time?

11 A No, sir. I had only known him two or three days.

12 Q So at that time did you know for a fact, of your  
13 own knowledge, that Mike didn't have any money on him, when he  
14 said to you that he was broke?

15 A He told me he was broke.

16 Q But you don't know from your own knowledge that he  
17 was actually broke, do you?

18 A No, sir.

19 Q On Friday morning you indicated that you woke up;  
20 is that correct?

21 A Friday morning, yes.

22 Q And what shift had you worked on Thursday night?

23 A My normal shift used to be 6:00 to 2:00, except  
24 Mondays. On Mondays I would pull a ten-hour shift, from 6:00  
25 to 4:00.

26 Q And when you woke up Friday what prompted you to go  
27 to the laundromat?

28 A I was out of clean socks.

29 Q Did you borrow any clothes from Mike during the  
30 period that you knew him?

1           A       I think the previous day I had borrowed a pair  
2 of socks from him, a pair of clean socks.

3           Q       And then at that time you went to the laundromat  
4 about what time on Friday was it?

5           A       It was in the afternoon, sir, about 2:00 o'clock  
6 in the afternoon.

7           Q       Now, Louis, going back to the time that you went  
8 to the laundromat, did you happen to know some of the items  
9 that Mike took with him?

10          A       No, sir.

11          Q       Did you ask Mike to go to the laundromat with you?

12          A       No, sir. He says--when I told him I'm going to  
13 the laundromat, he says, "I'll come along, too."

14          Q       Did you happen to notice any of the items he took  
15 with him to the laundromat?

16          A       No, sir.

17          Q       On Wednesday night when you and Mike went out and  
18 put a few nickels in the machines and then went back to the dorm  
19 to play cards, do you happen to remember what he was wearing  
20 that night?

21          A       It seems to me he was wearing blue jeans, and I  
22 think a sort of a cowboy shirt-type thing.

23               MR. GRELLMAN: Thank you, Mr. Padilla. I have no  
24 further questions.

25                               REDIRECT EXAMINATION

26 BY MR. ROSE:

27          Q       Mr. Padilla, just one or two questions, and this  
28 is with regard to the location of your cabin. Could you  
29 generally describe the location of the cabin in which you were  
30 on July 15th, with relation to the Cal Neva Club?



1           A       It's about a hundred yards from the Club, and it  
2 sits sort of in an indentation-type thing. I mean you have to  
3 walk a little bit down hill to get to it.

4           Q       As you drive down is it Crystal Bay Drive toward  
5 the Club, into the Club?

6           A       What is it? Cal Neva Drive, isn't it?

7           Q       Maybe that's right. As you drive down the main  
8 drive the cabins would be just on your left?

9           A       On your left, yes, sir.

10          Q       Okay, fine. And could you tell me, in relation to  
11 the cabins, where are the parking lots?

12          A       Well, there's parking lots all around. There's  
13 one parking lot immediately to the left, and there was one  
14 to the right.

15          Q       As you're going into the Club?

16          A       Yes, sir. And the employee's parking lot is--it is  
17 further away from the Club. It's the furthest one on the left.

18          Q       Louis, could you just generally come up here and  
19 sketch for us roughly where the parking lots are located?

20          A       Yes, sir. This would be the street (drawing), and  
21 there was one parking lot here, this is the employee's parking  
22 lot, and the Club is here. And there is another street that  
23 runs here this way, and there's a few cabins here. The employee's  
24 dorms are across in here, and this is all parking lot here, (draw-  
25 ing).

26          Q       Now, is there also a rather small paved parking  
27 lot in front of Joseph Magnin's?

28          A       Yes, sir. This would be in this area here (indica-  
29 ting). All in here would be parking lot and behind here.

30          Q       Would you put a "P" in that little square that you

2  
1 just drew. And that generally is the location. So as you drive  
2 in you would come to the employee's parking lot first?

3 A Yes, sir.

4 Q And then what would be next?

5 A There's a street here.

6 Q And what would be next on your left?

7 A There's a couple of employee's cabins here.

8 Q And then what would be next?

9 A And this is a parking lot in here, also (indicating).

10 Q Could you show us the dormitory where you were  
11 staying at this time?

12 A This one here, sir. Like I said, it sits down  
13 below, like a--well, you have to go down some.

14 MR. ROSE: I have no further questions of this  
15 witness, your Honor. Thank you.

16 RECROSS-EXAMINATION

17 BY MR. GRELLMAN:

18 Q While you are standing at the blackboard, Mr. Padilla,  
19 would you show us where your room was, yours and Mr. Anselmo's  
20 room?

21 A Yes, sir. It was the first one on the outside here.

22 Q Now, did this room look out on the street?

23 A Yes, sir.

24 Q Now, where approximately was the Sheriff's car that  
25 you saw earlier Thursday morning?

26 A Oh, the Sheriff's car? There's another street  
27 that goes on this other side of the dorms, and the Sheriff's  
28 car was parked maybe perhaps right here between the two cabins.

29 Q Now, Louis, looking out your window could you tell  
30 me how you saw the Sheriff's car there? Or did you have to go

1 somewhere else to see it?

2 A Yes, I went down the hall and I went into a restroom  
3 that was on the other side of the place, and just looked out  
4 that restroom window and saw the sheriff's car.

5 Q But you didn't see any people around the sheriff's  
6 car?

7 A No, sir.

8 Q Did you hear anything, any strange noises or any-  
9 thing?

10 A No, sir.

11 Q From your room are you able to look across the  
12 street into the employee's parking lot?

13 A No, because, like I say, it sits down below and  
14 this area here (indicating) is higher than the dorm, and there  
15 also was a house trailer that belonged to the maintenance man,  
16 a mobile home-type thing.

17 Q Now, in relation to this area here, Mr. Padilla,  
18 could you give us an indication of where the Lake is?

19 A Well, the lake is, well, behind the club here  
20 (indicating).

21 Q About how far would you say in blocks?

22 A Oh, four or five blocks, maybe.

23 Q And that area would be facing which direction?

24 A This is south here.

25 Q And how about on the west, how far would you say  
26 the Lake was on the westerly side?

27 A From where, sir? From the dorms or what?

28 Q Well, just generally. It's my recollection that  
29 this particular area is on a point, so it is basically surrounded  
30 by water; is that right?



1 Q How long have you lived in the Lake Tahoe area?  
2 A A little over a year.  
3 Q Are you presently employed?  
4 A No.  
5 Q Were you employed last summer?  
6 A Yes.  
7 Q Directing your attention to July 14, 1971, which  
8 was a Wednesday, were you employed on that day?  
9 A Yes.  
10 Q Where were you working?  
11 A Cal Neva, doing cocktails.  
12 Q Were you a cocktail waitress?  
13 A Yes.  
14 Q And what shift were you working?  
15 A Swing shift.  
16 Q When you say swing shift, Patsy, what do you mean  
17 by that?  
18 A Well, I was working 7:00 to 3:00, 7:00 in the evening  
19 until 3:00 in the morning.  
20 Q So if you went to work on Tuesday, you would go  
21 to work at 7:00 p.m. and get off at 3:00 a.m. the next day?  
22 A Right, Wednesday morning.  
23 Q That would be Wednesday morning?  
24 A Right.  
25 Q Did you in fact do that?  
26 A Yes.  
27 Q And what did you do when you got off work?  
28 A Well, I went down and changed my clothes and then  
29 went over to the bar and then picked up Janie, she wanted a ride  
30 home with me. And then I walked out to the parking lot to get

1 into my car.

2 Q Who did you go with out to the parking lot?

3 A Janie Kinney.

4 Q And what time was this when you went out to the  
5 parking lot?

6 A Well, it was approximately 3:30.

7 Q Did you observe anything in the parking lot?

8 A Yes, I did. We were walking out and we saw this  
9 fellow behind this car at the end of the parking lot, it was a  
10 white Bronco, and he was stooped down and he was bent around,  
11 looking like he was hiding, but he was very obvious, you know.  
12 You could see him real well, because he had his head sticking  
13 around the car.

14 Q Do you see that man in court today?

15 A Yes, I do.

16 Q And could you identify him for us?

17 A Yes. It's this gentleman over here (pointing).

18 Q And could you tell us where he is sitting among  
19 these three men at the table?

20 A He is the one on the end, the third one over on the  
21 end, on my right.

22 Q Are you certain that he was the man that you saw that  
23 night?

24 A Yes, I am.

25 MR. ROSE: Your Honor, may the record show that the  
26 defendant has been identified?

27 THE COURT: The record will so show.

28 BY MR. ROSE:

29 Q Now, when you observed him, did he appear differently  
30 then than he does now in any way?

1           A       Yes. His hair was longer, you know, kind of hung  
2 down more, and it was more wavy looking. It wasn't slicked  
3 down like it is now. It was more wavy looking.

4           Q       We have a very rough diagram up here, drawn by  
5 Louis Padilla. Could you come up here and show us where your  
6 car was parked?

7           A       Sure. It's a pretty rough drawing, all right.

8           THE COURT: Now, before you write anything on there,  
9 make sure you know what it is. If you don't, you can make your  
10 own drawing.

11          THE WITNESS: I would rather make my own, if it's  
12 all right.

13          Q       Could you just show us generally where the parking  
14 lot would be where you parked.

15          A       This is the employee's parking lot. What is this  
16 here?

17          Q       Employee's parking.

18          A       This is Joseph Magnin's here?

19          Q       Yes.

20          A       This is where you go to get your car. Well, my car  
21 would have been approximately right here (indicating).

22          Q       Okay. Now, could you draw your own drawing?

23          A       This is Joseph Magnin's here, and the club (drawing).  
24 Cars are parked here and here, and then there is an entrance-  
25 way to the parking lot here. This is the road, and this is the  
26 parking lot over here. This, you know, is where you go into this  
27 parking lot, on the other side of Joseph Magnin's.

28                 Now, down here (drawing) there's the employee's  
29 parking lot, and right here is a house, and, let's see, there's  
30 a road here. And right here was the Bronco, and I think probably

1 there was another car, I couldn't tell for sure because the  
2 Bronco stuck out pretty far, and then there was a car here, a  
3 car here, and a car here, and this was my car here.

4 Okay. This Bronco stuck out a lot further than  
5 these cars here, and this is where I saw the fellow, right  
6 there (indicating).

7 Q You have just put an X there?

8 A Yes.

9 Q Would you put a little larger X so the jury can see  
10 it?

11 A Yes.

12 Q And would you put a Y, labeling your car. Could you  
13 describe how you came out of the Club?

14 A Sure. Let's see, this is the main entrance right  
15 here (indicating), and this is the walk way that goes this way.  
16 I guess we walked out this way, and then we came around here,  
17 and right here is a little wire thing that they have there to  
18 keep you from driving in that way. And we had cars parked here  
19 also, and there was cars parked all along here. We walked this  
20 way and stepped over that wire thing, and were walking along  
21 here, and I could see him very well, you know, standing over  
22 here, he was crouched around this way.

23 And while we were walking, Janie and I, we were dis-  
24 cussing, we said, "Well, look at that guy there. What do you  
25 think he's doing?"

26 And I said, "Well, he's probably ripping off hub caps  
27 or something." And then we started talking more, and we got  
28 a little scared as he looked suspicious to us. So we got into  
29 the car and when we got into my car--well, in order to get out of  
30 the parking lot you have to back up. So I backed up this way



1 (indicating) to get out --

2 Q You backed toward him?

3 A Yes, toward him, so that the end of my car came  
4 almost even to the Bronco--in fact, the tail of my car was even  
5 with the Bronco, my back window, and I could see him through  
6 my back window, plus my rear view mirror, I could see him through  
7 that.

8 And then the whole time we were walking, also, we  
9 could see him. There was very good lighting, like they have  
10 lights here and over here, and they have the big sign here that  
11 has lights all over it. So the lighting was pretty good.

12 And then I drove my car out this way, and came  
13 around, and as we were coming around this way he was so suspicious  
14 we were discussing it, you know, and I said, "Well, that guy is  
15 pretty strange out there." And then he stood up and I know he  
16 wasn't any taller than the Bronco--say the Bronco was here, the  
17 top of the Bronco, he was looking through the windows, and I  
18 could see him full face through the windows as I was coming  
19 around here.

20 Q Did you get a rough idea of about how tall he was?

21 A He wasn't real tall, no. He was maybe five, five,  
22 at the most.

23 Q Okay.

24 A He couldn't have been very tall, because the Bronco  
25 only stands about this high (indicating), and he was low enough  
26 to, you know, where he was full face to the window and I could  
27 see him pretty well.

28 Q What did you then do as you got there? Did you just  
29 proceed out?

30 A Yes, we left. But, you see, we were walking out here

1 real slow, and when we saw him, you know, we started discussing  
2 things, and we picked up our pace. And I got a pretty good look  
3 at him when we were walking, because I was curious what the guy  
4 is doing out there, you know.

5 Q And this was in the early morning hours, around  
6 3:30, on Wednesday?

7 A On Wednesday, yes.

8 Q All right. Would you please take the stand again.  
9 Did the defendant do anything, other than peer at  
10 you and watch you as you left the parking lot, as you came out  
11 and as you left?

12 A No. He was just looking around at us, you know.  
13 And then he stood up, you know, as we left, and looked through  
14 the Bronco as we drove off. But I didn't see anything else,  
15 other than him looking at us. And it was really surprising,  
16 because I thought he was trying to hide, but he wasn't doing  
17 a very good job of it, you know, because I could see him real  
18 well.

19 Q Now, as you saw him, did you notice what he was  
20 wearing?

21 A I'm not sure. I was looking at his face. When I  
22 look at people I look at their face, you know. I don't really  
23 look at what their clothes are. Most of this part (indicating)  
24 was behind the car, anyway, but this part, you know, was  
25 around behind the car.

26 MR. ROSE: Thank you, Patsy.

27 I have no other questions.

28 CROSS-EXAMINATION

29 BY MR. POLAHA:

30 Q Miss Brent, am I correct, I think I heard you say

1 twice, that this was Wednesday morning; is that correct?  
2 A Yes.  
3 Q Okay. Did you see him again Thursday night, or  
4 Thursday morning?  
5 A No.  
6 Q You did not?  
7 A No.  
8 Q Did you ever see him in the club prior to your  
9 encounter with him?  
10 A No.  
11 Q You did not?  
12 A No.  
13 Q Now, this is just for my own sake here. You say he  
14 was standing here by the Bronco, and you were down this road,  
15 and you saw him looking through the Bronco and you saw him full  
16 face?  
17 A Yes, after I left.  
18 Q Were you looking through the cars, or how was it?  
19 A No. The Bronco was out far enough. It was, you  
20 know, long, so the Bronco stuck out far enough to where the  
21 other cars, you know, weren't blocking the view of the Bronco.  
22 Q Do you wear glasses?  
23 A No.  
24 Q You have, I take it, average twenty-twenty vision?  
25 A Yes.  
26 Q And you're looking through your car glass here?  
27 A Yes.  
28 Q Past how many cars, would you say, which are parked  
29 there, or can park there?  
30 A Oh, let's see --

1 Q Twenty?

2 A Oh, no. You mean in the whole parking lot?

3 Q Yes, in this row.

4 A About ten.

5 Q About ten?

6 A Yes.

7 Q How wide are cars? Would you say about three feet,  
8 or maybe more?

9 A Yes.

10 Q And you are talking about 3:30 in the morning?

11 A Yes.

12 Q Lighting behind the Bronco?

13 A Yes.

14 Q And you are seeing a face and you are describing  
15 that face as this man here; is that correct?

16 A Yes. But also I saw him when I backed my car up,  
17 see, because I looked over my shoulder.

18 Q Also, through the rear mirror you saw him?

19 A Through the rear mirror and my corner window.

20 Q Do you have one of those daylight, night type of  
21 mirror?

22 A No.

23 Q There is no little rainbow color when you look in  
24 the rear view mirror?

25 A No.

26 Q But that night you picked up his face against the  
27 back lights?

28 A Yes.

29 Q And you are making a perfect identification here;  
30 is that right?

1           A       Yes.

2           Q       Was he in both your rear view mirror and out your

3 back view?

4           A       At certain times when I was backing out, yes.

5           Q       Were you watching where you were going? Were there

6 other cars there?

7           A       Other cars where? On that side?

8           Q       Yes.

9           A       There, no.

10          Q       In other words, you were looking at him when you

11 were backing up?

12          A       Yes.

13          Q       Weren't you concerned you might hit the Bronco?

14          A       I couldn't hit the Bronco. If I hit the Bronco

15 I would have hit him.

16          Q       So you were concerned about it; right? You didn't

17 want to hit the guy, did you?

18          A       Right.

19          Q       Okay. So when you weren't concerned about where

20 you were going, then you are trying to catch a glance outside the

21 corner of your eye of the guy that's standing there?

22          A       Yes.

23          Q       Now, you are estimating height, are you not, based

24 upon his relationship with the car?

25          A       Yes.

26          Q       Now, you could be wrong, could you not? Did you

27 ever see him stand up?

28          A       Well, I saw him stand up, you know, behind the

29 Bronco after I left, yes.

30          Q       Now, you are assuming he was standing up behind the

1 Bronco, are you not?

2 A Yes.

3 Q You don't know if he was on his knees or if he was

4 going like this (indicating), and you've got a couple of

5 inches there, five, five, a couple more inches and you're at

6 five, eight, and a couple more and you're five, ten, and almost

7 as tall as I am. So you don't know how tall he was, do you?

8 A Well, no.

9 Q Did the police tell you the suspect was five, five?

10 A No.

11 Q Did you talk to the police about this?

12 A Yes, I described him before I even knew he was

13 picked up or anything. I gave a description to the police of

14 what I saw, and how, you know, how tall I thought he was and

15 everything.

16 Q Did you volunteer this?

17 A Yes, I did.

18 Q When you found out the girl was dead you went to the

19 police and said --

20 A I didn't know she was dead. She was missing. I didn't

21 know she was dead. I just heard she was missing, so I went to

22 the police and told them what I saw.

23 Q Did they show you any photographs at that time?

24 A No.

25 Q When did they show you any photographs?

26 A A couple of days later.

27 Q At this time you had knowledge of the death of

28 Trudy Hiler; is that correct?

29 A Yes.

30 Q This came to light Saturday morning, July 17th, I

1 believe. So it was sometime after July 17th that you were  
2 called in by the police to identify him?

3 A Yes.

4 Q What were you shown while you were there?

5 A I was shown two photographs?

6 Q Of whom?

7 A One of this gentleman here, and one of another  
8 gentleman that didn't look like him.

9 Q What was the other gentleman's name?

10 A Which one?

11 Q The other picture.

12 A They didn't tell me his name.

13 Q Did they say anything when they showed you the  
14 photograph?

15 A They just showed me the photograph and said, "Does  
16 he look like the guy?"

17 And I said, "No." And they showed me this one.

18 Q I can't hear you.

19 A They showed me one of another guy, and they asked me  
20 if it looked like the fellow I had seen. And I said "No."

21 And then they showed me a picture of him (indicating),  
22 and I identified him as being the man that I saw.

23 MR. POLAHA: Thank you. I have nothing further.

24 REDIRECT EXAMINATION

25 BY MR. ROSE:

26 Q Now, as you walked up to your car you had a very  
27 clear view of the defendant, did you not?

28 A Yes.

29 Q And that was for several seconds, wasn't it?

30 A Oh, several minutes. The walk, you know, from the

1 parking lot, from where I started is when I first noticed him,  
2 from the time when I started at the beginning of the parking  
3 lot, walking clear to my car, I had the view of him. Also,  
4 after I got into my car I saw him because he was, you know,  
5 looking around. And he didn't seem to want to really hide  
6 enough to where I couldn't see him.

7           Then getting into my car, the whole time, you know,  
8 the whole process of getting into my car and backing up, because  
9 I was really more interested in what he was doing than I was  
10 before.

11           Q       Why is that?

12           A       He looked suspicious to me. He looked like he was,  
13 you know--I don't know. I'm just a curious person. He looked  
14 like he was doing something weird.

15           Q       Okay. Now, the Bronco was here (indicating) at the  
16 X, and your car is marked with a Y?

17           A       Yes.

18           Q       How many cars were there between the cars?

19           A       I think there were three.

20           Q       About three cars. So you were only three car widths  
21 away from him?

22           A       Yes.

23           Q       Approximately three or four, when you got there?

24           A       Yes.

25           Q       And you were right here (indicating) before going  
26 into your car, and you had a clear view of him then, did you not?

27           A       Yes.

28           Q       In fact, you would probably be at that time as close  
29 to him as you are right now?

30           A       Oh, yes, for sure.



1 Q And then again you had an opportunity to observe him  
2 as you backed up?

3 A Yes.

4 Q And as you backed up did you continue to look at him?

5 A Oh, yes. You know, I wanted to see what the guy  
6 was doing. I thought he was stealing hub caps or something. I  
7 wasn't sure, you know.

8 Q And then even after you drove out you still con-  
9 tinued to view him, did you not?

10 A Yes.

11 Q And you estimated your entire time of general  
12 observation of the defendant as what?

13 A Oh, probably ten minutes to walk from there to get  
14 my car, start my car, back up and drive out. It probably would  
15 take maybe ten minutes to do that.

16 Q Or at least a few minutes?

17 A Yes.

18 MR. ROSE: Fine. Thank you.

19 RECROSS-EXAMINATION

20 BY MR. POLAHA:

21 Q Do you know how long you have been testifying  
22 right now?

23 A No, I don't.

24 Q A little less than ten minutes. Did it take you  
25 that long to get in your car, turn your car and back it up, and  
26 go?

27 A To walk from the end of the parking lot to my car?  
28 I think so, yes.

29 Q You mean by the Club or --

30 A No. Right there where you have your pencil.

1 Q But you were concerned, were you not?  
2 A Yes.  
3 Q By being concerned, you walked slower than usual.  
4 You said on direct examination you sped up because you were  
5 concerned.  
6 A Yes, we sped up a little bit, because we were --  
7 Q You were cutting down the normal walking time  
8 from point A to point B, your car?  
9 A Pardon?  
10 Q I mean you see something that arouses your interest  
11 or your suspicion, and then you walk a little faster, and then  
12 it's going to take you less time to get from point A to point B  
13 than if you were walking leisurely or you were walking slower  
14 than normally?  
15 A Yes.  
16 Q So you have a little time there. Did you check  
17 your hub caps?  
18 A No.  
19 Q You were concerned about this guy stealing hub caps,  
20 but you didn't check your own?  
21 A I mean that's what went through my mind when I  
22 saw him. Hub caps, stereo, something off the car.  
23 Q Did you have hub caps on your car?  
24 A Yes.  
25 Q Did you have a stereo?  
26 A No.  
27 Q Did you have a radio?  
28 A No.  
29 Q But you didn't check that out, did you?  
30 A No.

1 Q Okay. Is this lot usable today, right now?  
2 A Yes.  
3 Q Do you know of any different lighting fixtures  
4 that appear now that did not appear then?  
5 A I haven't been there for a while. I don't know.  
6 Q Okay. But, to the best of your recollection,  
7 there were two lighting fixtures; is that correct?  
8 A Yes.  
9 Q Here and here (indicating)?  
10 A Yes.  
11 Q Were there any up here?  
12 A I think so.  
13 Q Do you know?  
14 A I don't know for sure, no.  
15 Q Are you for sure about these two?  
16 A Yes. There is also the lighting from the sign,  
17 which is, you know, right there.  
18 Q What sign?  
19 A The sign that tells you what's happening at the Cal  
20 Neva, which is right there at the two line--you see the two  
21 lines at the roadway?  
22 Q Here (indicating)?  
23 A Yes. That sign is really bright, and it reflects  
24 a lot of light.  
25 Q Now, what is this right here?  
26 A That's a building, a house.  
27 Q At this point right here does that house come right  
28 up to this corner?  
29 A No. It's not right on the corner. It doesn't go  
30 all the way to the corner. There's bushes in there, a few short

1 ones.

2 Q Any trees?

3 A There are trees on the other side.

4 Q So to your mind, at least, any light that may be  
5 coming from here (indicating), does cast something over in here?

6 A Yes it does. The lights from Joseph Magnin's  
7 casts.

8 Q Well, now you are up here some place, aren't you?

9 A Yes.

10 Q And this is at 3:30 in the morning?

11 A Yes.

12 Q You are sure about these two lights and the man you  
13 saw was right here (indicating) in front of the lights?

14 A Yes.

15 Q What kind of lights are they? Are they fluorescent  
16 lights or little bulbs?

17 A I didn't pay attention, I mean, looking at the lights  
18 in the parking lot.

19 MR. POLAHA: I have nothing further. Thank you very  
20 much.

21 FURTHER REDIRECT EXAMINATION

22 BY MR. ROSE:

23 Q Just one question, Patsy. We have talked now  
24 about the time and how long you had. You didn't time it at all,  
25 did you?

26 A Oh, no.

27 Q And your estimate could be off one way or the other?

28 A Oh, sure.

29 Q But you told us the times when you did observe him,  
30 did you not?

1 A Yes.

2 MR. ROSE: Thank you, Patsy. I have no further  
3 questions.

4 MR. POLAHA: I have nothing further. Thank you  
5 very much.

6 THE COURT: You may step down.

7 MR. ROSE: May this witness be excused?

8 THE COURT: She may, unless someone wishes to recall  
9 her.

10 MR. POLAHA: We have no need for her. Thank you  
11 very much.

12 THE COURT: You are excused.

13 (Witness excused.)

14 THE COURT: I think, in view of the fact that it is  
15 now five minutes to 12:00, we will take our noon recess at this  
16 time.

17 We will reconvene as near as possible to 2:00 p.m.,  
18 so please be present at 2:00 p.m. You are instructed that you  
19 are not to discuss the case among yourselves or with anyone  
20 else, that you are not to form any conclusions concerning the  
21 case until it is submitted to you, and that you are to listen to  
22 nothing or read anything concerning the case which you may be  
23 exposed to on television or in the press or other media.

24 We will be in recess until 2:00 p.m.

25 (Whereupon, at 11:55 a.m. a recess was taken, to  
26 reconvene at 2:00 p.m. the same day.)

**27.**

28

29

30

1 AFTERNOON SESSION

2 Wednesday, April 12, 1972

3 at 2:35 o'clock p.m.

4 THE COURT: Will counsel stipulate to the presence  
5 of the jury?

6 MR. ROSE: So stipulated, your Honor.

7 MR. POLAHA: So stipulated, your Honor.

8 THE COURT: Are you ready to proceed, gentlemen?

9 MR. POLAHA: Yes, your Honor.

10 MR. ROSE: The State is ready, your Honor.

11 the court; Ladies and gentlemen, I again apologize  
12 for the late start, but there is a certain amount of work which  
13 must be done every day, and the time has just to be afforded to  
14 do it.

15 You may proceed, gentlemen.

16 MR. ROSE: Your Honor, we would like to call Bill  
17 Keller, for the limited purpose of bringing some evidence into  
18 court from the locker downstairs.

19 WILLIAM CHARLES KELLER

20 called as a witness on behalf of the State,  
21 and being first duly sworn herein, testified  
22 as follows:

23 DIRECT EXAMINATION

24 BY MR. ROSE:

25 Q Please state your full name and address?

26 A William Charles Keller, number 25 Lockwood Road,  
27 Sparks, Nevada.

28 Q And what is your occupation or employment, Mr.  
29 Keller?

30 A I'm a deputy sheriff with the Washoe County Sheriff's

1 Department, Reno, Nevada.

2 Q And how long has that been your employment?

3 A Three years.

4 Q And what is your present assignment with the Sheriff's  
5 office?

6 A I'm with the detective division now.

7 Q How long have you been with them?

8 A Approximately a month.

9 Q And does that entail taking care of the evidence?

10 A Yes, it does.

11 Q And where is that evidence kept?

12 A It's kept in the evidence locker, in the basement  
13 of the Sheriff's Department here in Reno.

14 Q Are you presently in charge of the evidence locker?

15 A Yes, sir, I am.

16 Q Did you take that over when you became a detective?

17 A Yes, sir, I did.

18 Q That was approximately a month ago?

19 A Yes, sir.

20 Q At that time did you receive all the evidence from  
21 the person who was formerly in charge of the evidence?

22 A Yes, sir.

23 Q And who was that?

24 A That was Dave Grossman.

25 Q And he signed every piece of evidence in the evidence  
26 locker over to you?

27 A Yes, sir. I received it.

28 Q And did you receive any evidence from the Trudy  
29 Hiler case, State versus Anselmo?

30 A Yes, sir, I did.

1 Q Did you bring some of that evidence into court  
2 with you today?

3 A Yes, sir, I did.

4 Q Where did you just take that evidence from?

5 A Took it from the evidence locker that I mentioned  
6 prior, which is in the basement of the Sheriff's Department.

7 Q And that was just a few minutes ago?

8 A Yes, sir.

9 Q And you brought it directly into this courtroom?

10 A Yes, sir.

11 Q Could you tell me what you have brought with you  
12 at this time?

13 A I have one envelope containing nine keys, one dice  
14 and a chain. I have a package here containing a pair of  
15 women's shoes. I have another package containing a coat,  
16 and another package containing a brown purse, and the contents  
17 that were in that purse.

18 Q So that is four basic items of evidence?

19 A Yes, sir.

20 MR. ROSE: Your Honor, I would like to approach  
21 the witness to get this evidence and have it marked for identi-  
22 fication.

23 THE COURT: You may.

24 State's A, B, C and D.

25 (Set of keys on chain, pair of  
26 women's shoes, woman's coat,  
27 brown leather purse with con-  
28 tents, marked State's Exhibits  
29 A, B, C and D, for identifica-  
30 tion.)



1 BY MR. ROSE:

2 Q Mr. Keller, directing your attention to State's  
3 Exhibit A, could you again tell us what Exhibit A is.

4 A Do you want me to take it out?

5 Q Yes.

6 A It's a set of keys, there's nine keys, one dice and  
7 a chain, and this set of keys was found by Deputy Whitmore and  
8 another person up at Lake Tahoe in the lake.

9 MR. POLAHA: Excuse me, your Honor. I'm going to  
10 ask the court to strike the last response of the witness. As  
11 I understand the testimony--well, first, it's hearsay, what he  
12 just said. And, two, he has only been there one month. So  
13 as to having any qualifications to comment on what it is, other  
14 than looking at the physical objections themselves and telling  
15 what he sees, I don't think his competence has been established.

16 THE COURT: The objection is sustained, and the  
17 motion to strike is granted, and everything after the statement  
18 of what the physical objects are is stricken, and the jury will  
19 disregard it.

20 BY MR. ROSE:

21 Q Mr. Keller, would you tell me what Exhibit B is.

22 A That's a pair of women's shoes that I found at Lake  
23 Tahoe.

24 Q And could you describe what has been marked State's  
25 Exhibit C for identification?

26 A This is one woman's coat, it's black and dark blue.

27 Q And describe State's Exhibit D for us.

28 A It's a brown leather purse, that has various contents  
29 inside the purse, and women's clothing.

30 MR. ROSE: I have no further questions of Mr. Keller

1 at this time, your Honor.

2 CROSS-EXAMINATION

3 BY MR. POLAHA:

4 Q Mr. Keller, this is just a small item, but I'm  
5 curious. You stated that was a woman's coat, item C for iden-  
6 tification.

7 A Yes.

8 Q How is this a woman's coat, to your mind? Is this  
9 an assumption on your part, or do you know that this is a  
10 woman's coat?

11 A I base that statement on a prior date at Lake Tahoe  
12 one of the friends of the victim's --

13 Q In other words, you have no personal knowledge  
14 whether it's a woman's coat or boy's coat or small man's coat?

15 THE COURT: Let him answer the question, please,  
16 counsel.

17 You may finish your answer.

18 A (continuing) As I say, I base that statement that  
19 the coat was identified to me once before as belonging to a  
20 particular woman, and that's why I call it a woman's coat.

21 Q All right. You have personal knowledge that it is  
22 in fact a woman's coat?

23 A Pardon?

24 Q You have personal knowledge that it is in fact a  
25 woman's coat?

26 A I would say as to the size and style, yes.

27 Q You have been in the Sheriff's Department as a  
28 detective for one month; is that correct?

29 A Right.

30 Q You stated that all the evidence in the evidence  
room was turned over to you. Could you explain how that took

1 place?

2 A Well, let's see. On, I think it was March 27th,  
3 when I was transferred from the Incline Substation down to Reno,  
4 Dave Grossman was leaving the department. Dave Grossman and I  
5 went to the evidence locker. I received all the keys pertaining  
6 to the evidence locker, and then I started an inventory of what  
7 was in there. And each item or each case that was evidence,  
8 I started making a log sheet that would show when I received  
9 it.

10 Q Was there a log sheet submitted to you for a  
11 corresponding check off?

12 A No, there wasn't.

13 Q Then, as I understand it, you have no personal  
14 knowledge of all those items in evidence, for any case for  
15 that matter, this case in particular, which were there under  
16 Dave Grossman's custody?

17 A Right, I have no knowledge of what he had before or  
18 what he did to it.

19 Q All right. Did any of those items come into your  
20 possession after you took charge of the evidence room?

21 A No, sir. They were in there when I took charge of  
22 it.

23 Q That's A, B, C and D?

24 A Right, sir.

25 Q And they were inventoried as having been there as  
26 of March 27th?

27 A They were in the evidence room when I received them  
28 on March 27th, yes, sir.

29 Q Okay. How about prior to that, do you have any  
30 knowledge as to whether or not they were there prior to March

1 27th?

2 A This I couldn't say. I have no knowledge of that.

3 MR. POLAHA: All right. Thank you very much.

4 MR. ROSE: I have no further questions, your Honor.

5 THE COURT: You may step down.

6 (Witness excused.)

7 MR. ROSE: The State's next witness, your Honor,  
8 will be Carol Lindner.

9 CAROL LINDNER

10 called as a witness on behalf of the State,  
11 and being first duly sworn herein, testified  
12 as follows:

13 DIRECT EXAMINATION

14 BY MR. ROSE:

15 Q Please state your full name and address.

16 A Carol Lindner. And my parent's address--I go to  
17 Chico State--my parent's address, which is my permanent address  
18 in Sacramento, is 4321 Rio Pinto Avenue, Sacramento.

19 Q And what is your present occupation or employment?

20 A I'm working at my teaching credentials at Chico  
21 State.

22 Q Have you received any degree in teaching?

23 A Hopefully in June I will.

24 Q Did you come to Lake Tahoe last year to work?

25 A Yes.

26 Q And could you tell me when you came to Lake Tahoe?

27 A It was in the middle of June. I won't give you an  
28 exact date because I'm not really sure, but it was the middle  
29 of June.

30 Q Of 1971?

1           A     Right.

2           Q     And how long did you stay there?

3           A     Approximately a month.

4           Q     Do you know about what time you left?

5           A     Well, around the murder time, that week. And I

6     went home for a wedding rehearsal, and I came back, and we

7     found out about the death, and I just took off after that.

8           Q     Now, where did you stay in the Lake Tahoe area for

9     that one month in June and July?

10          A     Kingswood Condominiums on North Shore.

11          Q     With whom did you stay?

12          A     With Trudy and --

13          Q     You're going to have to give their full name.

14          A     Trudy Hiler, Carol Pierce, Rayette Zych and

15     Marlayne Weider.

16          Q     Where were you working at that time?

17          A     Cal Neva as change girl.

18          Q     Where were the other girls working?

19          A     At the time of the murder?

20          Q     Yes.

21                MR. POLAHA: Excuse me, your Honor. I would ask

22     the court to admonish the witness not to refer to what has

23     transpired up there as a murder, inasmuch as this has not yet

24     been established by the case. Now, if we're talking about an

25     incident or the death of Trudy Hiler, I think that's appropriate,

26     but I think, as far as murder, that is one of the ultimate issues

27     of fact that the jury is going to have to determine.

28                THE COURT: Will the witness please refer to the

29     occurrence as a death.

30                THE WITNESS: Okay.

1                   Now, would you repeat the question?  
2                   (Pending question read by the reporter.)  
3           A       They were all working at Cal Neva, I think, at the  
4 time, because some of them were working at Crystal Bay and I  
5 think that by that time all of them had switched, yes, to Cal  
6 Neva.  
7           Q       So you all were working at the Cal Neva on or  
8 about July 15th of last year?  
9           A       (Witness nods affirmatively.)  
10           THE COURT: Would you please answer the questions  
11 audibly, because the reporter doesn't know when you're nodding  
12 your head.  
13           THE WITNESS: Excuse me?  
14           THE COURT: I want you to say "yes," instead of  
15 nodding yes, so the reporter can hear you.  
16           Q       When did you first meet Trudy Hiler?  
17           A       The spring of 1971.  
18           Q       And did you get to know her very well?  
19           A       Not during the spring.  
20           Q       You did live with her that summer for a month?  
21           A       That summer, that's when I got to know her.  
22           Q       Okay. Directing your attention to July 14th,  
23 which was a Wednesday, what shift were you working on that day?  
24           A       The graveyard.  
25           Q       And what is graveyard?  
26           A       Graveyard is from 2:00 a.m. to 10:00 a.m. in the  
27 morning.  
28           Q       And were you to go to work Thursday morning?  
29           A       Yes.  
30           Q       And what was your shift to be then?

1           A       Thursday morning it was 2:00 a.m. to 10:00 a.m.  
2           Q       Were any of the girls working Wednesday night?  
3       You were not. Do you know if any of them left for work on  
4       Wednesday night?  
5           A       Yes.  
6           Q       What girls were working Wednesday night?  
7           A       Trudy Hiler, Carol Cochran, Marlayne Weider, Rayette  
8       Zych, and I'm not sure about Carol Pierce, but I don't want to  
9       say. I'm pretty sure she was, but I don't want to say.  
10          Q       You were going to work at 2:00 a.m. on Thursday  
11       morning, you told us. How were you to get to work?  
12          A       We made an agreement with Trudy and the other girls  
13       that Trudy worked from 5:00 p.m. to 1:00 a.m. Wednesday night,  
14       and since she worked the change-over shift she was suppose to  
15       get off at 1:00 and pick me up, because I was supposed to be at  
16       work at 2:00.  
17          Q       And would she pick you up and take you back?  
18          A       Yes. She would come to Kingswood Condominiums and  
19       pick me up and take me back.  
20          Q       Now, how long had this arrangement been going on?  
21          A       Since I had been working there.  
22          Q       And had Trudy ever failed to pick you up?  
23          A       Never.  
24          Q       So she was reliable in that regard?  
25          A       Yes.  
26          Q       Were you picked up the morning of Wednesday or  
27       Thursday, July 15th?  
28          A       Yes.  
29          Q       And who were you picked up by?  
30          A       Carol Cochran.

1 Q Was there a time when you were wondering about  
2 getting picked up?  
3 A Yes.  
4 Q Did you make any phone calls to anyone at the Cal  
5 Neva?  
6 A Yes.  
7 Q And who did you call?  
8 A I tried to get ahold of Trudy, I mean first of all  
9 to find out if she was there, and she wasn't. So I just asked  
10 for one of my roommates, whoever was there, and I talked to  
11 Carol, and she was getting off, so she said she would come and  
12 pick me up.  
13 Q Now, when you say Carol, what Carol is that?  
14 A Carol Cochran.  
15 Q And Carol Cochran then picked you up?  
16 A Yes.  
17 Q And do you recall about what time that was?  
18 A I think I made the phone call around 2:00 o'clock.  
19 So however long it took her to get, you know--I'd say about  
20 2:15, but that's just approximate. However long it took her  
21 to get from the Cal Neva to home.  
22 Q And what happened when she dropped you off at the  
23 Cal Neva or when you arrived at the Cal Neva?  
24 A I just went inside.  
25 Q And did you start working your shift?  
26 A Oh, yes.  
27 Q Do you know what Carol Cochran did?  
28 A I think--well, she went inside with me, and she  
29 met Marlayne, and they just--I don't know.  
30 Q You really don't know what they did thereafter?



1           A       No.

2           Q       Could you tell me when was the last time that you  
3 saw Trudy Hiler?

4           A       That afternoon, before she took off for work. I  
5 went to bed before she took off for work, so whatever time I  
6 went to bed--I don't know when that was, but it was that after-  
7 noon, Wednesday afternoon.

8           Q       And did you have a chance to observe Trudy Hiler?

9           A       Uh-huh.

10          Q       And could you tell us what her demeanor was, whether  
11 it was usual or unusual, or whatever?

12          A       You mean physically?

13          Q       Yes.

14          A       She had been feeling sick that day, and she had been  
15 to the doctors, and the doctor said she had a yeast infection  
16 and a cold. And the doctor said she was weaker, weaker than  
17 she normally was. And normally that summer she had, you know--  
18 I mean the month that I had been there she was sicker than she  
19 had been the whole month, you know.

20          Q       You said she had a cold, also?

21          A       Yes.

22          Q       And did she appear to be nervous or in any way  
23 unusual, other than what you have described, that she wasn't  
24 feeling well?

25          A       I don't know. I didn't notice.

26          Q       Did Trudy make it a habit or not make it a habit to  
27 tell you what she was doing and where she was going? And by  
28 you I mean you and the other girls.

29          A       Yes.

30          Q       Could you describe that, please?

1 A Could you --

2 Q Well, what would she tell you?

3 A Anytime she went any place she would always tell us  
4 where she was going. I think of all the girls she was the most  
5 --I don't know what the word is--she would always let us know  
6 what was going on. She told us about everything she was up to.  
7 I know she was very honest or open--open is what I was trying  
8 to get at.

9 Q She would tell you whatever she was going to do?

10 A Right.

11 Q And did that include dating?

12 A Yes.

13 Q Did you ever know her to have a date up there without  
14 telling you or one of the girls where she was going?

15 A Not as far as I know, no. But, you know--not as far  
16 as I know.

17 Q During your time at Lake Tahoe did you ever know  
18 Trudy to use any narcotic or dangerous drug?

19 A No.

20 Q Did you ever know her to use any hallucinogenic?

21 MR. POLAHA: Excuse me, your Honor, I am going to  
22 interpose an objection here. We're going into an area now  
23 touching on the character of the victim in this case. The law  
24 states, as I read it, that this is one area that the State cannot  
25 go into until the defense opens the issue. And since this is  
26 the case, the State's case in chief, we have not opened the  
27 issue. And he is trying to bring in now character traits and  
28 habits of the victim. I don't think this is proper, your Honor.

29 And for specific reference I cite State of Nevada  
30 versus Hellman, and the Evidence Code, Section 48.045 through

1 48.055.

2 THE COURT: Mr. Rose?

3 MR. ROSE: Your Honor, generally that is the rule.

4 But in this case we have a statement by the defendant, which  
5 will be introduced into court, which is what some may term a  
6 confession and avoidance, where he brings out the issue in his  
7 statement of the use of an hallucinogenic drug by the victim.  
8 And I think, because it is going to be in our case in chief, it  
9 is inextricably tied into this confession, and we are trying  
10 to bring the whole story before the jury.

11 We can't bring the confession in without reference  
12 as to what his story is with reference to what transpired.  
13 We're trying to show that at least part of his statement is not  
14 true.

15 MR. POLAHA: Your Honor, I think the State is  
16 putting the cart before the horse. If in fact they are going  
17 to introduce this statement, then it would be proper to ask  
18 her this after, if it is decided that this is going towards  
19 the character or habits of the victim. But at the present  
20 time there is no evidence whatsoever as to this part of her  
21 character or habits, and I think it is improper questioning.

22 THE COURT: Counsel, I think it's unfortunate  
23 that we can't put all the witnesses on the stand at the same  
24 time so that we don't have a sequence problem. We do have  
25 that problem, and I recognize it. If I had any question  
26 about the admissibility of the defendant's statements I might  
27 agree with you. But, under the circumstances, I am going to  
28 allow the question. If for some reason or other the statement  
29 should not come in, I will entertain a motion to strike.

30 MR. POLAHA: All right, your Honor.

1 THE COURT: I think, with the posture this case is  
2 now in, I should allow the question.

3 MR. POLAHA: Thank you, your Honor. Then I would  
4 respectfully request that my continuing objections to these  
5 questions be noted for the record.

6 THE COURT: It will be noted.

7 MR. POLAHA: May I have a ruling, your Honor,  
8 that inasmuch as we are going towards an anticipated intro-  
9 duction of evidence at a subsequent time, namely, the statement  
10 of the defendant, that the particular traits that we're talking  
11 about are limited specifically to the use or non-use of drugs?

12 THE COURT: They will be admitted as relevant to  
13 what happened on that particular occasion.

14 MR. POLAHA: Thank you, your Honor.

15 THE COURT: I see at the moment no other relevancy.

16 BY MR. ROSE:

17 Q I believe my last question, Miss Lindner, was would  
18 this include hallucinogenic drugs.

19 A Could you repeat the question now?

20 Q Did you ever know her to use any hallucinogenic  
21 drugs?

22 A No.

23 Q During the summer, the month that you were at Lake  
24 Tahoe last year, in June and July, did she ever express an  
25 opinion concerning the use of drugs?

26 A Yes. She was in transcendental meditation, and  
27 from what I understood from her and the other girls I lived with,  
28 people who are transcendental meditators---

29 MR. POLAHA: Excuse me, your Honor. I will object  
30 now on the basis of hearsay. We are going into something she

1 said at another time.

2 THE COURT: Sustained as to what she has heard about  
3 this particular group or type of person.

4 MR. ROSE: Your Honor, that would include to show  
5 her state of mind, which is an exception to the hearsay rule,  
6 at the time shortly prior to this, the month prior to the  
7 occurrence here in question, which I feel would tend to indicate  
8 that her state of mind was such at this time that she would not  
9 have used any drugs. I think that is an exception to the hearsay  
10 rule.

11 THE COURT: As I understand it, what the witness  
12 was about to say, if I can anticipate what she was about to say,  
13 she was about to say she heard this from someone else, not the  
14 victim.

15 THE WITNESS: No, that isn't true. I heard it from  
16 Trudy.

17 MR. ROSE: Let me rephrase the question, your Honor.

18 THE COURT: You may rephrase the question, and we  
19 will see where we go from there.

20 BY MR. ROSE:

21 Q Did Trudy ever express to you a belief concerning the  
22 use or non-use of drugs?

23 A Yes.

24 Q And what was that opinion or belief?

25 A She at this time --

26 MR. POLAHA: Your Honor, I would make an objection  
27 at this point, because now you are asking for hearsay from  
28 someone who cannot be present in court. And, as far as the  
29 District Attorney's argument that this is part of the res gestae  
30 as an exception to the hearsay rule, the witness testified that

1 it was a month prior, and the District Attorney argued that  
2 it was a month prior. Surely one month prior to an event can  
3 in no way be taken as part of a spontaneous expression of one's  
4 state of mind to an event that happened a month away.

5 THE COURT: I don't think it has to be spontaneous,  
6 but I think a month is a long time, counsel. The objection is  
7 sustained.

8 BY MR. ROSE:

9 Q When did she express this belief? Was it shortly  
10 before she died or was it a month prior?

11 A I can't place a date on it. She said it to me at  
12 different times. It was like a continuing--I mean, I don't know  
13 --it's vague, it's hard for me to say. I can't place a date on  
14 it, I didn't write the date down or the time, I mean. I can't  
15 place a date on it. I don't know.

16 MR. ROSE: I have no further questions, your Honor.

17 CROSS-EXAMINATION

18 BY MR. GRELLMAN:

19 Q Miss Lindner, when did you first meet Trudy Hiler?

20 A In the spring of 1971.

21 Q Where was that? Was that in Reno or Chico, or --

22 A In Chico.

23 Q Did you have any classes with her?

24 A No.

25 Q How did you get to meet her? How did you know her?

26 A Rayette Zych, who was her roommate in Reno, was a  
27 pretty good friend of mine. I had gone to American River College  
28 with her for two years, and she transferred to Chico, and then  
29 I transferred a semester after she did. And we wrote while we  
30 were apart, and we had a pretty good--we were pretty good friends.

1 And she told me she was living at Tahoe for the summer. And I  
2 asked if I could live there, and she said there was room, and  
3 the other girls didn't care, so that's cool, that I could stay  
4 with them.

5 Q So you made arrangements in the spring. When in  
6 the spring was this? Was it early spring or late spring?

7 A Late. But I don't want to place a date on it.

8 Q May or June?

9 A I don't know, because I can't say for sure.

10 Q What kind of acquaintance did you have with Trudy  
11 after you met her with Rayette?

12 A I don't know what you mean.

13 Q I mean did you see her very often? Did you talk any  
14 more about going to Lake Tahoe in the summer?

15 A Oh, you mean before I went to Tahoe?

16 Q Right.

17 A I'd say before I went to Tahoe I saw her about three  
18 times, but I'm not going to say for sure it was three times  
19 because I really don't know, but I would say about three or  
20 four times.

21 Q Now, were you an active participant in developing  
22 the plans as far as coming to the Lake Tahoe area and going to  
23 work?

24 A Could you explain what you mean by active?

25 Q Well, what kind of arrangements did you and Trudy  
26 and the other girls make, as far as coming to Lake Tahoe and  
27 going to work?

28 A I think they had gotten everything pretty much taken  
29 care of, and they told me about the job and stuff, and they told  
30 me to call the phone number and everything, and said I might be

1 able to get a job, to try and see. So I called up, and they  
2 said, "Yes, sure."

3 Q Now, do you happen to remember when you first went  
4 to Lake Tahoe?

5 A I think--well, around, I'd say around the beginning  
6 of June. I'd say around, you know, like--I think Chico State  
7 got out the second, and I think I went around a week after  
8 that, but I'm not positive.

9 Q When you first went to Lake Tahoe did you go to  
10 work for the Cal Neva Club or Crystal Bay, or where did you go  
11 to work?

12 A At the Cal Neva.

13 Q And your other roommates that you were living with,  
14 Rayette and Marlayne and the other girls, where did they work  
15 at that time when you first went to work up there?

16 A I think Rayette and Marlayne worked at Crystal Bay,  
17 and Trudy was working graveyard at Cal Neva, and I took over her  
18 shift, and then she took swing, she took 5:00 to 1:00.

19 Q So during that time that the girls were working up  
20 there you had an arrangement in which you would furnish trans-  
21 portation back and forth; is that correct?

22 A Yes.

23 Q Would you give me an indication as to how far away  
24 the Kingswood Condominiums were, where it is located in relation  
25 to the Cal Neva?

26 A No, I won't, because I'm terrible at directions, and  
27 I know I'll mess myself up.

28 Q Just in general. Would you say within a matter of  
29 miles?

30 A I don't want to say, because I'm terrible at--no, I



1 won't say. I don't know.

2 Q Would it be a fair guess to say it's a block away.

3 A No.

4 Q Would it be a fair guess to say it was a matter of  
5 three or five miles?

6 A I'll say a couple of miles, but I really don't know.

7 Q That's all I want. A little more than a person  
8 generally could walk; is that correct?

9 A Okay, yes.

10 Q Now, these arrangements that you made--you indicated  
11 that Trudy was a very punctual individual; is that an accurate  
12 statement?

13 A No, I don't think that she was--let's say, with  
14 reference to taking me and picking me up. I don't know anything  
15 about her past. I'll just say with reference to taking and  
16 picking me up she was punctual. That's all I'll say.

17 Q During this time that some of the girls were  
18 working at the Crystal Bay Club and some of the girls were  
19 working at the Club Cal Neva, what kind of arrangements did  
20 you have as to who was to make the necessary trips back and  
21 forth from the Kingswood Condominium to the place of work?

22 A You mean were there definite arrangements made?  
23 Were they consistent with what we did? Would the same people  
24 take us and pick us up, and so forth? Is that what's you're  
25 saying?

26 Q Right.

27 A It was done, you know, a day at a time, because like  
28 there were three different cars there, and it would depend  
29 upon what you were doing that day. It was a very day by day  
30 thing. It was not a consistent thing, that I'll pick up da da da.

1 But this particular day we had made an arrangement. And we  
2 made an arrangement every single day. Before we went to work  
3 it was taken care of. But it was not consistent.

4 Q Well everyday then in other words one or other  
5 of the girls would provide a car so somebody would get back  
6 and forth to work?

7 A Yes. Generally it was Marlayne's car. Like  
8 Rayette took me a few times, or her car was used a few times.  
9 Carol Pierce never took me. And Carol Cochran, I don't remember  
10 of her taking me. I remember her taking me home that one time,  
11 but I don't remember Carol Cochran ever taking me.

12 Q Now, the District Attorney asked you when was the  
13 last time you saw Trudy Hiler, and you indicated that it was  
14 sometime Wednesday afternoon, and you're not sure whether or not  
15 at that time you were just going to bed or getting up, but you  
16 remembered seeing her; is that correct?

17 A No, I didn't say that. I said I saw her that  
18 afternoon. And I usually go to bed, and I can't remember that  
19 day if I went to bed after they left or if I went to bed about  
20 a half hour after they left. I can't remember, because I  
21 usually go to bed after they leave.

22 Q Did you make some arrangements at that time before  
23 you went to sleep for Trudy to pick you up after work?

24 A Yes, before I went to bed. Yes, it was always made  
25 before I went to bed.

26 Q At the same time you indicated Trudy wasn't feeling  
27 very well; is that correct?

28 A Yes.

29 Q And you indicated that she had been to a doctor a  
30 few days prior to this time?

1           A       That day.

2           Q       She had been to the doctor that day?

3           A       Yes.

4           Q       And that was a Wednesday or a Thursday?

5           A       It was a Wednesday.

6           Q       It was Wednesday?

7           A       It was Wednesday, yes.

8           Q       Did Trudy feel that she couldn't go to work that

9 night because of the condition she was in? Did she discuss it

10 at all?

11          A       I think, from what I picked up--I mean, like I can't

12 say, you know, for sure, but to me, the impression I got from

13 her was she wouldn't, you know, generally take off from work, unless

14 she really felt that she was going to be on her death bed and die

15 that day. She was pretty, you know, what is the word-- conscien-

16 tious.

17          Q       Was she concerned?

18          A       Concerned about what?

19          Q       Well, you indicated she had an infection and a cold.

20 Was she concerned about that?

21          A       Yes, she was, obviously. She went to the doctor.

22          Q       Did she relate to you any kind of news when she came

23 back from the doctor?

24          A       I don't want to say for sure, because I didn't take

25 down any conversation, and I don't remember exactly what was

26 said, and I don't want to commit myself.

27          Q       Did she tell you something after she returned from

28 the doctor?

29          A       I don't remember whether she told me, or whether she

30 told the group. I don't want to say.

1 Q Let me ask you why you don't want to say?

2 A Because I'm afraid you could trip me up.

3 Q I assure you, Miss Lindner, it's not my point here  
4 to do anything as underhanded, to try to deceive you or trick  
5 you in any manner. All we're trying to do is to bring out the  
6 facts as they exist.

7 A I know, but --

8 Q And if you know something we would ask you to let  
9 us know, have the benefit of your knowledge, and let the  
10 jury have the benefit of your knowledge.

11 A But if I don't know, then why should I try to  
12 guess?

13 THE COURT: Miss Lindner, it's perfectly all right  
14 for you to answer questions, "I do not know", if you do not  
15 know. And they need ask you nothing further on that subject.  
16 If you do know, you should give the answer.

17 THE WITNESS: Like what if I have an idea, but  
18 like it's not positive, and if they start questioning me again,  
19 I have a fear, now, like I'm not --

20 THE COURT: If you do not know, say you do not know.

21 THE WITNESS: Okay. I don't know.

22 BY MR. GRELLMAN:

23 Q Let me ask you this question, Miss Lindner: Has  
24 anybody advised you that the defense attorneys are going to  
25 try to trip you up when you get on the stand?

26 A No. But I was advised to be really sure about  
27 what you say, and if you have any doubt, don't say anything.

28 Q Who gave you this advice?

29 A Mr. Rose.

30 Q Don't you think, Miss Lindner, that the defense is

1 entitled to bring out all the facts?

2 A Sure.

3 Q And the jury is entitled to hear all the facts?

4 A But I think, on the other hand, that what I say  
5 should be the truth. And I have any doubt, I don't think that  
6 I should say anything that there's any doubt in my mind about.

7 MR. ROSE: Your Honor, I think she said she didn't  
8 know. And I think that concludes the matter.

9 THE COURT: That was the answer to the last question,  
10 Mr. Rose. If you have an objection, please make it, and I'll  
11 rule on it.

12 MR. ROSE: I'll object to talking about truth,  
13 your Honor. We are all here under oath, and hopefully doing  
14 our duties, and I think this line of questioning is improper.

15 THE COURT: The objection is sustained to the last  
16 question.

17 BY MR. GRELLMAN:

18 Q Miss Lindner, let me ask this question point blank:  
19 Did Trudy come back from the doctor and tell you what the  
20 results of that examination were?

21 A No.

22 Q Did she tell anybody else in the apartment what the  
23 results of that diagnosis were?

24 A All I could say is she told me she did, but I'm  
25 going on their word. I didn't hear them, so can I say yes to  
26 that? I don't know.

27 Q Who was the they that told you?

28 A I don't know which roommates. Somebody told me.  
29 I can't say which ones, because I don't really know. All I  
30 know is some of them told me. See, I guess I'm confused as to

1 what I'm allowed to say and not allowed to say. I have never  
2 been in court before. I don't know.

3 Q Let me say that the judge will instruct you, if  
4 anything is improper, and the District Attorney will make an  
5 objection. You are just to answer my questions. I will assure  
6 you again we are not trying to trick you or deceive you in any  
7 way.

8 A Okay.

9 Q You have indicated that Trudy was a very honest  
10 and very open person. Is that correct?

11 A Yes.

12 Q Was she very honest with you?

13 A (Witness nods affirmatively.)

14 Q Did she tell you where she was going, what she was  
15 going to do, and what she was involved in?

16 A (Witness nods affirmatively.)

17 Q On this particular day again --

18 MR. ROSE: Your Honor, could we have a recess?

19 THE COURT: Yes. We will take a brief recess here  
20 for about five minutes. The jury is instructed not to discuss  
21 the case among yourselves or with anyone else, and not to read  
22 any comments concerning the case.

23 (Short recess taken.)

24 THE COURT: Will counsel stipulate that the jury is  
25 present?

26 MR. ROSE: The State will so stipulate, your Honor.

27 MR. POLAHA: So stipulated, your Honor.

28 THE COURT: Before we proceed, Miss Lindner, I want  
29 to say one more thing in connection with testimony in court.  
30 The only thing that is expected of you is to tell the truth. And

1 if the truth is that you don't remember or you don't know, then  
2 that's the answer. You don't have to go any further.

3 THE WITNESS: Okay.

4 BY MR. GRELLMAN:

5 Q Miss Lindner, I realize that this is a very trying  
6 situation for all of us, the witnesses, the ladies and gentlemen  
7 of the jury, and the defendant. And I want you to know that I  
8 am purposely not in any way trying to make you feel uneasy.

9 A Okay.

10 Q I would apologize if I have said anything that has  
11 offended you. I see that you were talking to Mr. Rose out in  
12 the hallway out there, and I would certainly hope that Mr. Rose  
13 also gave you that same assurance, that we are not in any way  
14 trying to trip you up in any manner.

15 A He never said that.

16 Q What did he say?

17 A He said you guys were all good guys.

18 Q Mr. Rose asked you the question, and the question  
19 was basically like this: Did Trudy take any hallucinogenic  
20 drugs, or did she use any L.S.D.?

21 A Now, to your mind, what is an hallucinogenic drug?

22 A I guess anything that makes you hallucinate.

23 Q Have you ever had an hallucinogenic drug yourself?

24 A No.

25 MR. ROSE: Objection, your Honor. I don't know  
26 whether or not she has, and I don't feel it's relevant or  
27 material in this case.

28 MR. GRELLMAN: Your Honor, my reply to that would  
29 be how would she know what an hallucinogenic drug would be  
30 unless she was associated with them or had them or saw them, or

1 was at least familiar with them.

2 THE COURT: I am familiar with them, counsel, and I  
3 have never taken them. I don't think it's relevant whether  
4 she has taken any or not. But, if you want to find out whether  
5 she knows what they are, you may inquire.

6 BY MR. GRELLMAN:

7 Q Do you know what they are?

8 A Well, to my knowledge, like L.S.D. is an hallucino-  
9 genic drug, anything that makes you hallucinate. I haven't got  
10 the dictionary definition of "hallucinate", but I think I have an  
11 idea of what it is.

12 Q Did you ever have any of these type of drugs or  
13 hallucinogenics in your apartment?

14 MR. ROSE: I'll object to that, your Honor, again  
15 for the same reason, that I feel that we're talking about some-  
16 thing that's not relevant or material here. And for that  
17 reason I would object.

18 THE COURT: I think the question we're concerned  
19 with, counsel, to the extent that it has been opened up, is  
20 whether or not Trudy Hiler took any drugs on the occasion in  
21 question. And anything that is relevant to that question I  
22 think is relevant to this inquiry.

23 It seems to me that whether she had any in her  
24 possession might be a relevant question--not whether this witness  
25 did. You asked her whether she had any.

26 MR. GRELLMAN: Your Honor, I asked that question  
27 mainly because she has indicated she saw Trudy Hiler take no  
28 drugs. But maybe the question should be whether or not drugs  
29 have ever been present in the apartment they were jointly sharing.  
30 The fact that they could have been there, the fact that she



1 doesn't know that Trudy Hiler took the drugs, is the same  
2 question, your Honor.

3 THE COURT: I want you to try to limit your  
4 questioning to Trudy Hiler.

5 MR. GRELLMAN: I will, your Honor.

6 THE COURT: Drugs as they might have affected her  
7 on that particular occasion.

8 BY MR. GRELLMAN:

9 Q Miss Lindner, is there any way at all that you would  
10 be able to identify hallucinogenic drugs?

11 A I imagine they could look like any other pills,  
12 so probably not, because I'm not a doctor and I don't have the  
13 background of a chemist.

14 Q You really don't know of your own knowledge whether  
15 or not Trudy Hiler ever took hallucinogenic drugs?

16 A Let's say as far as I can remember, I don't ever  
17 remember of her putting anything in her mouth, like it was a  
18 pill. I don't think I ever remember of her putting an aspirin  
19 in her mouth. Can I put it that way, or not?

20 A No, Miss Lindner. I just asked the question, for  
21 a yes or no answer, whether or not of your own knowledge you  
22 had known that Trudy Hiler ever took an hallucinogenic drug?

23 A Now, to my own knowledge, do I know Trudy ever  
24 took an hallucinogenic drug?

25 Q Right.

26 A To my knowledge, I do not know.

27 Q And is it an accurate statement to say that you  
28 could not identify an hallucinogenic drug if it was brought  
29 into court and put upon the table?

30 A If a bunch of pills were put upon the table, I

1 probably could not tell, that's right.

2 Q All you know is that an hallucinogenic drug makes  
3 you hallucinate?

4 A Right. That's what I would think it did.

5 Q Did Trudy tell you prior to that time that she  
6 made the doctor's appointment why she was going to the doctor?

7 A Did she personally? Did Trudy personally tell me?

8 Q That is correct.

9 A No.

10 Q Do you have any knowledge at all of why Trudy Hiler  
11 went to the doctor on the 14th?

12 A As far as I understood, cold and yeast infection.  
13 That's what I was told later. I think my roommates told me--  
14 I don't know which ones, but I was told that it was a yeast  
15 infection, and the doctor said she had a yeast infection and  
16 a cold, and she was given some medication for it. I saw the  
17 prescription. Is that what you want to know?

18 Q Yes.

19 A Okay.

20 Q And how did you come by that knowledge?

21 A Roommates, but I don't think Trudy showed it to me,  
22 but I don't know. It's really so long ago, I don't remember  
23 which one showed me or told me.

24 Q Did you ever really have any sort of a friendly  
25 relationship with Trudy, where she would confide in you, tell  
26 you things?

27 A As I said, she was pretty open with everyone. I  
28 wouldn't consider myself closer to her than all the other girls,  
29 because I didn't work the same shifts. I had different hours  
30 than her, and I knew her a shorter period than three of the girls.

1 So--wait. Rayette knew her longer, Carol Pierce knew her  
2 longer, Marlayne knew her longer. That's three. Carol Cochran  
3 and I knew her the shorter period. I think Carol knew her  
4 better than I, and was closer to her because they worked the  
5 same shift. Is that what you're asking.

6 Q Yes. You indicated earlier that Trudy was very  
7 open and very truthful, and she would confide in people, as  
8 to what her plans were.

9 A I didn't mean me in particular. Just us as a whole,  
10 because I wasn't her closest friend, you know.

11 Q You indicated that you found out she had a yeast  
12 infection. What is that?

13 A I don't know.

14 Q You indicate that with some hesitance, Miss Lindner.

15 A Because I don't know. I feel like I should know,  
16 but I don't.

17 Q The night that you made arrangements for Trudy to  
18 pick you up, you indicated earlier that you were working the  
19 2:00 to 10:00 shift, that's on Thursday morning, the graveyard  
20 shift; is that correct?

21 A I was working 2:00 to 10:00?

22 Q Right.

23 A Right.

24 Q And Trudy was working the swing shift on the day  
25 before, which was Wednesday, and that was 5:00 to 1:00 a.m.,  
26 is that correct?

27 A Right.

28 Q When did you first become concerned when Trudy  
29 failed to make the arrangements to pick you up?

30 A When I woke up and she wasn't there, because I don't

1 know, for some reason that night I didn't--I usually wake up  
2 around 1:00 o'clock or 1:30, just automatically, for some  
3 reason or another I have always been able to do that. And  
4 this particular night I didn't wake up until 2:00 o'clock, and  
5 I looked at the clock and kind of freaked, and I thought, wow,  
6 it's time for me to be at work.

7 So, without looking at Trudy's room or anything  
8 I ran upstairs and called the Cal Neva and asked if Trudy  
9 was there. And they said, "No. She has left to pick you up,  
10 apparently"--is that what you want to know?

11 Q Yes. How soon after 2:00 o'clock did you call the  
12 Club looking for her?

13 A Right then. I think it was around 2:00 o'clock,  
14 I remember that. I remember looking at the clock, and I think  
15 it was 2:00 o'clock, you know. That's pretty much the time.

16 Q Now, you indicated that during this period of time  
17 there were three different automobiles used to drive back and  
18 forth from the condominium to work?

19 A Well, Marlayne's was used almost all the time.

20 Q What kind of car was that?

21 A It was a dark green car, and I think it was a  
22 Mustang, but I'm not positive. I don't know. It was a dark  
23 green car.

24 Q Did you all mutually drive that car?

25 A I didn't like to drive it, so I generally didn't  
26 drive it.

27 Q Why didn't you like to drive it?

28 A Because I don't like to drive cars that aren't my  
29 own, I mean that aren't my family's, that I'm not used to driving.  
30 I'm terrible about adjusting to new things, and I don't like

1 to adjust to new cars.

2 Q Was there anything else about that car that you  
3 didn't like about it?

4 A Yes. The clutch, I guess it was, I think you  
5 always had to--I think it was the clutch. I don't know much  
6 about cars at all, but I think you had to put it out each  
7 time you drove it. No, I guess it was the brake. I don't know,  
8 I think it was the brake. There's something about it that you  
9 had to pull something. I don't know. I only drove it once  
10 or twice. I didn't drive it many times.

11 Q Was this a standard car or automatic car or stick  
12 shift?

13 A I think it was an automatic. I only drove it two  
14 or three times.

15 Q You had troubles driving that car; is that correct?

16 A Yes, but I would probably have trouble driving any  
17 car, though.

18 Q Did you, the few times you drove that car, think  
19 it was in good operating condition?

20 A It depends upon your definition of good.

21 Q Well, average?

22 A I don't know what to compare it to. I don't know  
23 what your definition of good is. That's kind of vague to me.

24 Q You indicated just now you had problems possibly  
25 with the clutch, that you had to reach down and pull it out,  
26 or what?

27 A Or whatever it was. I can't even remember which  
28 part of the car it was. I don't know.

29 Q Do you happen to remember if that car was the type  
30 of car you had a gearshift on the handle or one on the floor?

1           A       I know what a stick shift is, and I know what an  
2 automatic is, but I don't remember what that car was.

3           Q       Just a couple of brief more questions here. Did  
4 Trudy, prior to the time that she went to the doctor, indicate  
5 to you any general area of her body that she was having problems  
6 with?

7           A       No.

8           MR. GRELLMAN: Your Honor, I have no further questions  
9 at this time.

10                               REDIRECT EXAMINATION

11 BY MR. ROSE:

12           Q       Just one or two questions. Defense counsel asked  
13 you whether or not Trudy would tell you things, and I believe  
14 you responded "Yes." Did she ever tell you with regard to her  
15 feelings on drug use?

16           A       Yes.

17           Q       What was that?

18           A       Well, before I was stopped on saying that. I was  
19 trying to say it.

20           THE COURT: You may answer the question.

21           A       I'm confused. Okay.

22                   Well, she was a transcendental meditator, and she  
23 explained to me that meditators that dope and drugs do not go  
24 along with meditation, that it inhibits their meditating, and  
25 they can't think as clearly, so they do not take drugs. And  
26 she was totally for herself. She didn't force her views on  
27 anybody else.

28                   But, as far as she was concerned, she didn't think  
29 they were healthy for her because of her meditating.

30           MR. ROSE: Thank you, Carol. I have no further

1 questions.

2 RECROSS-EXAMINATION

3 BY MR. GRELLMAN:

4 Q Carol, just briefly, a couple more questions. I  
5 don't want to belabor this subject, but the District Attorney  
6 asked you the question if Trudy Hiler related to you any of her  
7 feelings on drug abuse, and you responded to that. What does  
8 drug abuse mean to you? The word "abuse" means to me that  
9 the person that has the privilege abuses it.

10 A To me drug abuse means taking drugs that are  
11 against the law.

12 Q All right. Now, in response to that, did Trudy  
13 ever say anything to you about taking drugs that were against  
14 the law?

15 A You mean did she think that I should take them, or --

16 Q No. Just her personally. That's what the question  
17 was.

18 A Yes. Yes, for herself. She was against taking  
19 drugs because of being a meditator.

20 Q Was that any drugs at all?

21 A Yes. Well, grass, anything like that--okay. I'm  
22 sure she could take an aspirin, I'm sure it wasn't, you know,  
23 going to kill her. If she had a headache, I'm sure she would  
24 take an aspirin. Is that what you're getting at? Or taking  
25 drugs when you're sick? She wasn't like the religions that  
26 don't allow you to go to the hospital and that. Things that  
27 would affect her mind, I think like bodily things to cure his  
28 physical being, she would take. Is that what you're getting at?

29 Q That's correct. Do you know whether or not she  
30 ever took any medication while she was staying with you, any

1 kind of medication?

2 A I didn't watch her or examine her every day, so no.

3 Q On the same hand, you don't know whether she did  
4 take anything at all; is that true?

5 A All I know is what she told me.

6 Q Did she ever specifically state to you, "Carol, I  
7 never took any drugs before?"

8 A No, she never said that. She said, "Carol, I do  
9 not take them now." She didn't say about her past. She  
10 never discussed her past or her future, you know. Just the  
11 present.

12 Q Do you happen to know of any type of medication  
13 that she happened to be under?

14 A No.

15 Q You indicated she went to the doctor and returned,  
16 and that she had a prescription?

17 A I saw a prescription, but it was so scribbled out,  
18 you know how doctors write, I couldn't read it.

19 MR. GRELLMAN: I have no further questions, your  
20 Honor.

21 MR. ROSE: I have no questions, your Honor.

22 THE COURT: You may step down.

23 MR. ROSE: May this witness be excused, your Honor.

24 THE COURT: She may, unless counsel wishes to  
25 recall her.

26 MR. POLAHA: Your Honor, we would appreciate knowing  
27 her whereabouts.

28 MR. ROSE: She will be in California. It will  
29 take a day to get her back up here, your Honor.

30 THE COURT: Well, as long as we are able to get her



1 if it becomes necessary. Just keep Mr. Rose informed of your  
2 whereabouts, so if we should need you again we can get in  
3 touch with you.

4 THE WITNESS: Surely.

5 THE COURT: Thank you.

6 (Witness excused.)

7 MR. ROSE: Our next witness, your Honor, will be  
8 Carol Cochran.

9 CAROL COCHRAN

10 called as a witness on behalf of the State,  
11 and being first duly sworn herein, testified  
12 as follows:

13 DIRECT EXAMINATION

14 BY MR. ROSE:

15 Q Please state your full name and address.

16 A Carol A. Cochran, 7349 Knob Hill Drive, Carmichael,  
17 California.

18 Q What is your present occupation?

19 A Student.

20 Q And how far along are you in your studies?

21 A I'll be graduating in summer school.

22 Q Graduating with what type of degree?

23 A With a double major in sociology and psychology.

24 Q Did you know Trudy Hiler?

25 A Yes.

26 Q When did you get to meet her?

27 A I met her in late April or early May, in Chico.

28 Q Did you come to Lake Tahoe last summer to work?

29 A Yes, sir.

30 Q And with whom did you come?

1           A       Just alone.

2           Q       And when you got there who was there?

3           A       Let's see. Rayette Zych was there, and actually

4 I was the last one. Carol Pierce, Carol Lindner, Marlayne

5 Weider and Trudy Hiler.

6           Q       Where were you staying?

7           A       Kings Wood Village.

8           Q       How far is that from the Cal Neva?

9           A       Well, a mile and a half to two miles, I'd say.

10          Q       And you girls were working at the Cal Neva on July

11 15th, were you not?

12          A       Right.

13          Q       Okay. When did you leave the Lake Tahoe area?

14          A       On July 16th, That was on Saturday.

15          Q       The day after Trudy became--that was the 17th.

16          A       Okay. It was the 17th, the day they found her body.

17          Q       On Wednesday, July 14, 1971, what shift were you work-

18 ing?

19          A       Swing shift.

20          Q       And when you say "swing" what does that mean?

21          A       That's 6:00 p.m. to 2:00 a.m.

22          Q       That would be 6:00 p.m. on Wednesday to 2:00 a.m.

23 on Thursday morning?

24          A       Right.

25          Q       And were any of the other girls working with you?

26          A       Yes. Rayette Zych and Marlayne Weider and Trudy

27 Hiler, and Carol Pierce worked, too, but she wasn't a change

28 girl. She was a Keno runner.

29          Q       Do you know what hours Trudy was working?

30          A       She worked 5:00 to 1:00.

1 Q Did you see Trudy when you came to work that evening?

2 A Yes. She was about the first person I saw.

3 Q And what time did you come to work on Wednesday  
4 evening?

5 A It was around ten after 6:00. I came straight from  
6 Sacramento.

7 Q Did Trudy appear anything other than normal and  
8 usual to you?

9 A No, not really. She was worried about me because  
10 I was late for work and hadn't been home yet.

11 Q And did she say anything to you about her physical  
12 condition at that time?

13 A Not right then. Later in the evening she said that  
14 she was tired and that she had a cold.

15 Q Did you see Trudy Hiler leave?

16 A No.

17 Q Did you call Carol Lindner or did Carol Lindner call  
18 you early in the morning of Thursday, July 15th?

19 MR. POLAHA: I'll object at this point. I have let  
20 the leading questions come in until now. It's improper on  
21 direct examination for the District Attorney to use leading  
22 questions.

23 THE COURT: The objection is sustained.

24 BY MR. ROSE:

25 Q Did you make any phone calls in the early morning  
26 hours of July 15th?

27 A Yes. I called home to see why Carol Lindner hadn't  
28 gotten to work yet, about 1:45. Actually, it was probably a  
29 little bit earlier, because I got off work early.

30 Q Then what did you do?

1           A       I just sat around for a little while, and then  
2 there was a page for Trudy Hiler, so I picked that up, and it  
3 was Carol Lindner, and she wanted to know where Trudy was  
4 with the car.

5           Q       What did you do then?

6           A       Well, since Trudy hadn't gotten there, I went back  
7 and picked her up at our home.

8           Q       And then what did you do after you picked her up?

9           A       Then I brought her back to Cal Neva. And Marlayne  
10 got off work then, and we left together.

11          Q       When you say "we left together", who left together?

12          A       Marlayne Weider and I.

13          Q       What did Carol Lindner do?

14          A       She started working graveyard shift.

15          Q       Now, you stated that you and Marlayne left. Where  
16 did you go?

17          A       We started out of the parking lot, and then we  
18 saw Marlayne's car, and then we stopped and I put my headlights  
19 on the car so that we could see it, and we checked out the car.

20          Q       Okay. Now can you tell us where that car would  
21 be, where that car was located?

22          A       It was in the employee's parking lot, about the  
23 middle.

24          Q       And were there other cars around it?

25          A       Not very many. It was fairly empty, the lot.

26          Q       Did you have a chance to observe that car that  
27 evening?

28          A       Yes.

29          Q       Do you recall what time that would be, approximately?

30          A       It must have been around 2:15 or so, between 2:00

1 and 2:15, I'd say.

2 Q Could you tell me what you observed with regard  
3 to that car?

4 A The brake lights were on, and the clutch was stuck,  
5 was depressed, and I didn't know it was the driveshaft at the  
6 time, but that was on the ground, and the chrome around the  
7 wheel was bent up.

8 Q When you say the wheel, do you mean the tire wheel  
9 or the driving wheel?

10 A The driving wheel, steering wheel.

11 Q Would that be the horn rim?

12 A I guess, the chrome around it.

13 Q What did you then do?

14 A Then we thought, well, you know, maybe she had  
15 had car trouble. So we went up and we went to the Crystal Bay  
16 Club and we asked someone there if they had seen her. Then  
17 we went over to the Nevada Lodge, and we had her paged. I  
18 think we had her paged in Crystal Bay, too, but I'm not positive.  
19 And then we came back.

20 I guess I left out the part about talking to the  
21 Placer County Police in the parking lot when we found the car.

22 Q Okay. So shortly after you found the car you said  
23 you talked with the Placer County police?

24 A Yes. He was cruising the parking lot and we  
25 talked to him.

26 Q Were they Sheriff's officers from Placer County?

27 A Yes.

28 Q And what did you tell them?

29 A Just about the condition of the car, and how Trudy  
30 was supposed to go home and pick up Carol Lindner, and how she

1 never got home.

2 Q And then would you tell us again what you did after  
3 that?

4 A Then we went to the Crystal Bay Club, and then we  
5 went to Nevada Lodge and came back to Cal Neva to see if she  
6 had come back there. And then we went home.

7 Q Do you recall approximately what time you arrived  
8 home that morning?

9 A It was probably about a quarter of 3:00, but I'm  
10 not sure.

11 Q Now, was this a standard routine practice to go pick  
12 up one girl?

13 A Right, yes.

14 Q And how long had this practice been going on?

15 A Well, probably--I had only been there four weeks  
16 when that happened, and I, you know, was told that it had gone  
17 on before, but I just observed it for four weeks.

18 Q Did Trudy ever not show up to pick someone up at  
19 the appointed time?

20 A No, never.

21 Q Was she reliable?

22 A Yes.

23 Q During your brief stay last summer at Lake Tahoe  
24 did you ever see Trudy Hiler take any narcotics, hallucinogenics  
25 or any dangerous drugs?

26 A No.

27 Q Did she ever express an opinion to you with regard  
28 to the use of drugs during that summer?

29 A Yes. She said that she liked things that were  
30 natural, and she was into meditation, and that kind of went

1 against it to take drugs.

2 Q Do you know whether or not Trudy ever carried a  
3 pocket knife in her purse?

4 A I don't know, but I don't think so. I never observed  
5 one.

6 MR. ROSE: Thank you, Carol. I have no further  
7 questions of this witness, your Honor.

8 CROSS-EXAMINATION

9 BY MR. GRELLMAN:

10 Q Miss Cochran, you have indicated that you only  
11 knew Trudy for a short period of time; is that correct?

12 A Right.

13 Q Did you and Trudy go to school at Chico State?

14 A No. I go to Davis.

15 Q You go to Davis?

16 A Yes.

17 Q And then your first acquaintance with Trudy was  
18 when you moved up to Lake Tahoe; is that it?

19 A No. I first met her on Pioneer Week in late April  
20 or early May.

21 Q That's a festive date at Chico State College?

22 A Yes. A festive week, actually.

23 Q Did you make any arrangements at that time as to  
24 what type of jobs you would have here in the summer?

25 A Yes. Actually, I found out from Rayette about the  
26 change girl jobs, that it would be possible we could all live  
27 together because they needed some new roommates, some more  
28 roommates. But I didn't know at that time that I had a job,  
29 but I thought about it, you know, about getting the job.

30 Q When did you first go to work at Lake Tahoe, do you

1 remember?

2 A I think it was around June 30th.

3 Q And Trudy and the other girls were already there?

4 A Yes.

5 Q And you indicated you were the last girl to arrive?

6 A I was, yes.

7 Q When you first went to work there, what position

8 were you employed at?

9 A Change girl.

10 Q Was that in the Crystal Bay Club or the Cal Neva

11 Club?

12 A Cal Neva.

13 Q Now, what shift did you generally work while you

14 were there?

15 A Swing.

16 Q Is that the whole time that you were there?

17 A Right.

18 Q The District Attorney asked you the question about

19 Wednesday night, July 14th. At that time you were returning

20 from Sacramento; is that correct?

21 A Right.

22 Q Did you have the two days off before that?

23 A Yes. I left actually about 5:30 on Monday morning,

24 and then I left Sacramento about 4:00 o'clock.

25 Q Did you happen to see Trudy on that Monday morning

26 before you left?

27 A No. They had left earlier. She and Marlayne had

28 gone to a party for her parents, an anniversary for their truck-

29 ing firm.

30 Q Did you know where that party was?



1           A       It was in Sonoma, I think.

2           Q       So that was the last time that you saw Trudy, was

3 that morning prior to going to work on the Wednesday night?

4           A       Actually, the last time I saw her was when I

5 was working and they were leaving.

6           Q       Now, on Wednesday night, when you came in from

7 Sacramento, did you stop by the apartment, or did you go

8 directly to work?

9           A       No. I went directly to work.

10          Q       And what was your shift that evening?

11          A       It was swing shift.

12          Q       That was 6:00 to 2:00, or 5:00 to 1:00.

13          A       That was 6:00 to 2:00.

14          Q       At that time you indicated that Trudy expressed

15 a concern because you were late; is that right?

16          A       Right.

17          Q       And during the evening did you work in the same

18 capacity as she did, as change girl?

19          A       No. She worked in the Play Room, for part of the

20 time.

21          Q       And what was her job in the Play Room.

22          A       I think she made change for the machines that

23 were in there, for kids that would play them there, while

24 their parents gambled.

25          Q       During that evening did you have an opportunity to

26 go into the Play Room? Did you have any breaks together?

27          A       No, I never went in there.

28          Q       Did you have any breaks together?

29          A       I don't think so. I'm not positive, but I don't

30 think we had any together.

1 Q How did you happen to talk to Trudy to find out that  
2 she wasn't feeling well, that she had a cold and she was tired?

3 A Just off and on during the evening, we would see  
4 each other. We wouldn't see each other as much as I usually  
5 did during work, but I just, you know, did see her a little bit.  
6 When I first came in, at about ten after 6:00, she was, you  
7 know, working on the floor as a change girl right then, before  
8 she went into the Play Room. And that's, you know, probably  
9 when she told me.

10 Q Did Trudy make any statements to you about going  
11 to a doctor that day?

12 A Yes.

13 Q Did she tell you why she went to the doctor?

14 A Yes.

15 Q What was that reason?

16 A She had a yeast infection.

17 Q And what is a yeast infection?

18 A I guess it's in your uterus or something, yeast  
19 just starts growing. I don't know that much about it.

20 Q Did she say because of this infection that was  
21 the reason why she was tired and had a cold?

22 A No. I think it was something different.

23 Q You have indicated that later you heard a page for  
24 Trudy. Is that correct?

25 A Right.

26 Q And that you answered that page. My question is  
27 how long was the page before you picked it up?

28 A You mean timewise?

29 Q Right.

30 A Or the number of times they called her name? I

1 would probably say around two minutes.

2 Q Was that a constant page, or did they page her  
3 several times?

4 A Once or twice they called her name.

5 Q Was it a common practice for the girls that were  
6 living together, if someone was paging the other one, to pick  
7 up the phone and answer it?

8 A No. The reason I did was because Carol Lindner  
9 hadn't arrived at work, so I figured that Trudy must not have  
10 gotten home.

11 Q Now, the District Attorney has asked you with  
12 regard to whether or not you saw Trudy Hiler take any dangerous  
13 drugs, any hallucinogenics or any narcotics. Do you remember  
14 that question?

15 A Yes.

16 Q And your response was no. Would you be able to  
17 identify a dangerous drug or a narcotic or an hallucinogenic  
18 if you saw it?

19 A Not necessarily. I never saw her take any drug.

20 Q And you wouldn't be able to say that you never  
21 saw her not take any drugs?

22 A I would be able to say I never saw her take any  
23 drug.

24 Q Now, in regards to this indication that she was  
25 a transcendental meditator, or a person that meditates, was  
26 this something that was spontaneously volunteered by Trudy,  
27 or how did she tell you about this?

28 A A lot of times in the morning we would get up and  
29 we would talk about, you know, religion and things like that.  
30 And I'm kind of into Christianity, and so I talked about that.  
And so she would tell me about meditation.

1 Q What did she specifically say with regard to  
2 meditation?

3 A Just that, you know, it had a calming effect on her,  
4 you know.

5 Q Did Trudy volunteer this? Did she start the  
6 conversations, or what?

7 A I think it was, you know, half and half. It was  
8 just natural. We would just start talking about things, and  
9 books we had read, and things like that, and then we would get  
10 into it.

11 Q Miss Cochran, did you have an opportunity to drive  
12 to work in the Weider car, Marlayne Weider's car?

13 A You mean the Mustang, Marlayne's car?

14 Q Right.

15 A I don't think I ever went to work in it, but I have  
16 ridden in it.

17 Q Did you ever drive it?

18 A No.

19 Q You indicated the time after you went out and picked  
20 up Miss Lindner, that you returned her to work, and then you  
21 and Marlayne left. Is that correct?

22 A Yes, sir.

23 Q That was in your car?

24 A Right.

25 Q What kind of car is that?

26 A '68 Firebird.

27 Q And you went to the employee's parking lot, and you  
28 saw the car in the employee's parking lot; is that correct?

29 A Yes.

30 Q Would you kind of describe that car for me, the  
make and model?

1           A       It's kind of dark green, a Mustang, and I'm not sure,  
2 but I think it might be a '66 or '67. I'm not sure of the year.

3           Q       Do you happen to know anything mechanically about  
4 the car, like whether it was an automatic transmission or  
5 stick shift?

6           A       It was a stick shift.

7           Q       Was it one of those cars with a souped up engine  
8 in it, do you know?

9           A       No, it wasn't.

10          Q       That was Marlayne's car, and she was with you at  
11 the time; right?

12          A       Which time? When we found the car?

13          Q       When you saw the car and pulled up and shone your  
14 headlights on it?

15          A       Right.

16          Q       You made the comment as to something about  
17 apparently Trudy must have had trouble with the car?

18          A       Yes.

19          Q       Did Marlayne ever say anything to you that she  
20 had trouble with this car before?

21          A       I can't remember specifically, but it seems like  
22 the car didn't really run that well. But the reason that we  
23 said that was because we saw the driveshaft on the ground.

24          Q       Do you know if any of the other girls you were  
25 rooming with ever drove that car?

26          A       Trudy drove it, I know. I was with her once when  
27 she drove it.

28          Q       Did she ever have any trouble driving the car at  
29 that time?

30          A       No.

1 Q How soon was it after you first observed the car  
2 and noticed it was in trouble before you saw the police?

3 A I'd say probably ten minutes--well, five to ten  
4 minutes.

5 Q Do you happen to know what type of police vehicle  
6 they had that night? Can you describe the color for me?

7 A I'm not sure. It was probably white or green.  
8 Placer County would, you know, go through the parking lot  
9 every night.

10 Q Is Placer County in California?

11 A Yes.

12 Q And where is the Cal Neva located?

13 A It's right on the line between California and  
14 Nevada.

15 Q And are you sure it was a Placer County car?

16 A Yes.

17 Q It couldn't have been a Washoe County Sheriff's  
18 car?

19 A No.

20 Q Why are you so positive?

21 A I just remember, you know, that that's who we  
22 talked to first. And they were usually the ones that used  
23 the parking lot.

24 Q Did they take any report or any statements from you  
25 at that time?

26 A He didn't take any--I'm not sure. I think he  
27 wrote down some things, but I'm not sure exactly what.

28 Q After you talked with the Sheriff--approximately how  
29 long did you talk with him? Was it about ten minutes or so?

30 A Five to ten minutes.

1 Q Did he seem concerned or anything?

2 A Not as concerned as we were, because he didn't know  
3 Trudy, he didn't know that she was reliable.

4 Q After that you went out to the different clubs and  
5 had her paged, and were unsuccessful; is that right?

6 A Right.

7 Q Did you return back to the car, or from there did  
8 you go back home?

9 A We returned to Cal Neva, and we went in to see if  
10 anyone had seen her in there. Then we left the parking lot,  
11 but we didn't go back to the car.

12 Q Did Marlayne Weider make any arrangements for the  
13 car, to have it fixed or anything?

14 A Not that I know of. You mean before this happened  
15 or --

16 Q Well, I mean after you found the car was broken,  
17 did she call the tow truck or anything?

18 A No, not yet. We were most concerned with Trudy and  
19 not the car.

20 MR. GRELLMAN: I have no further questions.

21 MR. ROSE: I have no further questions of the  
22 witness, your Honor.

23 THE COURT: You may step down.

24 MR. ROSE: May this witness be excused?

25 MR. POLAHA: Yes, she may be excused, your Honor.

26 THE COURT: All right, you are excused.

27 (Witness excused.)

28 MR. ROSE: The State's next witness will be  
29 Marlayne Weider.

30

--

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

MARLAYNE WEIDER

called as a witness on behalf of the State,  
and being first duly sworn herein, testified  
as follows:

DIRECT EXAMINATION

BY MR. ROSE:

Q Please state your full name and address.

A Marlayne Louise Weider, 540 Michael Drive, Sonoma,  
California.

Q What is your occupation now?

A Student, and I work in the cafeteria at school.

Q Where is that?

A Sonoma State College.

Q And how far along are you with your studies?

A I'm in my fifth year, and I am going to graduate in  
June.

Q And what is your major?

A Art.

Q Did you come to work at Lake Tahoe that summer?

A Yes.

Q And could you tell me approximately when you came  
to Lake Tahoe?

A The first week in June, like the 5th.

Q Would that be of 1971?

A Yes.

Q And how long did you stay at Lake Tahoe?

A Until the day they found Trudy's body.

Q And where did you stay?

A At Kings Wood Estates, at Kings Beach, the condominium.

Q Was that in California?



1 A Yes, Kings Beach, California.  
2 Q How far is that from the Cal Neva Lodge?  
3 A I would say approximately a mile and a half.  
4 Q Now, who were you staying with?  
5 A Trudy Hiler, Carol Cochran, Carol Lindner, Carol  
6 Pierce, and Rayette Zych.  
7 Q And where were you working during that summer period?  
8 A At the beginning of the summer I worked at Crystal  
9 Bay Club for about--I think it was for about a month. Then I  
10 was switched over to the Cal Neva for a different job.  
11 Q On July 14th had all the girls been switched over  
12 to the Cal Neva Lodge?  
13 A Yes.  
14 Q What shift were you working on July 14, 1971, which  
15 was a Wednesday?  
16 A 6:00 p.m. to 2:00 a.m., swing shift.  
17 Q And that would mean that you would start on the  
18 evening of July 14th and go to the morning of 2:00 p.m. on the  
19 15th?  
20 A Yes.  
21 Q And do you know what shift Trudy was working?  
22 A She worked 5:00 p.m. to 1:00 a.m.  
23 Q Did you see Trudy get off work the early morning  
24 hours of July 15th?  
25 A Yes.  
26 Q And when was that?  
27 A It was probably about 12:30. She usually got off  
28 a little bit early.  
29 Q Why was that?  
30 A Well, you came in at a quarter to the hour and got

1 off at a quarter to the hour. And if it was slow, then you  
2 would get off, you know, at 1:30, or the half an hour before.

3 Q And the time that she got off on this occasion  
4 was when?

5 A About 12:30 or a quarter to 1:00, somewhere in  
6 that time.

7 Q And did you have any conversation with her before  
8 she left?

9 A Yes. She was going to drive my car to pick up  
10 Carol Lindner. So I gave her the keys to the locker where  
11 we kept our purses. And usually she would pick up Carol and  
12 drive her back to work, and pick up me. But she was tired,  
13 so she said that she would give Carol the keys and Carol could  
14 drive herself back and give me the keys, and I would drive back  
15 home.

16 Q Did she say why she did not want to drive Carol  
17 Lindner back?

18 A Yes. She said she was tired, and she just wanted  
19 to go home and go to sleep. She had a sore throat, she didn't  
20 feel good.

21 Q At that time when she was leaving, did you have  
22 the opportunity to observe her demeanor and appearance?

23 A Yes.

24 Q Was there anything unusual or not rational about  
25 it?

26 A No. She looked like she usually did.

27 Q Marlayne, I would like you to examine what has  
28 been marked State's Exhibit A, for identification, which is a  
29 set of keys on a chain, and tell me if you can identify them?

30 A These were my keys that I gave to Trudy to take my

1 car home.

2 Q And are all the keys on that ring as you gave them  
3 to her?

4 A Yes.

5 Q And those are the keys that you gave to Trudy at  
6 about 12:30 a.m. on July 15, 1971?

7 A Yes.

8 Q And what car was Trudy going to use to get to the  
9 apartment?

10 A The Mustang.

11 Q And that would be your Mustang, would it not?

12 A Well, it's registered to my father's company, but  
13 he bought it for us kids.

14 Q And did you have the use of that car for the entire  
15 summer?

16 A I got the car about two or three weeks after I  
17 moved up there, and I had it for the entire summer.

18 Q What condition was the car in?

19 A I don't understand.

20 Q What mechanical condition? Was it in good condition,  
21 or was there anything wrong with it?

22 A The motor was fine, but the brake light stuck and  
23 the clutch pedal stuck.

24 Q Do you know whether or not someone went to get Carol  
25 Lindner?

26 A Yes. Carol Cochran did.

27 Q And do you know when she left to pick up Carol Lindner?

28 A Not exactly. I'd say it was about a quarter to 2:00.

29 Q And did the two of them return to the Cal Neva Lodge  
30 shortly thereafter?

1 A Yes.

2 Q And what then occurred?

3 A Carol Cochran came in to give me a ride home, because  
4 I had no way to get home, and we were going to just drive home  
5 and see if perhaps she had had an accident or something. So  
6 on the way out we drove by the employee's parking lot, and I  
7 noticed that the lights were on, that there was lights on the  
8 parking lot, and there was lights on my car --

9 Q Excuse me. When you say lights on your car, what  
10 lights?

11 A The brake lights.

12 Q That would be the rear lights?

13 A Yes.

14 Q And what color were they?

15 A Red.

16 Q When you observed this what did you then do?

17 A Carol drove into the parking lot and pointed the  
18 headlights of her car towards the car, and we got out and looked  
19 at it. And I sat in the seat, and I noticed that the seat  
20 was up, and I had been the last one to drive it in, in the  
21 afternoon, and I also pushed the seat back. And when Trudy  
22 got in it she would always push the seat up. And the steering  
23 wheel was bent, and I pulled out the brake pedal and the clutch  
24 pedal, which were both down.

25 Q Did the clutch pedal have a habit of sticking?

26 A Yes.

27 Q And did the brake pedal, also?

28 A Yes.

29 Q Okay. Now, when did you leave that car there that  
30 prior day?

1 A About a quarter to 6:00, when I came to work.  
2 Q Do you know whether the rear brake lights were on?  
3 A I'm not positive, but I generally check them when  
4 I get out of the car, so I'd say that they were off.  
5 Q Do you know whether or not the clutch pedal was  
6 depressed?  
7 A No, it wasn't, because I always did that automatically.  
8 Q Do you know whether or not the wheel or horn rim  
9 was ajar?  
10 A It wasn't.  
11 Q Did you lock the car?  
12 A I didn't lock the driver's side. The passenger's  
13 side was locked.  
14 Q Did you observe anything else about the car?  
15 A I noticed when we looked at the car that there was  
16 something that had fallen down below.  
17 Q Whereabouts on the car's chassis?  
18 A It was in the center. It looked to me like it  
19 was the muffler or something, some long object was laying on  
20 the ground.  
21 Q Under the car toward the rear?  
22 A It was towards the back.  
23 Q In relation to the two rear wheels, where would that  
24 be?  
25 A In the center.  
26 Q About in that same area?  
27 A Yes. Like whatever it was hit the ground about the  
28 center of the two rear wheels, in the center of the car.  
29 Q At that time did you observe any skid marks under-  
30 neath the wheels?

1 A No.

2 Q What did you then do after making this full observa-  
3 tion of the car?

4 A Well, Carol Cochran and I were standing there, and  
5 there was a Placer County police car driving along the state  
6 line road, so I ran out to the road and stopped him, and we made  
7 a missing person's report on Trudy.

8 Q And do you recall what time that was?

9 A I don't know. It must have been approximately  
10 between 2:30 and 3:00 o'clock, somewhere in there.

11 Q Did you have an occasion later on that day to go  
12 back and look at your car again?

13 A Yes. On the way to work--let's see. We stopped  
14 by and there was some police looking at the car, and they asked  
15 us some questions about it, and we just stopped to see what  
16 they had found.

17 Q Did you see any skid marks under the wheels then?

18 A I could see like where the wheel had gone around  
19 and around in one place. The wheels were down in the sand.

20 Q But had your car moved, other than there being  
21 skid marks under the wheels? Had it moved in any way from where  
22 you had left it?

23 A I would say no.

24 Q So when you saw your car that night, and then the  
25 next day, to the best of your recollection it had not been moved?

26 A Yes.

27 (3 photographs were then marked  
28 State's Exhibits E-1, E-2 and  
29 E-3, for identification.)

30 BY MR. ROSE:

1 Q Marlayne, I show you what has been marked as  
2 State's Exhibit E-1, for identification. Do you know that  
3 vehicle?  
4 A That is my car.  
5 Q Now, that is not in the parking lot, is it?  
6 A I would say not, because there was tar on the sand,  
7 and there is no tar on the sand here.  
8 Q But that is to just give a general idea of your  
9 car?  
10 A Yes.  
11 Q And that is your car? That is your father's license  
12 plates?  
13 A Yes, sir.  
14 Q I now show you E-2, and ask if you are familiar  
15 with what that picture depicts?  
16 A This is the steering wheel after we had found the  
17 car that night.  
18 Q And does that clearly and accurately reflect how  
19 that steering wheel looked when you found it?  
20 A Yes.  
21 Q I show you State's Exhibit E-3, for identification.  
22 Are you familiar with that picture?  
23 A Yes. This is of the clutch and brake.  
24 Q And what does it show?  
25 A It looks like the clutch is depressed and the  
26 steering wheel, it shows that.  
27 Q And does that accurately reflect the condition in  
28 which you found the car?  
29 A Yes.  
30 Q To the best of your recollection?

1           A       Yes.

2           Q       And that would be approximately just shortly before

3 2:00 a.m. on July 15, 1971?

4           A       No, not before 2:00.

5           Q       Slightly before 2:00?

6           A       Before 3:00.

7                 MR. ROSE: Your Honor, at this time I will offer

8 these three pictures into evidence.

9                         VOIR DIRE EXAMINATION

10 BY MR. POLAHA:

11           Q       Miss Weider, this photograph that has been marked

12 E-3 for identification, how are you sure that the pedals are

13 depressed in that picture?

14           A       I'm not, but this looks like they are farther back

15 than they should be. I didn't say it was depressed in this

16 picture.

17           Q       It is not depressed?

18           A       I didn't say it was by looking at the picture.

19           Q       No. But your testimony was when you arrived at the

20 car both the brake and the clutch pedal were depressed.

21           A       Well, the brake was just stuck. It didn't stay

22 depressed. The light just stuck, not the brakes. So it could

23 be in the normal position, but you would just have to pull it

24 out hard to turn the light off.

25           Q       Well, was it depressed?

26           A       Maybe an eighth of an inch.

27           Q       But you did reach down and pull it out?

28           A       Yes.

29           Q       And the clutch?

30           A       Yes.



4  
1 Q Well, then this picture here doesn't --

2 A I said the clutch looks like it is.

3 Q That it is what?

4 A That it is depressed. I didn't say anything about  
5 the brake pedal.

6 Q How about the wires hanging down there, were those  
7 wires in that condition?

8 A I don't know.

9 Q You don't recall that?

10 A No.

11 Q This photograph that has been marked State's E-2  
12 for identification, to me there is only a --

13 A This (indicating) belongs over here and that belongs  
14 over there. This is bent.

15 Q By "bent" that means to my mind to take something  
16 that is straight or curved and then bend it out of position.  
17 But this just shows that it is shifted to the right or to the  
18 left somehow.

19 A Well, it's bent.

20 Q So that the jury will understand what we mean by  
21 "bent", you mean instead of being just head on, my right hand  
22 with my left hand, my right hand is moved over a little bit?

23 A Okay. But this is bent up, I would say. It was  
24 in the car.

25 Q So you are saying that although the picture doesn't  
26 show the degree of curve or bend necessarily coming from the  
27 steering wheel, you are saying it was bent up?

28 A Yes.

29 Q And this does represent or reflect accurately, but  
30 for the inability of the photograph to have that third dimension?

1 A Yes.

2 Q And you are not sure about the wires in that photo-  
3 graph?

4 A No.

5 Q That photograph being E-3?

6 A No.

7 MR. POLAHA: I take it the purpose of the photograph  
8 E-3 is to show the pedals, and not necessarily anything else?

9 MR. ROSE: That's correct.

10 BY MR. POLAHA:

11 Q Miss Weider, one additional question on what has  
12 been marked State's E-1, for identification. The area where  
13 that car is situated in the picture, is that the area, to the  
14 best of your recollection, where the car was found?

15 A I said I don't believe so, because the parking lot  
16 at the Cal Neva employee's parking lot had like a tar surface,  
17 not an asphalt surface, but like they had oil all over it, so  
18 this would be black around it. And this doesn't look like the  
19 same place to me. And there also wasn't trees behind it. The  
20 way the car was parked, there was a building behind it.

21 MR. ROSE: Mr. Polaha, this was for the limited  
22 purpose of identifying the vehicle, and it was not in the place  
23 where it was found.

24 MR. POLAHA: All right. For the limited purpose  
25 as stated by counsel, I have no objections.

26 THE COURT: All right, they may be admitted, as  
27 marked.

28 (State's Exhibits E-1, E-2 and  
29 E-3, for identification,  
30 received in evidence.)

1 THE COURT: We are going to take our last recess  
2 for the day at this time. We will be in recess for ten minutes.  
3 The jury is instructed not to discuss the case among yourselves  
4 or with anyone else, nor to form any conclusions concerning the  
5 case until it is submitted to you, or to listen to or read  
6 any reports concerning the case.

7 (Short recess taken.)

8 THE COURT: Will counsel stipulate to the presence  
9 of the jury?

10 MR. ROSE: So stipulated, your Honor.

11 MR. POLAHA: Yes, your Honor.

12 THE COURT: You may proceed.

13 BY MR. ROSE:

14 Q Marlayne, did you ever know Trudy Hiler to have a  
15 pocket knife?

16 A No.

17 Q Did you ever see one in her possession?

18 A No.

19 Q You have told us about the routine that night  
20 for picking up one of your roommates. Was that kind of a routine  
21 practice?

22 A Yes.

23 Q Did Trudy ever fail to pick up anyone?

24 A No.

25 Q Was she reliable?

26 A Yes.

27 MR. ROSE: Your Honor, at this time I would like  
28 to have these three pictures passed to the jury, if I may.

29 THE COURT: You may.

30 (Exhibits shown to the jury.)

1 BY MR. ROSE:

2 Q Marlayne, I am going to show you what has been  
3 marked as State's Exhibit B, for identification. Could you tell  
4 me whether or not you recognize that exhibit?

5 A Yes. These are a pair of Trudy's shoes.

6 Q Do you know whether or not she had them on the last  
7 time you saw her?

8 A Yes, she did.

9 Q I am going to show you what has been marked State's  
10 Exhibit C, for identification, and I would like to know whether  
11 or not you can identify this.

12 A Yes. That's the jacket Trudy was wearing that night.

13 Q And that was the last night you saw her?

14 A Yes.

15 Q And I would also like you to look at State's Exhibit  
16 D, for identification, and could you tell me what that is?

17 A It's a purse of Trudy's and her clothes.

18 Q And do you know whether or not she had her purse  
19 with her the last day you saw her?

20 A Yes, she did.

21 Q And could you tell us what she was wearing the last  
22 time you saw her?

23 A White blouse, black skirt, black nylons, and her  
24 clogs, and her outer garments.

25 Q The clogs are her shoes?

26 A Yes.

27 Q Could you tell me whether or not these clothes  
28 that are in this bag are those of Trudy Hiler?

29 A Yes, they are.

30 Q How do you know that?

1           A       We had done wash together with her a long time,  
2 while I lived with her. I have seen these clothes before.

3           Q       And could you tell us what clothes you can see in  
4 that bag? I would like to take them out, but I don't know  
5 that it's necessary.

6           A       I see a blouse, a bra, a pair of underpants, a pair  
7 of nylons, a slip, her skirt and a purse. I think that's all.

8           Q       Do you know whether or not Trudy had on that blouse  
9 and that black skirt the last time you saw her?

10          A       I knew she had the skirt on--I mean I know she  
11 had a white blouse on, and I presume that's the one.

12          Q       There has been some mention of meditating or  
13 transcendental meditation. Do you know what that is?

14          A       Yes.

15          Q       And could you very briefly tell the jury what it is?

16          A       It's a practice that takes place twice a day, of  
17 sitting in quiet contemplation--not even contemplation, but to  
18 sit quietly for fifteen minutes a day, twice a day. And its  
19 basic purpose is to relieve tension and to use more of your  
20 mind by letting your thoughts flow freely, and like not stifling  
21 your mind. Just letting your thoughts flow. And it relaxes you.  
22 And when you are more relaxed, it's easier for you to think  
23 and easier for you to learn new things.

24          Q       Are you such a meditator?

25          A       Yes.

26          Q       Is this some sort of religion or substitute for  
27 religion?

28          A       No. It doesn't deny you to be any religion. I guess  
29 you would call it an Indian philosophy. It's taught by the  
30 Maharishi Mahesh Yogi.

1 MR. ROSE: Thank you, Marlayne. I have no further  
2 questions of this witness, your Honor.

3 CROSS-EXAMINATION

4 BY MR. POLAHA:

5 Q Miss Weider, while you girls were working up at Lake  
6 Tahoe, how many days would you say you had off, from the period  
7 that you arrived there until you left July 17th?

8 A We had two a week, I guess it would be, during the  
9 two months.

10 Q Did you have a common day off, all you girls that  
11 lived together?

12 A Since there was seven days a week and there was six  
13 of us, we did. But I don't remember them right now.

14 Q So you did have the same day off?

15 A I think I had one day off with Carol Lindner, but  
16 I'm not sure. Also, when we changed shifts we would change  
17 days off. Like I changed from a graveyard shift to a swing  
18 shift at the same time that I changed clubs, and at that time  
19 I changed days off.

20 Q How many shifts did you work up there?

21 A You mean how many days?

22 Q Yes. How many different shifts?

23 A Two.

24 Q You did work swing shift at one time, and the midnight  
25 shift some other time?

26 A Yes.

27 Q So when you were working, say, the midnight shift,  
28 and Trudy Hiler was working the swing shift, then you did not  
29 necessarily have the same days off, did you?

30 A No. I don't think I ever had any days off with Trudy.

1 Q Okay. Now, you testified that you met her for the  
2 first time in late April or--or when did you first meet her?

3 A I met her several years ago.

4 Q You had known her for a long time?

5 A Yes.

6 Q Were you what you would call very close friends?

7 A Yes.

8 Q You would discuss intimate secrets with one another?  
9 Was it that close of a relationship?

10 A Yes.

11 Q How was her relationship with the other girls up  
12 there? I mean was she one that could relate rather easily to  
13 the other girls?

14 A Yes. She was very open. She told us equally  
15 everything.

16 Q Everything about herself?

17 A Yes.

18 Q How about with men?

19 MR. ROSE: I'll object to that, your Honor. That's  
20 beyond the scope of direct examination, and how she was with  
21 men is not an issue in this case.

22 THE COURT: Mr. Polaha?

23 MR. POLAHA: Your Honor, the question was whether  
24 she was open in her relationships to other people. And I asked  
25 specifically as to the other four girls.

26 THE COURT: I know what you asked, counsel. I want  
27 to know if you have some reason why I shouldn't sustain the  
28 objection.

29 MR. POLAHA: I want to find out if this openness  
30 went to everybody, or if it was specifically restricted to members

1 of the female sex.

2 MR. ROSE: If this is trying the conduct of the  
3 victim, I think it's in poor taste.

4 Secondly, this is beyond the scope of direct examina-  
5 tion.

6 Third, I don't see it's relevancy or materiality.

7 THE COURT: Will you approach the bench a minute,  
8 please.

9 (The Court and counsel conferred off the record.)

10 BY MR. POLAHA:

11 Q To make myself more clear, you said that she was  
12 open and related well to people. Then I asked you specifically  
13 this as to the four other girls that lived with you, because I  
14 did not have it in my notes that you knew her for this long  
15 period of time. Now, by your observation, was she this way to  
16 everybody?

17 A Well, I don't think like somebody she just met on  
18 the street she would be. I mean like she liked the people that  
19 we lived with, so when you live together you tell people what  
20 you do. Right?

21 Q I don't mean about the intimacies. I mean just  
22 being friendly to everybody and open to everybody.

23 A Yes.

24 Q Was she this way to everybody, or just you girls?

25 A She was friendly to people in general, to women,  
26 men, children, dogs.

27 Q About the car, you identified the car that Trudy  
28 drove that particular morning or evening. Was this your father's  
29 car?

30 A It was registered to him.



1 Q Was this for the company that he had, or what?  
2 A He has a company, and they just register all their  
3 cars with the company, their personal cars.  
4 Q Was this a new car?  
5 A No.  
6 Q About how old was it?  
7 A I think it was a '67.  
8 Q Do you know how many miles were on the speedometer?  
9 A No, I don't.  
10 Q Was the speedometer working?  
11 A Yes.  
12 Q Was the car purchased, do you know, new at the time?  
13 A No, it wasn't.  
14 Q So it was a used car when your father purchased it?  
15 A Yes.  
16 Q And your father turned the car over to you to let  
17 you have for that particular summer?  
18 A Yes. I have a brother and a sister, and he bought  
19 it for us to use.  
20 Q It was in the company's name, but he let you use it?  
21 A Yes.  
22 Q What I'm trying to find out, and maybe I am not  
23 making myself clear today, you were the only one to use it  
24 after your father bought it?  
25 A No. I have a brother and sister who used it.  
26 Q Oh. But it was for family use, not for company use?  
27 A Yes.  
28 Q So any miles that may have been put on were by the  
29 family, yourself and your brother and sister, or whatever?  
30 A Yes.

1 Q How long was this mechanical condition in existence,  
2 the tail lights and the clutch pedal? Do you have any idea?

3 A Sometime after I got it. I had talked to my  
4 brother about fixing it, but he hadn't come up to do it.

5 Q You never saw a mechanic about it, or anything like  
6 that?

7 A No. My father is a mechanic.

8 Q Not having had similar days off with Trudy up at the  
9 Lake, I take it that you never had occasion to go out on dates  
10 up there?

11 A You mean nighttime dates?

12 Q Any time.

13 A You see, we had days off, but when you work nights  
14 you just have nights off together. So we would go out together  
15 daytimes--you mean on dates with boys?

16 Q Were these always pre-planned affairs?

17 A I never went on dates with her and boys.

18 Q Oh, you never went on any. Did you know that she  
19 did go out?

20 A Yes.

21 Q Now, when you drove up to the area where you first  
22 saw the car, didn't it strike you as unusual that the brake  
23 lights were on?

24 A Well, it did, because I thought I had turned them  
25 off, and I didn't expect to see the car there, because I  
26 expected Trudy to have left with it.

27 Q So then it was unusual that the brake lights were  
28 on, because, to your recollection, you did pull out the brake  
29 pedal?

30 A Yes.

1 Q Now, you remember specifically having done this,  
2 or is this your normal custom, and chances are that you did  
3 it at that time?

4 A At this point I would say I don't remember specifi-  
5 cally doing it.

6 Q All right. How about the clutch pedal, is that  
7 something that you do automatically, or you don't recall?

8 A That I would do it automatically.

9 Q With your foot or --

10 A With my foot.

11 Q Do you know if anybody else could have gotten into  
12 the car at that time and tried to get your car?

13 A Yes. It was unlocked. It was possible.

14 Q It was unlocked. As I remember your testimony, you  
15 did not see the car for several hours after you parked it, and  
16 then you gave the keys of the car to Trudy, and later on you  
17 saw the car with the light on; is that correct?

18 A Yes.

19 Q Now, if you look at these two pictures, State's E-2  
20 and E-3, you see some wires rather prominently displayed there.  
21 Did you notice those before that particular time?

22 A No, I didn't notice them then.

23 Q Did you notice them before you saw them here in  
24 the photograph?

25 A No.

26 Q Do you know anything about cars?

27 A No.

28 Q Not having locked your car, it's possible, is it  
29 not, that anybody could have entered the car and tried to start  
30 car? Are you familiar with a procedure of hot wiring?

1 A No.

2 Q Remembering back to when you were driving the car,  
3 exactly what type of difficulty did you encounter with the  
4 clutch pedal?

5 A None. Everytime you pushed it in, you would just  
6 pull it out.

7 Q While you were driving?

8 A Yes.

9 Q You mean while the car was --

10 A Well, after you push a clutch in and you take your  
11 foot off, there is nothing to do with your foot anyway, so  
12 you pull it up.

13 Q So your engine is revving at that time, is it not?

14 A No.

15 Q Why not?

16 A I don't know why not.

17 Q You are shifting gears, and the car is in motion,  
18 and you are going, and you engage the clutch and shift into  
19 another gear, and what happens to the car?

20 A It shifts into the other gear.

21 Q But doesn't your engine --

22 A It didn't stay completely. It came about halfway  
23 up.

24 Q So the clutch itself was functioning, but just the  
25 pedal? In other words, there was no problem with going from  
26 first to second?

27 A Right.

28 Q But just the pedal wouldn't come back up?

29 A All the way up. It came partially up, far enough  
30 for the car to shift.

1 Q I didn't hear that last.

2 A It came far enough up for the car to shift, you

3 know, to go through the gears.

4 Q All right. Then why were you always pulling it up?

5 I mean it didn't interfere mechanically, did it?

6 A It came halfway up. Well, it just got to be a habit.

7 Q At the start of the habit, did it interfere

8 mechanically?

9 A I don't think so. I don't remember.

10 Q Well, did somebody tell you that the clutch was

11 giving trouble, so you had better pull out the pedal? Did you

12 look down when you drove to see if the pedal came back up?

13 A Yes, occasionally.

14 Q And you noticed evidently the first time that it

15 didn't come back up, and so you started --

16 A Maybe not the first time.

17 Q But you started pulling it up by looking at it?

18 A Well, no. You could feel it with your foot and lift

19 it up. You didn't have to look at it.

20 Q For how long a period of time would you estimate

21 that the lights weren't going off?

22 A I don't know. A month.

23 Q How about the battery? Was it a relatively new

24 battery or --

25 A I have no idea.

26 Q Did you ever take a long time to start the car?

27 A No.

28 Q Did it always turn over and start up right away?

29 A I think so, as far as I remember.

30 Q We're going back to 1971.

1           A       Yes.

2           Q       So you don't know, one way or the other, do you?

3           A       I mean I never remember having problems with the

4 car.

5           Q       You said that the first time you went there you did

6 not see any skid marks under the wheels?

7           A       No. It was dark.

8           Q       Oh. But you said it was a sandy area?

9           A       Yes.

10          Q       And in fact one of the wheels was into the sand,

11 was it not?

12          A       The wheels?

13          Q       Yes, the tires.

14          A       Well, they were the next day when I saw it.

15          Q       And you did not go, nor did any of your friends,

16 as far as you know, to the car from the time you first saw it

17 until the time you saw it at that later date?

18          A       No.

19          Q       Now, skid marks, what does that mean? What exactly

20 did you see in the sand?

21          A       You know like how if you get stuck in the mud your

22 tire goes around in circles, and it depresses the tire into the

23 mud or sand. It was just like that, only it was in the sand

24 instead of the mud.

25          Q       So, just from what you said, I get the impression

26 that somebody got stuck and tried to get out. Is that the

27 impression you got when you saw that?

28          A       Well, no, because there was a thing hanging in the

29 middle of the car.

30          Q       Did you try and start the car?

1           A       Yes.

2           Q       So you don't know, one way or the other, do you?

3           A       I mean I never remember having problems with the

4 car.

5           Q       You said that the first time you went there you did

6 not see any skid marks under the wheels?

7           A       No. It was dark.

8           Q       Oh. But you said it was a sandy area?

9           A       Yes.

10          Q       And in fact one of the wheels was into the sand,

11 was it not?

12          A       The wheels?

13          Q       Yes, the tires.

14          A       Well, they were the next day when I saw it.

15          Q       And you did not go, nor did any of your friends,

16 as far as you know, to the car from the time you first saw it

17 until the time you saw it at that later date?

18          A       No.

19          Q       Now, skid marks, what does that mean? What exactly

20 did you see in the sand?

21          A       You know like how if you get stuck in the mud your

22 tire goes around in circles, and it depresses the tire into the

23 mud or sand. It was just like that, only it was in the sand

24 instead of the mud.

25          Q       So, just from what you said, I get the impression

26 that somebody got stuck and tried to get out. Is that the

27 impression you got when you saw that?

28          A       Well, no, because there was a thing hanging in the

29 middle of the car.

30          Q       Did you try and start the car?

1           A       I didn't have any keys.

2           Q       Oh. Do you know that if the driveshaft is laying  
3 on the ground that the wheels are going to spin around?

4           A       No.

5           Q       Do you know what the function of the driveshaft is?

6           A       No.

7           Q       If I were to tell you that it makes the wheels spin  
8 around, would that surprise you, that if a driveshaft was on  
9 the ground the wheels would dig a hole in the ground?

10          A       No.

11          Q       It wouldn't?

12          A       Well, the driveshaft could have done that before it  
13 broke.

14          Q       Yes. Or obviously there might have been somebody  
15 stuck --

16                 MR. ROSE: I don't know how obvious that is, your  
17 Honor.

18                 THE COURT: The last remark will be stricken.

19          Q       You said you never saw Trudy have a pocket knife.  
20 By that do you mean that you looked in her purse at the time,  
21 or you were there when she emptied out her purse and carefully  
22 looked at everything she had in her purse?

23          A       No. I said to my knowledge I have never seen it.

24          Q       So she could very well have had a knife, a little  
25 penknife or pocket knife, whatever?

26          A       Well, I guess so.

27          Q       She could have. Now, you testified that the coat  
28 that was shown to you when you looked at it--I don't recall  
29 if you took it out of the bag or not, but --

30                 THE COURT: Counsel, before we get into the exhibits



1 it's almost 5:00 o'clock now. Do you think you are going to  
2 be much longer with this witness? Will you need more time?

3 MR. POLAHA: I think it would be better to continue  
4 tomorrow morning, your Honor.

5 THE COURT: I think perhaps we had better adjourn  
6 then for the day at this time.

7 Ladies and gentlemen, you are instructed not to  
8 discuss the case among yourselves or with anyone else, nor to  
9 form any conclusion concerning the case, until it is submitted  
10 to you. And you are not to listen to or read any news media  
11 or other items concerning this case.

12 We will be in recess until 10:00 a.m. tomorrow  
13 morning.

14 (Whereupon, at 5:00 p.m. a recess was taken, to  
15 reconvene at 10:00 a.m. on Thursday, April 13, 1972.)  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30



1 STATE OF NEVADA, )  
2 ) ss.  
3 COUNTY OF WASHOE. )

4 I, Wm. P. SULLIVAN, official reporter of the Second  
5 Judicial District Court of the State of Nevada, in and for the  
6 County of Washoe, DO HEREBY CERTIFY:

7 That as such reporter I was present in Department  
8 No. 6 of the above-entitled court on Wednesday, April 12, 1972,  
9 at the hour of 10:15 a.m.  
10 of said day, and that I then and there took verbatim stenotypy  
11 notes of the proceedings had and testimony given therein upon  
12 the trial of the case of STATE OF NEVADA, Plaintiff, vs.  
13 MICHAEL PHILLIP ANSELMO, Defendant, Case No. 271359.

14 That the foregoing transcript, consisting of pages  
15 numbered 1 to 128, both inclusive, is a full, true and correct  
16 transcription of my said stenotypy notes, so taken as aforesaid,  
17 and is a full, true and correct statement of the proceedings  
18 had and testimony given upon the trial of the above-entitled  
19 action to the best of my knowledge, skill and ability.  
20

21 DATED: At Reno, Nevada, this 26th day of June, 1972.  
22  
23  
24  
25  
26  
27  
28  
29  
30

Wm P Sullivan



No. 271,359

Dept. No. 6

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

--oOo--

THE STATE OF NEVADA,  
Plaintiff,  
vs.  
MICHAEL PHILIP ANSELMO,  
Defendant.

FILED  
APR 23 3 59 PM '73  
H. K. BROWN, CLERK  
LM

REPORTER'S TRANSCRIPT ON APPEAL

T R I A L

April 10-25, 1972

VOLUME II - PAGES 129-369

Reno, Nevada

FILED  
APR 23 3 59 PM '73  
H. K. BROWN, CLERK  
BY [Signature] DEPUTY

APPEARANCES:

For the State:

ROBERT E. ROSE  
District Attorney  
Washoe County Courthouse  
Reno, Nevada

JOHN MADARIAGA  
Deputy District Attorney  
Washoe County Courthouse  
Reno, Nevada

For the Defendant:

JEROME POLAHA  
JACK GRELLMAN  
Deputy Public Defender  
195 South Sierra Street  
Reno, Nevada

Reported by:

ROBERT R. MOLEZZO, CSR  
RICHARD L. MOLEZZO, CSR

# I N D E X

	<u>Dr.</u>	<u>Cr.</u>	<u>Red.</u>	<u>Rex.</u>	<u>Voir Dire</u>
<u>WITNESSES ON BEHALF OF STATE:</u>					
Marlayne Weider					
By Mr. Polaha (Resumed)		129			
By Mr. Rose			144		
By Mr. Polaha				145	
Leon C. Caldwell					
By Mr. Rose	149				
By Mr. Polaha		154			
Charles Douglas Manley					
By Mr. Rose	155				
By Mr. Polaha					160
By Mr. Polaha		163			
James Biggs					
By Mr. Rose	166				
By Mr. Grellman					173
By Mr. Rose (Resumed)	177				
By Mr. Grellman		179			
By Mr. Grellman (Resumed)		190			
Bernard Greenwald					
By Mr. Rose	202				
By Mr. Polaha		207			
By Mr. Rose			207		
Randall Norris Rose					
By Mr. Rose	208				
By Mr. Polaha		231			
By Mr. Polaha		257			
William Charles Keller					
By Mr. Rose	277				
By Mr. Polaha					282
By Mr. Rose (Resumed)	284				
By Mr. Polaha					285
By Mr. Rose (Resumed)	286				
By Mr. Polaha					289
By Mr. Rose (Resumed)	290				
By Mr. Polaha					295
By Mr. Rose (Resumed)	298				
By Mr. Polaha		303			
John B. Taylor					
By Mr. Rose	308				
By Mr. Polaha					312
By Mr. Rose (Resumed)	317				
By Mr. Polaha		317			

	<u>Dr.</u>	<u>Cr.</u>	<u>Red.</u>	<u>Rex.</u>	<u>Voir Dire</u>
1					
2	<b>WITNESSES ON BEHALF OF STATE:</b>				
3	<b><u>(Continued)</u></b>				
4	<b>Douglas Neve</b>				
5	By Mr. Rose	319			
6	By Mr. Polaha		325		
7	By Mr. Rose		337		
8	By Mr. Polaha			338	
9	<b>Ed Hanson</b>				
10	By Mr. Rose	339			
11	By Mr. Polaha				342
12	By Mr. Rose (Resumed)	342			
13	By Mr. Grellman		346		
14	<b>George O'dell</b>				
15	By Mr. Rose	350			
16	By Mr. Polaha		356		
17	<b>Warren Butner</b>				
18	By Mr. Rose	356			
19	<b>David Grossman</b>				
20	By Mr. Rose	359			
21	By Mr. Polaha		362		
22	By Mr. Rose		366		
23	By Mr. Polaha			367	
24	<b>Frederick Laubscher</b>				
25	By Mr. Rose	370			
26	By Mr. Polaha		382		
27	By Mr. Polaha (Resumed)		392		
28	By Mr. Rose		396		
29	By Mr. Polaha			397	
30	<b>William Charles Keller</b>				
31	By Mr. Rose	399			
32	By Mr. Polaha		401		
33	By Mr. Rose		404		
34	By Mr. Polaha			404	
35	By Mr. Rose		406		
36	(Hearing of Motion)	407			
37	<b>Gordon Jenkins</b>				
38	By Mr. Rose	414			
39	By Mr. Polaha		429		
40	By Mr. Polaha (Resumed)		442		
41	<b>Richard Tuttle</b>				
42	By Mr. Rose	480			
43	By Mr. Polaha				483
44	<b>Gordon Jenkins (Recalled)</b>				
45	By Mr. Polaha (Resumed)		484		
46	By Mr. Rose		485		
47	By Mr. Polaha			487	

	<u>Dr.</u>	<u>Cr.</u>	<u>Red.</u>	<u>Rex.</u>	<u>Voir Dire</u>
1					
2	WITNESSES ON BEHALF OF STATE:				
3	<u>(Continued)</u>				
4	Dan Wallace				
5	By Mr. Rose	488			
6	By Mr. Polaha		491		
7	Thomas Benham				
8	By Mr. Rose	492			
9	Paul L. White				
10	By Mr. Rose	512			
11	By Mr. Polaha		517		
12	By Mr. Rose		520		
13	By Mr. Polaha			521	
14	By Mr. Rose		524		
15	By Mr. Polaha			524	
16	By Mr. Rose		525		
17	Thomas Benham (Recalled)				
18	By Mr. Polaha		526		
19	By Mr. Polaha (Resumed)		543		
20	By Mr. Rose		556		
21	By Mr. Polaha			557	
22	William J. Whitmire				
23	By Mr. Rose	558			
24	By Mr. Polaha		569		
25					
26					
27					
28					
29					
30					

	<u>Dr.</u>	<u>Cr.</u>	<u>Red.</u>	<u>Rex.</u>	<u>Voir Dire</u>
1					
2	<u>WITNESSES ON BEHALF OF DEFENDANT:</u>				
3	Douglas Neve				
4	By Mr. Grellman	587			
5	Warren Butner				
6	By Mr. Grellman	589			
7	By Mr. Rose		591		
8	By Mr. Grellman			592	
9	David Grossman				
10	By Mr. Polaha	594			
11	By Mr. Rose		596		
12	By Mr. Polaha			598	
13	Michael Philip Anselmo				
14	By Mr. Grellman	602			
15	By Mr. Grellman (Resumed)	628			
16	Vincent Anselmo				
17	By Mr. Grellman	648			
18	By Mr. Rose		651		
19	By Mr. Grellman			657	
20	Michael Philip Anselmo (Recalled)				
21	By Mr. Rose		659		
22	By Mr. Rose (Resumed)		679		
23	By Mr. Rose (Resumed)		702		
24	By Mr. Rose (Resumed)		722		
25	By Mr. Polaha			735	
26	By Mr. Rose				747
27	<u>REBUTTAL WITNESSES ON BEHALF OF STATE:</u>				
28	John Edward Soares				
29	By Mr. Rose	754			
30	Charles Frederick Pinkerton				
31	By Mr. Rose	769			
32	By Mr. Polaha		770		
33	John Edward Soares (Recalled)				
34	By Mr. Polaha		773		
35	By Mr. Polaha (Resumed)		782		
36	By Mr. Rose			804	
37	By Mr. Polaha				812
38	Joseph E. Apple				
39	By Mr. Rose	814			
40	By Mr. Polaha				817
41	By Mr. Rose (Resumed)	818			
42	By Mr. Polaha		820		
43					
44					
45					
46					
47					
48					
49					
50					





1	<u>EXHIBITS ON BEHALF OF STATE:</u>	<u>I.D.</u>	<u>EVID.</u>
2	A - Document		575
3	B - Document		575
4	C - Document		575
5	D - Document		575
6	F-1, F-2, F-3 - Photographs		162
7	G - Chart	211	
8	G-1 through G-8 and G-10 - Photographs		284
9	G-9, G-11, G-12		286
10	H - Drawing by Engineer		316
11	I-1 - Photograph		290
12	I-2, I-3 - Photographs		342
13	I-4 through I-13 - Photographs		374
14	I-14, I-15, I-16		298
15	J - Transcript taken at Sparks Police Department		483
16	K - Receipt for down payment on car	807	818
17	L - Receipt for balance of payment on car		819
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			
29			
30			

1 RENO, NEVADA THURSDAY, APRIL 13, 1972 10:15 A.M.

2 --oOo--

3  
4 M A R L A Y N E W E I D E R

5 called as a witness on behalf of the State,  
6 being previously duly sworn, was examined  
7 and testified as follows:

8  
9 THE COURT: Be seated, please.

10 Will the Clerk please call the roll of the jury.

11 (Clerk called roll of the jury.)

12 THE COURT: Are counsel ready to proceed?

13 MR. ROSE: Ready for the State, your Honor.

14 MR. POLAHA: Yes, your Honor.

15 THE COURT: You may proceed.

16 I don't recall just where we were when we left off.

17 MR. ROSE: Marlayne Weider was on the stand, your  
18 Honor, and being cross-examined.

19 THE COURT: All right. You may recall her,  
20 Mr. Bailiff.

21  
22 CROSS-EXAMINATION

23 (Resumed)

24 BY MR. POLAHA:

25 Q Continuing my examination from yesterday, you stated  
26 that the last time you saw Trudy she told you that she was tired,  
27 wanted to go home and get some sleep?

28 A Yes.

29 Q Did you know, were you aware that she was sick that  
30 day?

1       A     I was aware that she went to see the doctor that day.  
2       Q     Excuse me. I couldn't hear you.  
3       A     She went to the doctor that day.  
4       Q     She went to the doctor. Was she sick prior to that  
5 particular day?  
6       A     She had had a sore throat. I mean, that's as sick as  
7 she was.  
8       Q     Anything else bothering her?  
9       A     She had a yeast infection.  
10      Q     Was that the doctor's diagnosis, as far as you know?  
11      A     Yes.  
12      Q     So you did talk to her after she came back from the  
13 doctor?  
14      A     Yes.  
15      Q     When was that?  
16      A     Well, it was when I drove her to work. It must have  
17 been about 4:30.  
18      Q     The car that you identified from the picture, where  
19 is that car now?  
20      A     It's-- We sold it to somebody in Napa.  
21      Q     Did you ever get possession of that car again after  
22 July 15th or 17th?  
23      A     I didn't personally. My father and brother came up  
24 and picked it up, drove it down.  
25      Q     Did you ever see the car after Friday, July the 16th?  
26      A     Yes.  
27      Q     Okay. Where did you see it?  
28      A     In the Incline Substation, and at the gas station it  
29 was being fixed up.  
30      Q     All right. Was that at your father's direction that

1 it was being repaired?

2 A Yes.

3 Q Now, you went back to the employees' lot in the  
4 afternoon of Friday, the 16th; is that correct? When you  
5 noticed the skid marks, or the--

6 A I think it was Thursday.

7 Q Oh, it was Thursday, the 15th. Then later on in the  
8 day?

9 A Yeah.

10 Q That's when the police were there?

11 A Yes.

12 Q Did you talk to the police at that time?

13 A Yes.

14 Q What was the conversation?

15 A They had us fill out a-- Well, I don't know.

16 Q Did you summon the police at that time?

17 A No. They were there checking out the car, because we  
18 made the report, the missing person's report the night before,  
19 and they'd seen it and they'd come back during the daytime to  
20 look at it.

21 Q These were Placer County policemen or Sheriff's  
22 personnel?

23 A I believe so.

24 Q Who ordered the car towed from that lot?

25 A I don't know.

26 Q It was towed, though; was it not?

27 A Yes. I think it was impossible to drive.

28 Q All right. Did they take it to the Placer County  
29 Sheriff's lot or Washoe County?

30 A No, it was at Washoe County when I saw it.

1 Q But you're sure about talking to the Placer County  
2 Police?

3 A Yes.

4 Q While you were up at the Lake, now you worked up there  
5 prior to 1971; did you not?

6 A Yes.

7 Q Was it your experience that many cars were stolen or  
8 tampered with up at the Cal-Neva?

9 A I didn't know of any personally. I can't even recall  
10 hearing any.

11 Q Okay. How about the lot? Were the lots considered  
12 relatively safe up there?

13 A Not really. People usually don't park in the  
14 employees' parking lot.

15 Q What is that?

16 A Employees usually don't park in the parking lot,  
17 except when they gave out a notice that if they found employees  
18 parked in the regular parking lot that they'd tow us away. So  
19 we started parking there.

20 Q So although no cars were tampered with or stolen,  
21 there was some kind of a fear for personal safety walking to and  
22 from the club?

23 A Well, it was just-- It was closer the other way. I  
24 mean, it's closer to park in the regular parking lot.

25 Q Was that lot, the employees' lot, was that lit up  
26 quite a bit?

27 A No.

28 Q How many lights were there; do you recall?

29 A I believe there were none in the parking lot itself.  
30 There may have been some on the road. There's a sign right

1 close to it, you know, like an entrance sign to the casino close  
2 to it that's lit.

3 Q When the police or the sheriff showed you what has  
4 been marked as State's A,--

5 A The sheriff didn't show me that.

6 Q Who showed you this?

7 A I never saw them until yesterday.

8 Q Is that right?

9 A Yes.

10 Q So you never had an opportunity to put the keys into  
11 the locks of any property you owned to see if in fact they're  
12 the same keys; right?

13 A No. They have been in custody the whole time.

14 Q I beg your pardon?

15 A They've been in custody the whole time.

16 Q Do you know that for a fact?

17 A Well, no, but that's what they told me.

18 Q Do you know for a fact that you haven't had an  
19 opportunity to try out these keys?

20 A Right.

21 Q Now, when we left off yesterday, I was going to ask you  
22 to examine the coat. Did you see this at any time after  
23 July 15th?

24 A No.

25 Q Until yesterday?

26 A Day before.

27 Q Where did you see it the day before?

28 A Downstairs.

29 Q Where, in the District Attorney's office?

30 A No, in the basement.

1 Q In the Evidence Room?  
2 A Yes.  
3 Q Who showed you? Who was there?  
4 A I don't know the man's name.  
5 Q How many people were there?  
6 A There was Carol, Carol, myself and Mr. Rose and the  
7 man who is in charge of it.  
8 Q Mr. Keller?  
9 A I don't know.  
10 Q Was anything said while you were looking at the  
11 various items of evidence?  
12 A He just wanted to know if we could identify them.  
13 Q Did you ever wear this coat?  
14 A No.  
15 Q Is this unlike any other coat made at the same time  
16 from the same company?  
17 A Well, I haven't seen very many like it.  
18 Q Was it special made, is it tailor made?  
19 A No, I don't think so.  
20 Q You never wore it, though? You don't know if there's  
21 anything peculiar about it, whether the lining's ripped or holes  
22 in the pocket, or anything like that?  
23 A No.  
24 Q You're assuming this is Trudy's, or do you know for a  
25 fact?  
26 A It looks exactly like the one she had.  
27 Q It looks like hers.  
28 I take it these shoes look like hers, too; is that  
29 correct?  
30 A Yes.

1 Q And you are aware of all the facts surrounding the  
2 dates July 15th through July 17th and July 20th, and the reason  
3 we're here, and isn't it possible that there's a suggestion  
4 that all these things to your mind are Trudy's rather than you  
5 being positively sure that they are?

6 A The clothes and the purse, I'm positive.

7 Q Did you look at the individual items in Exhibit C,  
8 I believe it is?

9 A Yes.

10 Q Where, downstairs?

11 A Yes.

12 Q Not here, though?

13 Now, you said you recognize them because you washed  
14 your clothing with her?

15 A Yes.

16 Q Are there any names on any of these garments?

17 A I don't believe so.

18 Q Then how are they different from any other garment  
19 that looked like it?

20 A The skirt's handmade. I watched her make it.

21 Q All right.

22 A I mean,--

23 Q How about the blouse? Yesterday you said you  
24 presumed it was Trudy's.

25 A I know it's Trudy's. I'd seen her wear it. I'm not  
26 positive-- I mean, I don't positively remember seeing her wear  
27 it that evening, because she always wore a white blouse and a  
28 black skirt. But I know that's Trudy's.

29 You asked me if I was positive. I'm not just positive  
30 if she was wearing it.



1 Q You are not sure that she was wearing that particular  
2 one that night?

3 A Well, she usually didn't carry another one with her,  
4 so I imagine she was wearing it because she had some white blouse  
5 on.

6 Q But you're not positive. Do the girls borrow one  
7 another's clothes?

8 A Well, I don't because we were quite different sizes.  
9 I think she and Carol Pierce might have.

10 Q How about the purse?

11 A What about it? It's Trudy's.

12 Q And you're sure that this is, unlike the clothes, it's  
13 more or less unique?

14 A It was handmade, yes.

15 Q Did any of the other girls that were living with you  
16 during this period, did they have shoes like that?

17 A I own a pair.

18 Q I beg your pardon?

19 A I own a pair.

20 Q Did any other girl?

21 A I don't think so.

22 Q These are not very uncommon shoes, are they?

23 A Wooden clogs?

24 Q Yes.

25 A Well, not very many people wear them because they're  
26 kind of hard to get used to walking.

27 Q Are they quite comfortable though? Isn't that their  
28 main selling feature?

29 A Yes.

30 Q They're made in Germany or Scandinavia or someplace?

1           A     Yeah.

2           Q     As I understand it, you did not have the car towed to  
3 the Washoe County Sheriff's Substation; is that correct?

4           A     I didn't.

5           Q     When did it first become apparent to you that it was in  
6 fact at the substation?

7           A     I don't know for sure. I know we were notified. But  
8 I don't remember.

9           Q     Who was notified?

10          A     My father came up.

11          Q     You were already at home when you were--

12          A     No, my father came to Lake Tahoe.

13          Q     And when was this?

14          A     I believe it was-- I called him on the Thursday  
15 evening. So he probably came Friday morning.

16          Q     This was the 15th of July?

17          A     I think so. I don't remember the dates. If the 15th  
18 is a Thursday?

19          Q     Yes.

20          A     Yes.

21          Q     Directing your attention to the testimony that you  
22 gave concerning the-- Was it the transcendental meditation?

23          A     Yes.

24          Q     The purpose of this, as I understand it, is to achieve  
25 some type of mental calmness or--

26          A     Yes.

27          Q     -- a euphoric state without the use of drugs?

28          A     Yes.

29          Q     Was this specifically one of the rules, without the  
30 use of drugs, or you just try and get this--

1           A     It's to-- Let's see. It calms down the whole nervous  
2 system, and any type of drugs, food will affect you, your  
3 nervous system.

4                     So it's to refine the nervous system. Would be  
5 ridiculous to take drugs.

6           Q     To what?

7           A     If you are refining your nervous system, it would be  
8 hypocritical to take drugs because that would be fighting  
9 against yourself.

10          Q     Well, you are trying to slow down your body, slow  
11 down your mind; are you not?

12          A     Not slow it down. Actually, what it does is activate  
13 it.

14          Q     But you get a feeling of--

15          A     But through rest, you activate it.

16          Q     -- of being relaxed, very relaxed?

17          A     Yes.

18          Q     Is this what was taught you about this experience or  
19 exercise in thought?

20          A     It was suggested-- We took classes, and it was  
21 suggested during these classes that you don't take any drugs  
22 because it would mess up your nervous system.

23          Q     All right. Now, where did you take these classes?

24          A     Some at San Jose State and some-- Then we were  
25 initiated in Berkeley. And then back to San Jose State for  
26 four more classes.

27          Q     What do you mean "initiated"? Was this some type of--

28          A     You go through a ritual.

29          Q     Some type of school-authorized association where  
30 students get together and do it?

1           A     It's mostly students. You go two classes, then you  
2 go to an initiation—it's a ritual—and you're given a mantra,  
3 which is a sound to repeat while you're meditating.

4                     And then you go back for four more classes and  
5 instructions, and that's all. You can go back anytime you wish  
6 to be checked.

7           Q     Checked?

8           A     Yes.

9           Q     For what?

10          A     For your meditation, to make sure you're doing it  
11 right. Just to keep in practice.

12          Q     In this type of group, did you explain, was it like  
13 sort of an informal seminar, everybody giving and taking of  
14 what other people were saying?

15          A     Yes.

16          Q     Did you explain your reasons for being there?

17          A     No, we didn't have to.

18          Q     Nothing like, "I'm here; I'm from New York or  
19 Pennsylvania", or whatever? "I'm here going to school, and I  
20 want to do this because..." Nothing like that?

21          A     No.

22          Q     Did any of the people that partook of this experience  
23 with you to your knowledge use drugs?

24          A     Prior to, they had.

25          Q     Prior to. In other words, it is used in some respects  
26 and in some instances as an alternative to the use of drugs; is  
27 that correct?

28          A     For some people it could be.

29          Q     Don't they go around and say, "Hey, come to us. We  
30 have the answer for drug abuse"?

1           A     They never said that.

2           Q     You never experienced anybody from that group going  
3 around and saying, "Hey, we have the program for drug abuse"?  
4           A     No.

5           Q     What was your purpose for going to that group?  
6           A     My cousin had been meditating for awhile, and he just  
7 talked to me about it and told me how much more relaxed he was,  
8 how he enjoyed it, what a good experience it was. So I went to  
9 the meetings, and then I decided to join.

10          Q     Now, how long did you know Trudy?  
11          A     The first time I met her, I believe, was during  
12 spring semester of 1969. We lived in a Catholic women's  
13 center together.

14               And then the next year, we moved into an apartment  
15 together at San Jose. And like when I knew her at Catholic  
16 women's center, I didn't know her too well. She was just one  
17 of the girls. And she was looking for somebody to move into  
18 an apartment with, and we needed another roommate, so she moved  
19 in with us.

20          Q     When was that?  
21          A     Spring of '69.

22          Q     When did she move in with you?  
23          A     The fall of '69.

24          Q     The fall of '69. So you knew her approximately two  
25 years?  
26          A     Yes.

27          Q     All right. Now, in that two years, it was more or  
28 less of a school relationship; right?  
29          A     Yes.

30          Q     You got together when you were going to school?

1           A     Yes.

2           Q     How about vacations?

3           A     Well, I guess it would be '70, summer of '70 we lived  
4 up here at Tahoe, and summer of '71. But we didn't get together  
5 during the school year of '70-71, because she went to Chico and  
6 I went to State.

7           Q     So what we're talking about is-- Let's see. You got  
8 together in the spring of '69?

9           A     Yeah.

10          Q     And that's roughly what, March through June 20th?

11          A     Yes.

12          Q     So in March, April, May?

13          A     Yes, that's-- I met her somewhere in there, towards  
14 the end of the spring semester.

15          Q     Okay. But you didn't work together in the summer of  
16 '69; right?

17          A     No.

18          Q     Then you got together again in what, September of--

19          A     '69.

20               MR. ROSE: Your Honor, I'm going to object to this.  
21 This is a new area covered. I didn't cover any of this about  
22 their prior relationship. I started with the summer of '71.  
23 And if he'd like to take her on direct examination when he puts  
24 his case in chief on, that's fine. But this is well beyond the  
25 scope of my direct examination. I don't think it serves any  
26 purpose in this case.

27               MR. POLANA: Your Honor, I object with the counsel.  
28 He did ask her, "How long did you know Trudy?"

29               MR. ROSE: Your Honor,--

30               THE COURT: One at a time, please. I'll hear

1 Mr. Polaha first.

2 MR. POLAHA: He did open the door, your Honor, with  
3 the question, "Did you know the victim in this case?" and "How  
4 did you come to know her?"

5 So I'm just finding out the length of that  
6 acquaintanceship, your Honor. I think it's well within the  
7 bounds of proper cross-examination.

8 THE COURT: How about relevancy, Counsel? We're  
9 spending a lot of time on this.

10 MR. POLAHA: Well, I think in cross-examination I'm  
11 allowed certain broader areas for the purposes--

12 THE COURT: We can all agree on that, as long as you  
13 have a goal in mind, Counsel.

14 MR. POLAHA: I'm trying to go to the credibility of  
15 this witness, your Honor. She said she knows her very  
16 intimately, and I want to find out exactly how long she knew  
17 the girl.

18 THE COURT: I'll allow you to continue.

19 MR. POLAHA: Thank you, your Honor.

20 BY MR. POLAHA:

21 Q So then you got together again in September of 1969;  
22 is that correct?

23 A Yes.

24 Q And you were going to the same school?

25 A Yes.

26 Q Then you went, I take it, for the one school year?

27 A Yes.

28 Q Was that nine months?

29 A Till June.

30 Q You worked in June of 1970 together?

1           A     No. Trudy went to Anderson and was a schoolteacher  
2     for awhile for the summer session there. And I was in-- Then I  
3     came up here.

4           So I'd say the end of July and August we went.

5           Q     Then you returned to different schools?

6           A     Yes.

7           Q     Then you came back again here last year?

8           A     Yes.

9           Q     Is that correct?

10          A     Yes.

11          Q     For forty-five days, approximately?

12          A     Yes.

13          Q     Was Trudy one of these transcendental meditationists?

14          A     Yes.

15          Q     Was she formally initiated into the organization?

16          A     Yes.

17          Q     Did you go to the service station at all to see the  
18     car?

19          A     Yes, I did.

20          Q     When was that?

21          A     Sometime before they found the body, because I left  
22     that day.

23          Q     So you notified your father, or somebody notified  
24     your father that the car was inoperative, and it was taken to  
25     the substation, to the Washoe County Sheriff's Substation?

26          A     And did I notify them it was taken there?

27          Q     Yes.

28          A     I think it was still at the parking lot when he got  
29     there. But I'm not sure.

30          Q     Then your father got to Tahoe while the car was still



1 at the lot; is that correct?

2 A I'm not sure. I can't remember.

3 Q Well, when was it at the Sheriff's Substation?

4 A Sometime between Friday and Saturday.

5 Q When was it at the service station?

6 A I don't know.

7 Q When did you leave finally Lake Tahoe?

8 A I left on the Saturday that they found the body. But  
9 I came back about two weeks later to pick up my things.

10 Q All right. Now, where was the car at that time?

11 A I believe it was at the substation, but I'm not sure.

12 Q So what I gather, it was at the service station first,  
13 made drivable, and then taken to the substation?

14 A I don't think so. If I recall right, it went to the  
15 substation and then to the service station and then back to the  
16 substation.

17 Q Not at your direction, though, that it went to the  
18 substation; is that correct?

19 A I didn't. My father might have.

20 MR. POLAHA: Okay. Thank you very much.

21 I have no further questions, your Honor.

22 MR. ROSE: I just have a few questions, Marlayne.

23

24 REDIRECT EXAMINATION

25 BY MR. ROSE:

26 Q You've stated that the shoes look exactly like Trudy's  
27 shoes, Exhibit B. What I'd like to know is are they the shoes?

28 A I'd say yes. I don't know how to prove it, but I'd  
29 say yes.

30 Q Well, if you've seen them before, you can say they are?

1 A Yes, they are.

2 Q Is this jacket, State's Exhibit C, Trudy's jacket?

3 A Yes.

4 Q Is this the jacket she had on when she left the last  
5 time you saw her?

6 A Yes.

7 Q Now, yesterday on cross-examination you indicated  
8 that Trudy and you both had had some dates but not together.

9 A Yes.

10 Q Do you know whether or not Trudy would tell the other  
11 girls about her dates, when she would have them?

12 A Yes.

13 Q Do you ever know her not to have done that?

14 A No.

15 Q Could you tell us why she would do this?

16 A She got excited about doing things, and she'd always  
17 tell us. I mean, you know, she'd be-- If she was happy, she'd  
18 tell us. If she was sad, she'd tell us. You know.

19 MR. ROSE: Thank you, Marlayne.

20 I have no further questions, your Honor.

21 MR. POLAHA: Excuse me. I have some more questions.

22

23 RE CROSS EXAMINATION

24 BY MR. POLAHA:

25 Q How many dates did Trudy tell you that she had,  
26 Marlayne?

27 A I didn't count them.

28 Q More than one, I take it, then?

29 A I don't know if they were what you'd call dates. She  
30 went out with people. It wasn't like she planned them two weeks

1 ahead of time.

2 Q Right. So she sometimes on the spur of the moment  
3 went with guys?

4 A Yes.

5 Q You also said that she told you she would explain or  
6 tell you, express to you her feelings whether she was sad or  
7 happy.

8 In relation to her going to the doctor, did she  
9 register any concern?

10 A None, other than she had a sore throat she wanted to  
11 get rid of.

12 Q That was the only reason she went to the doctor, was  
13 a sore throat?

14 A She thought she had a yeast infection.

15 Q She didn't know she had a yeast infection before she  
16 went there?

17 A Well, I don't know how to explain it.

18 Q Yes or no?

19 A You never know until you go to the doctor; right?

20 Q She was concerned about a condition she did have,  
21 though; was she not?

22 A Yes.

23 Q Now, I don't want to belabor this, but in your  
24 direct examination you said you are presuming this stuff was  
25 hers, or the blouse is, anyway, and you said this looks like  
26 the coat.

27 Now, in answer to Mr. Rose's questions, you said,  
28 "Yes, it is the coat." Can you tell me why you are positive--

29 THE COURT: Do you have an objection, Counsel?

30 MR. ROSE: Your Honor, I'll object to that. She

1 didn't say she presumed it was the coat.

2 THE COURT: Objection is sustained. You may ask the  
3 witness what she said on her direct, but don't tell her, Counsel.

4 I think, if you're going to restate the testimony,  
5 we'll have to have the reporter read it.

6 MR. POLAHA: All right, your Honor.

7 BY MR. POLAHA:

8 Q Striking the presumption part, how do you know for  
9 certain that is her coat?

10 A Because I saw her wear it.

11 Q You saw her wear a coat that looked like this, did you  
12 not?

13 A Yes.

14 Q Is there any name on it?

15 A None that I recollect.

16 Q Is there any markings, peculiar markings on the coat?

17 A It's an unusual coat. I've never seen another one  
18 like it.

19 Q What's unusual about it?

20 A I have just never seen another one like it. That's  
21 unusual.

22 Q You never had it on, though; right?

23 A No, be too small.

24 Q It would be too small?

25 A Yes.

26 Q Why?

27 A Well, because--

28 Q Because it was Trudy's and Trudy is--

29 A Trudy is a lot smaller than me.

30 Q You don't think that would fit you?

1           A     It possibly could.

2           Q     Would you put that on, please?

3           A     Do I have to?

4           Q     I would like--

5           MR. ROSE: Your Honor, I don't see what purpose this  
6 serves, putting on the coat of Trudy Hiler. I don't really see  
7 what relevance or materiality that has in this case.

8           MR. POLAHA: Your Honor, I think the relevancy and  
9 materiality are quite salient here. She says that she identified  
10 this jacket as being positively the jacket worn by Trudy Hiler.  
11 She said that the reason she knows it is-- She said one of the  
12 reasons she couldn't possibly identify it by any peculiar  
13 characteristic because she never wore it. She said it won't fit  
14 because Trudy Hiler was smaller than she was. Therefore, she is  
15 presuming that this coat, if it belonged to Trudy Hiler, would  
16 be too small for her.

17          THE COURT: The objection is sustained. Her testimony,  
18 without commenting on the evidence, was not based exclusively on  
19 the size of the coat.

20          MR. POLAHA: Excuse me. If that coat--

21          THE COURT: For identification, I'm talking about.  
22 I sustain the objection.

23 BY MR. POLAHA:

24          Q     If the coat had fit you, it could not have been  
25 Trudy's, could it?

26          A     It could have. I mean, you can wear clothes that  
27 are bigger than you, but you can't wear clothes that are  
28 smaller than you.

29          Q     So what you meant by her being smaller and you not  
30 exchanging clothes because they were smaller, you didn't

1 necessarily mean that, did you?

2 A Well, I did. I mean, just generally accept the fact  
3 that she was about four sizes smaller than me, therefore her  
4 clothes probably wouldn't fit me. I had no idea, sir, to wear  
5 the coat. I had a coat of my own.

6 MR. POLAHA: Thank you. I have no further questions.

7 MR. ROSE: I have no further questions of this  
8 witness, your Honor.

9 THE COURT: You may step down.

10 MR. ROSE: May this witness be excused?

11 MR. POLAHA: Yes, your Honor. We have no further  
12 questions.

13 MR. ROSE: Thank you.

14 THE COURT: You are excused, Miss Weider.

15 MR. ROSE: The State's next witness, your Honor, will  
16 be Leon Caldwell.

17  
18 L E O N C. C A L D W E L L  
19 called as a witness on behalf of the State,  
20 being first duly sworn, was examined and  
21 testified as follows:

22  
23 DIRECT EXAMINATION

24 BY MR. ROSE:

25 Q Please state your full name and address.

26 A Leon C. Caldwell.

27 Q And what is your address?

28 A Tahoe City, California, Placer County.

29 Q What is your occupation, sir?

30 A Deputy Sheriff for the Placer County Sheriff's Office.

1 Q How long have you held that occupation?  
2 A Seven years.  
3 Q Directing your attention to the morning of July 15th,  
4 were you working that morning?  
5 A Yes, I was.  
6 Q What shift were you working?  
7 A Midnight to 8:00 a.m.  
8 Q And with whom were you patrolling, if anyone?  
9 A Deputy Mahlberg.  
10 Q Did you have occasion to be approached in the early  
11 morning hours by a female?  
12 A Yes.  
13 Q And could you tell us when and where that was?  
14 A It was on a state line road just across from the  
15 employees' parking lot of the Cal-Neva Club.  
16 Q How far away would that have been from the Cal-Neva?  
17 A Approximately a hundred yards.  
18 Q Could you tell us what time that was?  
19 A Approximately 1:20 a.m.  
20 Q Do you know who approached you in the early morning  
21 hours at 1:20 a.m. on July 15th?  
22 A It was two females. Deputy Mahlberg was talking to  
23 them.  
24 Q Where was your car parked?  
25 A In the roadway.  
26 Q Which way was it facing in relation to or away from  
27 the Cal-Neva?  
28 A It was facing away from the Cal-Neva.  
29 Q How did they get your attention?  
30 A They walked out towards the car and flagged us down.

1 Q Did they identify themselves?  
2 A I believe they did. I didn't have any conversation  
3 with either one of the females.  
4 Q Do you know who they were?  
5 A I heard the name, but I don't recall. Weider, I  
6 believe it was.  
7 Q Do you recall what the other one's name was?  
8 A Carol, I think her first name was.  
9 Q Did anything transpire then while Deputy Mahlberg was  
10 talking to the girls?  
11 A Yes.  
12 Q Stepping back on one thing, was he taking a statement  
13 from these girls?  
14 A Yes, he was.  
15 Q Did anything transpire at that time?  
16 A Yes.  
17 Q Could you tell me what that was?  
18 A I was approached on the driver's side of the vehicle  
19 by a young Spanish-type male subject.  
20 Q Do you see that subject in the court today?  
21 A Yes, I do.  
22 Q Could you identify him?  
23 A He's the gentleman sitting here to the extreme right.  
24 MR. ROSE: May the record show, your Honor, that the  
25 defendant has been identified?  
26 THE COURT: The record will so show.  
27 BY MR. ROSE:  
28 Q What then transpired when you were approached by the  
29 defendant?  
30 A He asked me about ex-felon registration in the State



1 of California if he came over to visit.

2 He advised me that he was presently living in Nevada  
3 and working at the Cal-Neva Club. He was advised that just to  
4 visit he would not have to register in California.

5 He thanked me and then walked off in the direction of  
6 the Cal-Neva Club.

7 Q That is generally what transpired?

8 A Yes.

9 Q Was this at the same time that Officer Mahlberg was  
10 interviewing the two girls?

11 A Yes.

12 Q Did you have occasion thereafter to see the defendant  
13 again?

14 A Yes, I did.

15 Q And was that approximately two days thereafter?

16 A Yes.

17 MR. POLAHA: Your Honor, excuse me. I'm going to  
18 object to counsel's leading questions.

19 THE COURT: Sustained.

20 BY MR. ROSE:

21 Q When was that?

22 A It would be on the morning of the 17th, Saturday  
23 morning, at approximately 1:20 a.m.

24 Q Could you tell me the circumstances?

25 A We were in the California portion of the Cal-Neva  
26 parking lot. We observed two Washoe units rolling into the  
27 area, made contact with Sergeant Neve and ascertained what the  
28 situation was.

29 Q What was the situation?

30 A He advised that they had received a call in regards to

1 a male subject dragging a female off into the brush down east of  
2 the Cal-Neva parking lot.

3 Q Did you participate in any endeavors then?

4 A Yes.

5 Q What was that?

6 A We made a search with Washoe County of the area. At  
7 that time, during the search, why, a subject was observed in the  
8 area of the search.

9 Q And speaking in terms of days, what day would this be?

10 A This would have been Saturday morning of the 17th.

11 Q Did that search uncover any body or any wrongdoing?

12 A No.

13 Q Did you thereafter have an occasion to again see the  
14 defendant?

15 A Yes. That would have been, oh, sometime later,  
16 approximately 3:35 a.m. on the 17th in the later hours of the  
17 morning.

18 Q Was that the same Saturday?

19 A Yes.

20 Q Could you tell us generally what occurred at that time?

21 A My partner and I were leaving the Cal-Neva after  
22 having breakfast. We were approached by Deputy Manley of the  
23 Washoe County Sheriff's Office, which requested us to drive him  
24 into the brush area east of the Cal-Neva employees' parking lot,  
25 stating that they had--

26 MR. POLAHA: Objection, your Honor. We're getting  
27 into hearsay evidence at this point.

28 THE COURT: Sustained as to what somebody else told  
29 him.

30 The jury will disregard whatever the witness has said

1 as related to him by someone else.

2 BY MR. ROSE:

3 Q Was an additional search then conducted?

4 A Yes.

5 Q Did you see the defendant at that time?

6 A Yes.

7 Q Could you tell us where you saw him?

8 A It was a dirt road, actually in a northwesterly  
9 direction from where the location of the body-- of the body.  
10 The subject was just milling around.

11 Q Did you have any conversation?

12 A No, I did not.

13 MR. ROSE: Thank you, Officer Caldwell.

14 Your Honor, I have no further questions of this  
15 witness.

16

17 CROSS-EXAMINATION

18 BY MR. POLAHA:

19 Q Officer Caldwell, I just have a couple of questions.  
20 When you first encountered the man you identified as the  
21 defendant on Thursday morning, I believe it was the first time?

22 A Yes.

23 Q Did you notice anything peculiar about his clothing?

24 A No. He was wearing a short-sleeve white shirt and,  
25 I believe, black pants or dark pants.

26 Q Was there any blood on the shirt that you noticed?

27 A I didn't notice any.

28 Q But nothing happened that gave you concern at that  
29 time; is that true?

30 A This is true.

1 Q What time was this about, approximately?  
2 A Approximately 1:20 a.m.  
3 MR. POLAHA: Thank you. I have nothing further.  
4 MR. ROSE: I have no further questions, your Honor.  
5 THE COURT: You may step down.  
6 MR. ROSE: State's next witness will be Charles Manley.  
7

8 C H A R L E S D O U G L A S M A N L E Y  
9 called as a witness on behalf of the State,  
10 being first duly sworn, was examined and  
11 testified as follows:  
12

13 DIRECT EXAMINATION

14 BY MR. ROSE:

15 Q Please state your full name and address.  
16 A Charles Douglas Manley, 5665 Mount Rose Highway.  
17 Q What is your occupation?  
18 A Deputy Sheriff, Washoe County.  
19 Q How long have you held that occupation?  
20 A For two years.  
21 Q On July 15th, 1971, were you on duty?  
22 A Yes.  
23 Q During what shift were you on duty?  
24 A Day shift.  
25 Q On that day, did you have occasion to take any  
26 photographs of a 1966 Mustang?  
27 A Yes.  
28 Q When and where was that?  
29 A That was at the Cal-Neva parking lot, the upper  
30 parking lot. In Crystal Bay, around, to the best of my

1 knowledge, about 1600. About 4:00 o'clock.

2 Q Did you have a chance at that time to observe this  
3 Mustang?

4 A Yes.

5 Q Could you describe it generally to me?

6 A It was a dark '66 Mustang, and it had the driver's  
7 door open. Do you want everything?

8 Q Yes, I would.

9 A And I noticed the drive shaft was broken on it. It  
10 was laying on the ground in an indentation on the ground. And  
11 the clutch pedal was all the way to the floor, kind of bent  
12 to the floor. It was laying on the floorboard.

13 The steering wheel was sort of bent, and the horn rim  
14 was bent away from the steering wheel.

15 Q Did you have the opportunity to observe whether or  
16 not there was any skid marks around or near the wheels?

17 A Yes. The skid marks where the wheels had dug a small  
18 hole in the sand on each side of the car, the rear of the car.

19 Q Were arrangements made for this vehicle to be removed?

20 A Yes.

21 Q Who removed the vehicle?

22 A To the best of my recollection, it was Incline Texaco.

23 Q Did they come to the parking lot?

24 A Yes.

25 Q And removed the vehicle?

26 A Yes.

27 Q How did they remove it?

28 A They hooked up to it with a tow truck and tied the  
29 drive shaft up and took it off to the Sheriff's Office.

30 Q When you say "the Sheriff's Office", what Sheriff's

1 Office?

2 A The Incline Substation.

3 Q When did the car arrive at the Incline Substation?

4 A Shortly after they left there. They went straight  
5 from Crystal Bay. Probably takes them, pulling a car, probably  
6 five minutes. A little--

7 Q Did you see the Mustang at the substation?

8 A Yes.

9 Q When did you see it?

10 A It was sometime after they'd towed it away. Exactly  
11 minutes, I wouldn't know.

12 Q Could you give us a general idea, to your best  
13 recollection?

14 A Well, couldn't have been much more than fifteen,  
15 twenty minutes.

16 Q Thank you. I'm going to show you at this time three  
17 pictures that are in evidence, and the first is State's Exhibit  
18 E-1. Is that the vehicle that you are referring to, the 1966  
19 Mustang?

20 A Yes, sir.

21 Q And I'm going to show you State's Exhibit E-2. Could  
22 you tell us what that picture shows?

23 A This is the picture of the steering wheel and the way  
24 the horn rim was bent and the wheel was pulled.

25 Q I'm going to show you State's Exhibit in evidence E-3.  
26 Could you tell us what that shows?

27 A This is a picture of the clutch all the way to the  
28 floorboard, and the wires hanging down as if they'd been  
29 grabbed and pulled. And of the door being open, and everything  
30 right there.

1 Q Were the wires hanging like that when you took the  
2 picture?

3 A Yes, they were.

4 Q Do you know what wires they were?

5 A No, sir, I sure don't.

6 Q I am going to show you three pictures marked for  
7 identification at this time, Officer Manley. Immediately after  
8 this vehicle was towed away from the employees' parking lot,  
9 did you have the opportunity to observe the marks underneath  
10 the rear of the vehicle?

11 A Yes.

12 Q And did you photograph those marks?

13 A Yes.

14 Q And are those three of the photographs that you took?

15 A Yes, these are the photographs of those marks.  
16 Whether I took all-- you know--

17 Q In each of the three pictures?

18 A Right. Those are the same marks that were in the  
19 ground.

20 Q Now, those photographs are the same three marks from  
21 different directions?

22 A Right, sir.

23 Q Could you tell me what marks they were there?

24 A Well, the middle one is where the drive shaft had  
25 apparently, when it was snapped, kept rotating. It dug a hole  
26 in the sand. How deep, I wouldn't know.

27 And then the tire marks on either side of the drive  
28 shaft is where apparently the clutch had been popped prior to  
29 pushing it in, or the drive shaft breaking, it dug small holes.

30 MR. POLAHA: Excuse me, your Honor. I'm going to

1 object and ask the Court to strike the last response of this  
2 witness, inasmuch as what he is doing now is concluding and  
3 giving opinions, and he's not qualified as a mechanical expert  
4 to make such a conclusion or opinion.

5 THE COURT: Mr. Rose?

6 MR. ROSE: I think the objection is good, your Honor.

7 THE COURT: The objection is sustained. The matter  
8 referred to by counsel will be stricken, and the jury will  
9 disregard it.

10 BY MR. ROSE:

11 Q Where were the skid marks in relation to the hole  
12 made by the drive shaft dropping out?

13 A Just a few inches to the rear of the drive shaft was  
14 the holes-- The hole was in the center here, and just right  
15 here was the wheel marks in the soft sand.

16 Q When you saw the vehicle, were the skid marks  
17 directly under the wheels or were they out?

18 A The wheels were sitting in the skid marks.

19 Q Now, are these three pictures clear and accurate  
20 representations on that day as you have described it of those  
21 skid marks immediately after the vehicle was removed?

22 A Yes, sir, as clear as I could take them.

23 MR. ROSE: Your Honor, I'll offer these three  
24 exhibits into evidence at this time.

25 MR. POLAHA: Excuse me, your Honor. May I have some  
26 questions on voir dire?

27 THE COURT: You may.  
28  
29  
30



VOIR DIRE EXAMINATION

BY MR. POLAHA:

Q Are you a professional photographer, Officer?

A No, sir, I am not.

Q Are you familiar with the limitations of a photographic device; namely, a camera?

A No, I'm not.

Q Can you get three dimensions from any type of camera that you ever used?

A Well, what do you mean?

Q Well, we have skid marks here now. What do you see when you see a skid mark? Do you see a black area in the picture and a light area on either side?

A No, this is not a skid mark. That is an indentation in the sand where the wheels had spun.

Q Now, you know this because you were there and saw the indentations?

A I saw the indentations, yes.

Q And you remember taking a picture of that?

A Yes.

Q Did you process these photographs?

A No.

Q Can you tell me in that photograph we have here, this is F-3 for identification, which area on the photograph, the light green or the dark green or the black area is higher in elevation than the other? Can you tell me that from that photograph?

A Do you mean the sand? Is that what you're talking about?

Q Yes, by just looking at the photograph, not going

1 to the--

2 A Yeah, I can tell which is the higher. I can show  
3 the side of this hole here and right there. And this hole here  
4 and right there is the high side of that hole.

5 Q Can you tell me the depth of the hole?

6 A No.

7 Q Not from the photograph?

8 A No.

9 Q Could you show me or could you have told me that  
10 without having been at that place?

11 A Oh, anybody can see that. The high marks on the  
12 holes.

13 Q I can't see it because I'm not used to looking at  
14 high marks.

15 Now, how about that picture? This is F-1 for  
16 identification. What does that indicate?

17 A Well, looks to me like this here is the higher part  
18 right there, because the way the sand and stuff is laying.

19 Like I say, I'm not an expert by any means. This is  
20 just my opinion.

21 Q Do you know in which direction you are facing when  
22 you took the photographs?

23 A Well, different directions. The car-- If I can see  
24 one of those pictures, I can give you a better idea of the  
25 direction.

26 The car was facing-- Now, this way would be the  
27 Cal-Neva Club, so the car was facing this direction, which  
28 would be toward the lake.

29 The rear end of the Mustang was facing, you know,  
30 facing my car.

1 Q What time of day was that?  
2 A It was about somewhere around 4:00 o'clock.  
3 Q In relation to your car and what you indicated where  
4 the Mustang was facing, where would the sun be?  
5 A You would ask that; wouldn't you?  
6 THE COURT: Counsel, are these questions directed  
7 to admissibility?  
8 MR. POLAHA: Yes, your Honor. I'm trying to find  
9 out-- He did testify that this was an accurate representation  
10 of the scene at the time and he did take the picture. He did  
11 not process the pictures; he's not an expert photographer.  
12 I'm trying to show that when we're talking about  
13 holes in the ground and pictures have holes in the ground,  
14 the shadows distort--  
15 THE COURT: You don't dispute that he took these  
16 pictures, however?  
17 MR. POLAHA: No, I don't. But I am questioning  
18 whether or not they fairly and accurately--  
19 THE COURT: I think that goes to the weight and not  
20 the admissibility.  
21 MR. POLAHA: All right, your Honor, then I'll stop  
22 my voir dire.  
23 THE COURT: I'll admit them as marked.  
24 (State's Exhibits F-1, F-2, and  
25 F-3 previously marked for  
26 identification were admitted  
27 into evidence.)  
28 MR. ROSE: Your Honor, I have no further questions of  
29 this witness. You may cross-examine, Counsel.  
30

CROSS-EXAMINATION

BY MR. POLAHA:

Q Officer, you did say this was a soft sandy area at that place?

A Yes, sir.

Q Did you ever see or have occasion to look into the interior of that car prior to the date that you took the pictures?

A Never even seen the car, to the best of my knowledge.

Q And you said something about the steering wheel being pulled?

A Yes.

Q Now, what do you mean by that?

A Well,--

Q It was out of round?

A It was-- It's kind of hard to explain. The horn rim, the way the horn rim was bent out, it looked as if the steering wheel was bent towards the driver's door a little ways, kind of like this.

THE COURT: Are these photos that we just admitted marked?

MR. ROSE: Yes, your Honor, they are.

MR. POLAHA: For identification, yes, your Honor.

THE COURT: How are they marked?

MR. ROSE: F-1 through 3.

THE COURT: Thank you.

BY MR. POLAHA:

Q Are you familiar with this here Mustang, Officer?

A With what? What are you talking about? In what capacity are you talking?

1 Q I know Ford Motor Company--  
2 A You mean the tilt?  
3 Q Yes, tilt steering wheel.  
4 A I don't believe it had it. I didn't check to see if  
5 it had a tilt.  
6 Q You didn't check, though, did you?  
7 A No, I did not.  
8 Q Do you know anything about the wiring of a Mustang?  
9 A No, I don't know anything about wiring of any car.  
10 Q Then you wouldn't know if the ignition wires are  
11 isolated from the rest of the wiring underneath the dashboard?  
12 A No, sir, I sure wouldn't.  
13 Q Or more readily available than the other wiring?  
14 A I wouldn't.  
15 Q When were the pictures taken again, what day?  
16 A Well, it was the 15th when--  
17 Q Thursday?  
18 A Thursday, when I was there.  
19 Q Okay. Now, this was in response to what?  
20 A Oh, we got a call to meet a California unit there.  
21 Evidently, they'd came upon the car. They wanted us to look  
22 at it since it was in Nevada.  
23 Q This was a Nevada lot; wasn't it?  
24 A Yes.  
25 Q Who ordered the car removed from the lot?  
26 A You mean to the station?  
27 Q Yes.  
28 A Well, myself and Lieutenant Butner.  
29 Q Then Texaco towed it to the station?  
30 A Yes.

1 Q Now, was this done in a follow-up for the missing  
2 person report?

3 A Yes, that's what you'd-- We had a missing person report  
4 on it, and we had the car, so we towed it, yes. So it would be  
5 in following the missing person report.

6 Q All right. But now the missing person report was not  
7 filed in Nevada, was it?

8 A No, it was filed in California.

9 Q Is this a usual interoffice cooperation or interstate  
10 cooperation between the two Sheriff's Departments?

11 A Yes.

12 Q You could not have transferred the car to California  
13 and had it for their jurisdiction?

14 A It was sitting in Nevada, so we felt it would be  
15 better to be transferred to our office where it could be under  
16 constant supervision as it was in Nevada.

17 Q By "sitting in Nevada", so we get this in proper  
18 perspective, a part of the Cal-Neva lies in California--

19 A And a part lies in Nevada.

20 Q In fact, it cuts the main parking lot right in half;  
21 doesn't it?

22 A Right, and this car happened to be in Nevada.

23 Q Do you know when the car was taken from the  
24 substation and repaired?

25 A No, I don't.

26 MR. POLAHA: Thank you, Officer. I have no further  
27 questions.

28 MR. ROSE: I have no further questions of this witness,  
29 your Honor.

30 THE COURT: You may step down.

1 We're going to take a ten-minute recess at this time.

2 Ladies and Gentlemen, you are instructed not to discuss  
3 the case among yourselves or with anyone else, or to form any  
4 conclusions concerning the case until it is submitted to you.  
5 And you are also instructed not to read or listen to any  
6 information or other matter concerning this case.

7 (Recess.)

8 THE COURT: Be seated, please.

9 Will counsel stipulate the presence of the jury?

10 MR. ROSE: So stipulated, your Honor.

11 MR. POLAHA: So stipulated, your Honor.

12 THE COURT: You may proceed.

13 MR. ROSE: Our next witness, your Honor, will be  
14 James Biggs.

15

16 J A M E S B I G G S

17 called as a witness on behalf of the State,  
18 being first duly sworn, was examined and  
19 testified as follows:

20

21 DIRECT EXAMINATION

22 BY MR. ROSE:

23 Q Please state your full name and address.

24 A James Biggs, Box 544, Incline Village, Nevada.

25 Q And what is your occupation or profession?

26 A I'm the manager for the Woody's Incorporated; also a  
27 mechanic.

28 Q Would you tell us what Woody's Incorporated is?

29 A A Chevron station, Chevron gas station.

30 Q Where is it located?

1           A     947 Tahoe Boulevard at Incline Village.  
2           Q     And you are a mechanic?  
3           A     Right.  
4           Q     How long have you been a mechanic?  
5           A     Been at it professionally for six years, and working  
6 around automobiles and whatnot for the last fifteen.  
7           Q     Do you have any training courses or certifications  
8 in the care and handling of automobiles?  
9           A     Yes, I do.  
10          Q     Could you tell me what that is?  
11          A     I have air-conditioning, tune-up, brakes, wheel  
12 alignment, emission controls, general mechanical courses that  
13 I have taken.  
14          Q     Are you familiar with the drive shaft mechanism of  
15 the Mustang?  
16          A     Yes, sir.  
17          Q     More particularly, a 1966 Mustang?  
18          A     Yes, sir.  
19          Q     Have you worked on many?  
20          A     Yes, sir.  
21          Q     Could you tell me how many you've worked on?  
22          A     I don't think I could count them. There have been  
23 that many.  
24          Q     Could you give me your best estimate?  
25          A     Oh, I would have to put it into a generalization,  
26 because they're all basically the same type. So I would say  
27 into the thousands.  
28          Q     On July 17th, 1971, that was a Friday, did you have  
29 occasion to pick up a 1966 Ford Mustang?  
30          A     Yes, I did.



1 Q Where did you pick it up?  
2 A The Washoe County Substation at Incline Village.  
3 Q That would be the Sheriff's Substation?  
4 A Correct.  
5 Q How did you pick it up?  
6 A With my tow truck.  
7 Q Do you recall what time it was Friday?  
8 A I believe it was in the morning.  
9 Q To where did you take it?  
10 A Took it to my business.  
11 Q That would be located where?  
12 A 947 Tahoe Boulevard.  
13 Q What did you then do with the vehicle?  
14 A I inspected it, found out what the problem was with it  
15 and ordered the necessary parts to repair it.  
16 Q Could you tell me how long it remained at your shop?  
17 A I believe I had it there two and a half or three days.  
18 Q Now, when you said you got it into your shop, you  
19 inspected it, could you tell me what this inspection revealed?  
20 A The pinion shaft in the differential carrier was  
21 broken.  
22 Q And is this differential carrier a part of the drive  
23 shaft mechanism?  
24 A Correct, it's a part and portion of the drive train  
25 mechanism.  
26 Q Could you generally explain the drive shaft or drive  
27 train mechanism to the jury, realizing that one, I'm not very  
28 familiar with cars and maybe some of the jurors aren't either.  
29 A Well, it would start with the engine. In the  
30 particular vehicle we're talking about, it was a standard

1 transmission of the four-speed variety.

2 So it would start with the engine, the clutch, the  
3 transmission, drive shaft and the differential. Which the  
4 differential is composed of a pinion shaft, ring gear and spider  
5 gears, and axles go out to the drive wheels.

6 Q And when the pinion shaft is severed, what happens to  
7 the drive shaft mechanism?

8 A It's gone. You have no more drive train. The pinion  
9 shaft turns the ring gear, and if this is broken, then your  
10 completion of action to the rear wheels is stopped.

11 Q So your transfer of power from the engine to the back  
12 wheels is gone?

13 A Right.

14 Q Can this or can this not be compared with kind of  
15 like a chain with several essential links from the engine to  
16 the wheels?

17 A Correct.

18 MR. POLAHA: Your Honor, I'm going to object. I  
19 think this is a leading question on the part of the District  
20 Attorney's office right here. I think he can either ask the  
21 witness a direct question--

22 THE COURT: Your objection is sustained.

23 BY MR. ROSE:

24 Q When the pinion shaft is severed, what happens to the  
25 drive shaft?

26 A Depending upon where it's broken at. It can be-- The  
27 length of this shaft is somewhat around nine inches. If it is  
28 broken to the outside of the axle housing, the drive shaft will  
29 fall to the ground. If it is broken on the inside, it will  
30 remain in its bearings and just spin.

1 Q Where was this one broken?

2 A This was broken at the outside of the differential  
3 housing.

4 Q What would happen?

5 A The drive shaft would fall to the ground.

6 Q Did that happen in this case?

7 A I would say so, yes. When I picked up the car, the  
8 drive shaft was tied.

9 Q Did you notice anything else unusual or different  
10 about this car besides the drive shaft problem?

11 A The horn ring was broken in it. Other than the  
12 problems with the car that the owner had already told me about,  
13 no.

14 Q Mr. Biggs, I'm going to show you State's Exhibit E-1  
15 in evidence, and is that the 1966 vehicle we're talking about?

16 A Yes, it is.

17 Q I'm also going to show you State's Exhibit E-2, and  
18 this is a picture of a steering wheel. Is that the same  
19 condition the steering wheel was in when you inspected it?

20 A That's correct.

21 Q I'm going to show you State's Exhibit E-3, which  
22 really has to do with the pedals, photograph of the pedals and  
23 clutch pedal. Is that the condition of those pedals when you  
24 found it?

25 A Correct.

26 Q Could you describe that last picture with regard to  
27 the clutch pedal?

28 A The pad is somewhat broken off of the pedal itself.  
29 Looks like possibly the pedals are somewhat bent. Other than  
30 that,--

1 Q Can you tell whether or not it's depressed?

2 A No, this is not-- Yes, that is depressed somewhat  
3 there. I'm sorry. It is somewhat depressed.

4 I would say this is-- It's hard to look at the  
5 photograph itself and tell this. It looks like it is somewhat  
6 depressed.

7 Q Was the clutch pedal depressed when you inspected it?

8 A I truthfully could not tell you that. I can't  
9 remember that.

10 Q Thank you. One other question: In this photograph,  
11 you can see that there are some wires hanging down there. Were  
12 those wires there when you inspected it in that condition?

13 A Yes, I would say so.

14 Q That's State's Exhibit E-3, I believe.

15 A Yes.

16 Q Could you tell me what those wires are?

17 A Without really tracing them, it would be very hard to.  
18 It could possibly go to the brake light switch--

19 MR. POLAHA: Excuse me, your Honor. I'm going to  
20 object to this point. He just answered that "Without tracing  
21 them", and then he said "possibly", so we're getting into an  
22 area--

23 THE COURT: Objection is sustained.

24 BY MR. ROSE:

25 Q Are they ignition wires?

26 A No, I would say definitely not.

27 Q Why would you say "definitely not"?

28 A Well, the ignition switch is located to the right of  
29 the steering column. These are to the left. There would be  
30 no correlation.

1 Q Yesterday some questions were asked with regard to  
2 hot wiring a vehicle. Could you tell me generally what that is?

3 A A hot wiring, as it is termed, is a method of making  
4 a vehicle operate without using the key. Generally, either  
5 removing the switch from the car and placing wires together  
6 to make it run, or on some vehicles it can be done outside  
7 and underneath the hood of the car.

8 Q How would you hot wire that particular vehicle, that  
9 1966 Mustang?

10 A Under the hood of the car.

11 Q And would there be any necessity to get into the car?

12 A No, sir.

13 Q If you were even attempting to hot wire the car,  
14 would you be fiddling with those wires that you see in that  
15 photograph?

16 A No, sir. There would be no need to.

17 Q Could you now tell me, Mr. Biggs, what you did to  
18 repair this vehicle?

19 A That type of a vehicle uses what is called a third-  
20 member differential, which means that a portion of the axle  
21 housing can be removed, which would include the differential  
22 carrier, so it's called, and can be replaced in one whole  
23 portion.

24 The owner of the vehicle requested that I do the work  
25 as inexpensively as possible. So rather than repairing that  
26 particular third member, I got a used third member for him and  
27 replaced the whole thing.

28 Q Did you make any other repairs to the vehicle, aside  
29 from the drive shaft mechanism?

30 A Yes. The brake light switch was and had been

1 sticking on the vehicle, so I repaired that.

2 Q Now, Mr. Biggs, could you tell us how you can break a  
3 pinion shaft?

4 MR. POLAHA: Your Honor, I'm going to object to this.  
5 Mr. Biggs is not qualified as an expert, and the Court has not  
6 accepted him as such, and now Mr. Rose is asking him to make a  
7 conclusion. I don't think he's qualified to make that  
8 conclusion.

9 THE COURT: Why isn't he a qualified expert, Counsel?

10 MR. POLAHA: The question was never asked if the Court  
11 would accept him as an expert, your Honor. We didn't get to  
12 voir dire him on his qualifications.

13 THE COURT: Are you offering the witness as an expert?

14 MR. ROSE: Your Honor, I don't know that it's  
15 necessary. I think I have qualified him as an expert.

16 THE COURT: I think you have, too, but counsel is  
17 entitled to inquire on voir dire, if he wishes.

18 MR. ROSE: Okay, fine. I'll offer him as an expert.

19 THE COURT: Do you wish to inquire, Counsel, on  
20 voir dire?

21 MR. GRELLMAN: We do, your Honor. We'd like to ask  
22 the witness some questions.

23  
24 VOIR DIRE EXAMINATION

25 BY MR. GRELLMAN:

26 Q Mr. Biggs, you've indicated that you have had  
27 approximately six years professional experience; is that correct?

28 A Six years experience as what is termed working on the  
29 job.

30 Q What does working on the job consist of?

1 A Just about everything in and around automobiles.  
2 Q Do you spend your entire time working on automobiles?  
3 A I would say probably eighty percent of it, yes.  
4 Q And in your experience with working on automobiles,  
5 do you find that there are many different types of automobiles?  
6 A Yes, sir, certainly.  
7 Q And particularly in the area from the transmission--  
8 or from the engine to the transmission to the differential,  
9 there is many different types; is that correct?  
10 A I would say that they are all the same, with the  
11 exception of the transmissions.  
12 Q Then would you say that the differential on a 1950  
13 Ford is the same as one on a 1971 Cadillac El Dorado?  
14 A When you say "the same", do you mean in construction--  
15 Q Or similar.  
16 A In design?  
17 Q Construction, design.  
18 A Construction, design, they are the same, yes.  
19 Q Then a 1971 Cadillac El Dorado has a front wheel  
20 drive, whereas a 1950 Ford has a rear end drive?  
21 A They use the same differential principle.  
22 Q What principle is that?  
23 A The principle of a simple rotation going in and a  
24 dual rotation going out.  
25 Q So in principle, they may have the same design, and  
26 in theory they have the same design?  
27 A Correct.  
28 Q But in actual, they are quite different?  
29 A In actual operation, you certainly would have  
30 different designs.

1 Q Now, in your qualifications as over the period of six  
2 years, you indicated you attended different schools; is that  
3 correct?

4 A Correct.

5 Q Did you ever attend a school specifically designed  
6 for differentials?

7 A No.

8 Q Are there schools available specifically designed for  
9 differential repair?

10 A No, not specifically for them, no.

11 Q Well, how about schools designed that would not only  
12 encompass the whole drive line mechanism?

13 A Yes.

14 Q Say, for instance, from the transmission through the  
15 differential?

16 A Correct.

17 Q Have you ever attended one of those schools?

18 A No, I have not.

19 Q You've indicated that there are different ways, there's  
20 different ways to break drive shafts; is that correct?

21 A Yes.

22 Q How many different ways, without enumerating them?  
23 How many different ways can you just think of in round numbers,  
24 ten, fifteen?

25 A Could you clarify yourself?

26 Q Theoretically speaking, how many possible different  
27 ways can you break a drive shaft?

28 A One.

29 Q Only one and only one way; is that correct?

30 A There's actually only one way you could break a



1 drive shaft, yes.

2 Q How many possible ways could a brake shaft be broken?

3 A A brake shaft?

4 Q A drive shaft. Excuse me.

5 A Well, the one way is going to be wear. The other  
6 way is going to be excess torque applied to it.

7 Q Is there any other ways, like, for instance, being  
8 in an automobile accident?

9 A I would have to term that as wear. Actually being in  
10 an automobile accident, to break a drive shaft-- It could bend  
11 it, but breaking it is something else. This is why I asked you  
12 to clarify yourself. What do you mean by "breaking"?

13 Q That is what question we're going to get into just  
14 a minute. We're going to ask you what you mean by "breaking".

15 Let me ask you this question now: To you "breaking"  
16 means something, where to another person it may mean something  
17 else; is that correct?

18 A Possibly, yes.

19 MR. GRELLMAN: Your Honor, I'm going to object to  
20 the qualifications of Mr. Biggs. Although he has indicated  
21 that he has had professional experience for six years, the  
22 schools are available, the District Attorney has failed to  
23 show that he has participated in any of these schools. And we  
24 would make an objection to any opinion he's going to express  
25 based on the fact of how a differential could be broken.

26 We think that the District Attorney, if they want to  
27 bring an expert in, we have no objection. However, we challenge  
28 Mr. Biggs' qualifications on this specific aspect at this time.

29 THE COURT: The objection is overruled.  
30

1 BY MR. ROSE:  
2 Q Mr. Biggs, you have indicated that the pinion shaft  
3 was broken. For the jury's benefit, could you tell us what you  
4 mean when you say "broken"?  
5 A It was broken in half.  
6 Q You said it was approximately nine inches long?  
7 A Right.  
8 Q Could you tell us where it was broken?  
9 A It was broken in the front portion, I would say,  
10 probably anywhere from a quarter to three-quarters of an inch  
11 behind the splines.  
12 Q Could you tell me--  
13 A Which the yoke fits onto, the universal joint yoke  
14 fits onto.  
15 Q Now, could you tell me how you could break this  
16 pinion shaft as you saw it?  
17 A It would take a tremendous amount of force to break  
18 it.  
19 Q And how would you get force applied to that pinion  
20 shaft?  
21 A In an excessive amount of torque, about the only way  
22 is by a rapid acceleration of the engine and a sudden jar to  
23 this particular portion of it. In other words,--  
24 Q In operating the car, how would you do that?  
25 A By a sudden acceleration of the engine and a rapid  
26 release of the clutch.  
27 Q In layman's terms, if we were going to get into a  
28 car and get into this car and try and break that pinion shaft  
29 where it was broken, what would we do?  
30 A Put your foot all the way down to the floor and--

1 Q That's on the gas pedal?  
2 A On the gas pedal.  
3 Q With the clutch down?  
4 A With your clutch down.  
5 Q Put it in gear?  
6 A Put it in gear and slide your foot off the clutch.  
7 Q Pop the clutch out?  
8 A Right.  
9 Q And when you say "torque", what do you mean by that?  
10 A Power from the engine transmitted to the various  
11 parts of the drive train.  
12 Q And this would be what we'd be doing, or is this  
13 what we'd be doing by pushing down on the gas and popping the  
14 clutch?  
15 A Right.  
16 Q Mr. Biggs, some questions have been raised as to  
17 whether or not this vehicle had a tilt steering wheel. Do you  
18 know whether it did or not?  
19 A No, sir.  
20 Q You don't know?  
21 A It does not have a tilt steering wheel.  
22 Q So the steering wheel would be fixed in place?  
23 A Right.  
24 MR. ROSE: Thank you, Mr. Biggs.  
25 I have no further questions of this witness, your  
26 Honor.  
27 You may cross-examine.  
28  
29  
30

CROSS-EXAMINATION

BY MR. GRELLMAN:

Q Mr. Biggs, you've indicated that one of your main jobs is working for Woody's service station; is that correct?

A Yes.

Q Do you have any additional jobs or anything that you perform?

A Additional jobs, such as employment?

Q Right.

A No.

Q Do you belong to any auxiliary associations or any organizations?

A I'm with the Washoe County Reserve, yes.

Q And what do your duties in that capacity consist of?

A Reserve Deputy.

Q Do you remember a few days ago when we attempted to contact you?

A Yes.

Q What was your attitude in regards to our attempting to contact you?

A My attitude in your regards-- You called me and asked me if I would speak with you concerning this matter.

Q In relation to that, what did you reply?

A What did I reply? I replied as I do to anyone who asks me something that--

Q Just to me, Mr. Biggs.

A To you, this I can't remember my exact reply to you.

Q Were you willing to talk to us or were you reluctant?

A I was reluctant.

Q Why was that?

1           A     I don't discuss anything that has to do with business  
2 or possibly the Sheriff's Office with anyone else.

3           Q     In fact, did we have to go to the District Attorney  
4 to get his permission to talk to you?

5           A     No, sir, I went to him.

6           Q     What did the District Attorney say at that time?

7           A     He said that I could certainly-- I certainly could  
8 talk to you.

9           Q     Now, Mr. Biggs, in relation to this here, you've  
10 indicated that-- Let me ask you this question: When was the  
11 first time you saw this car?

12          A     When I picked it up at the Washoe County Sheriff's  
13 Office.

14          Q     And what day was that?

15          A     I believe it was the 17th. I think it was on a  
16 Friday.

17          Q     Did you have any knowledge of the car prior to that  
18 time?

19          A     No, sir.

20          Q     You'd never seen the car before that?

21          A     No, sir.

22          Q     When you first observed the car, did you make any  
23 observations of it at this time?

24          A     No.

25          Q     What preparation did you make to tow the car down to  
26 your service station?

27          A     It was in the garage area of the substation, and I  
28 simply hooked it onto my truck and went.

29          Q     Well, did you get in the car in any way to prepare it,  
30 to make sure the brake was off or take it out of gear, or