

**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 05:53 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 2 OF 8
(APPN 0191 – APPN 0379)**

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

Date	Document	Vol. No.	Page Nos.
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

Date	Document	Vol. No.	Page Nos.
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

Date	Document	Vol. No.	Page Nos.
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. Gambee, 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 2 OF 8 (APPN 0191 – APPN 0379)** 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 anything like that?

2 A I looked inside of it, yes.

3 Q Did you make any preparations prior to towing the car?

4 A Made sure that the brake was off and put my hand on

5 the gear lever and made sure it was in neutral.

6 Q Did you in any way at all touch any of the pedals or

7 anything?

8 A I don't believe so. I don't think I would have had

9 to.

10 Q But you did enter the car; is that correct?

11 A Right.

12 Q Did you touch the steering wheel and the gearshift?

13 A I would say that I probably checked it to make sure

14 it was-- the brake was off and--

15 Q How would you do that, to make sure the brake was off

16 and make sure it was out of gear?

17 A Well, the brake lever is a handle that you pull out on.

18 This you can observe by seeing that it's in its released

19 position.

20 The car itself has a four-speed transmission in it.

21 The gear lever, I can wiggle and tell if it's in neutral or not.

22 Q Did you make any observations at that time, or were

23 you told what you were up there towing the car away for?

24 A I was told by the gentleman that owns the vehicle that

25 he wanted it repaired. At that time, I had no idea what was

26 wrong with it.

27 Q Did you look underneath it at all at that time?

28 A When I picked it up.

29 Q What was the condition of what you saw underneath the

30 car?

1 A Drive shaft was tied.
2 Q Where was it tied?
3 A Where was it tied?
4 Q Yes.
5 A To the frame.
6 Q Now, you took it down to your service station. How
7 long was it before you did any work on it?
8 A I am again-- This to me at this time was nothing more
9 than a simple repair job, which I cannot state specifically
10 any time element that would have lapsed in between.
11 Q Now, were you the one that specifically worked on this
12 car, or did one of the other mechanics in your garage work on
13 it?
14 A I worked on it and I had one other fellow helping me.
15 Q Did you do all the mechanical repairs on the car at
16 this time?
17 A Right.
18 Q Did you remove the drive shaft and remove the
19 differential unit?
20 A Yes.
21 Q Now, you've indicated to us that in your opinion that
22 there is only one way in which a pinion gear can be snapped; is
23 that correct?
24 A It's again, specify what you're trying to ask me.
25 Q Well, I'm going back over the questioning you
26 indicated to us that in your opinion the only way to bring--
27 THE COURT: Counsel, I think you have a terminology
28 problem. You were talking about drive shaft before, and now
29 you're talking about pinion gears.
30 I think the two of you should establish what you are

1 talking about before you inquire how it can be broken.
2 MR. GRELLMAN: Okay, your Honor.
3 BY MR. GRELLMAN:
4 Q Mr. Biggs, what was the only part broken on that car?
5 A The pinion shaft.
6 Q Was there anything wrong with the drive shaft? Did
7 you have to replace the drive shaft?
8 A The drive shaft was fine.
9 Q Okay. So in your opinion, you've expressed that the
10 only way you could break a pinion shaft was for an excessive
11 amount of torque rapidly applied to that section; is that
12 correct?
13 A This is the only way any metal part in that section
14 can be broken, right.
15 Q There's no other possible way that it can be broken?
16 A Now again, I'll ask you to specify yourself as to
17 what you mean by breakage.
18 Q I mean the break the way you found that.
19 A The way I found that, it would have to be by an
20 excessive amount of torque applied to it.
21 Q Now, you've indicated you are familiar with Mustangs;
22 is that correct?
23 A Correct.
24 Q Particularly '65, '66, '67, they basically are all the
25 same?
26 A Yes.
27 Q You've worked on thousands of them?
28 A I would say so.
29 Q And removed thousands of pinion shafts and rear ends?
30 A No, sir.

1 Q So your work on Mustangs hasn't necessarily been
2 strictly to the rear end problems; is that correct?
3 A Yes.
4 Q How many Mustang differentials do you think you've
5 worked on?
6 A Like I told you before, a differential is basically
7 the same on all vehicles.
8 Q Answer my question specifically.
9 A Specifically on Mustangs?
10 Q Yes.
11 A Mustangs themselves, to my knowledge, I would say
12 probably around three.
13 Q How many of those differentials have you worked on
14 that have had snapped pinion shafts?
15 A One.
16 Q Do you know how that other one snapped?
17 A No. No, I'm speaking of the one that we're speaking
18 of.
19 Q This is the first one?
20 A Right.
21 Q Okay. Now, you've indicated the snap occurred right
22 behind the spline on the pinion gear; is that correct?
23 A Yes.
24 Q Now, what's the weakest part of the pinion shaft?
25 A There again, if I had one in my hand, I could show it
26 to you what a pinion shaft is.
27 Q Well, I understand what a pinion shaft is, but I just
28 want to know. You said it was snapped right behind the front.
29 I want to know in your opinion what's the weakest part. Tell me.
30 A It's the simple shaft itself that is die cast. I

1 would say that you could not pick out any specific weak portion
2 in it.

3 Q Would you say that because of the machining and the
4 tooling, the splining on the end that that would cause it to be
5 a little weaker right at that point as opposed to the center?

6 A There is a possibility of that, right. But you also
7 have a gear on the end of that.

8 Q Is it in your opinion-- You've worked on cars and
9 been around cars for years. Have you ever been around the hot-
10 rodding industry?

11 A Yes.

12 Q Have you ever had experiences with, so to speak,
13 hot rods? You had a hot rod yourself?

14 A Oh, yes.

15 Q Souped-up engine?

16 A Yes.

17 Q What's one of the weakest points in an automobile of
18 that type?

19 A An automobile of that type?

20 Q Yes.

21 A For the drive train?

22 Q Right.

23 A A combination of them. Axles, spider gears in the
24 differential. Spider gears are generally the weakest.

25 Q Okay. Now, in regards to the pinion shaft, is that
26 uncommon with an engine's-- high-compression engines to snap
27 these pinion shafts?

28 A No.

29 Q It happens quite frequently; doesn't it?

30 A No.

1 Q Oh, it doesn't. But it's not uncommon?

2 A To my knowledge, this is the only one that I have ever
3 seen broken like this.

4 Q Do you know of your own knowledge whether or not that
5 constant wear, constant acceleration and letting the clutch out,
6 so to speak, getting on the gas and getting off it, would tend
7 to weaken that any at all?

8 A It should not, no.

9 Q So then in your opinion it's a one-time and one-time-
10 only shot?

11 A Yes.

12 Q Over a period of time, it couldn't be twisted and
13 then-- twisted just a minute amount, a matter of a thousandth's
14 of an inch, and then twist a little bit, then all of a sudden
15 it reaches a point where--

16 A In this particular part of the differential, it would
17 be very hard to do this.

18 Q Taking your knowledge a little bit further, if you were
19 to, as the District Attorney said, accelerate the car by you
20 pressing on the gas pedal to a large amount, putting the car
21 into gear and then letting off on the clutch,--

22 A Yes.

23 Q -- what happens in that case?

24 A What happens?

25 Q Right.

26 A Your point with the weakest traction will motivate,
27 will go. Generally, this is the tires.

28 Q And then what?

29 A And the car will start to move.

30 Q The District Attorney asked you if under those

1 circumstances that persons let the gas out, the drive shaft
2 would snap instantaneously, does the pinion shaft snap right
3 at that point, the point the torque comes from the engine
4 through the transmission to the differential?

5 A It could, if it is a weak point.

6 Q But you don't know whether or not it does in all cases,
7 do you?

8 A Generally, the tires will-- In most vehicles, the
9 tires will break traction and spin.

10 Q But let's ask this question here. We are not talking
11 about generally. We're talking about in your opinion as to what
12 exactly happened in this car.

13 You said that the only way that that pinion shaft
14 could snap was for the gas to be accelerated and the clutch,
15 to rapidly let it out to transfer the torque from the engine to
16 the differential?

17 A Correct.

18 Q Under that given set of circumstances, does it snap
19 immediately or does it take a period of time for it to snap?

20 A This you could not tell unless you were actually right
21 there. That would be a supposition on my part altogether.

22 Q Then you really don't know how this thing broke, do
23 you?

24 A It broke-- It was caused-- The breakage was caused
25 by torque applied to it.

26 Q Well, did the car travel? Did the car travel after
27 the breakage?

28 A Could the car travel after the breakage?

29 Q Yes.

30 A By any amount of momentum that was placed on it, yes,

1 it could have. Not very far. An inch, two inches, three
2 inches, a foot.

3 Q Well, under those circumstances, with a rapid
4 acceleration and a depression of the clutch, what happens to
5 the wheels if that thing snaps?

6 A The wheels should spin-- No, no. There again, you're
7 talking about something that could be within a matter of a
8 second.

9 Q Within a matter of a second. How long would the
10 wheels spin?

11 A How long would the wheels spin or how far would the
12 wheels spin?

13 Q I want to know how long the wheels would spin.

14 MR. ROSE: In a matter of a second, your Honor. They
15 spin for a second. I would object to that question.

16 THE COURT: I think you can phrase the question
17 better.

18 BY MR. GRELLMAN:

19 Q In that instance that the torque is transferred from
20 the engine to the transmission to the differential that it
21 snapped, do we have a lot of travel? Do the wheels spin quite
22 a bit or do they spin at all under the circumstances?

23 A I would say they could spin.

24 Q You don't really know. You say they could spin, but
25 you don't know, do you?

26 A I would say they could spin. Now, this again depends
27 on the weak point of the portion that is broken.

28 For instance, if an axle were to break--

29 Q I'm not asking about an axle. I'm asking about the
30 circumstances, the facts right here that you testified to in

1 your opinion that that pinion shaft broke for that reason, and
2 that's the only way it could break.

3 MR. GRELLMAN: May I have the Court's indulgence just
4 a minute, your Honor?

5 THE COURT: I call your attention to the fact that
6 we're now past the noon hour.

7 MR. GRELLMAN: Your Honor, could we have a recess?
8 I'm going to have to go into some additional questions.

9 THE COURT: All right, we'll have our noon recess at
10 this time.

11 The jury is instructed to not discuss the case among
12 yourselves or with anyone else, or to form any conclusions
13 concerning the case until it is submitted to you. And you are
14 not to listen to or read any information which may be contained
15 in the various news releases and news media concerning the case.

16 We will reconvene as near to 2:00 p.m. as possible.

17 (Whereupon the noon recess was taken.)
18
19
20
21
22
23
24
25
26
27
28
29
30

1 RENO, NEVADA THURSDAY, APRIL 13, 1972 2:00 P.M.

2 --oOo--

3
4 THE COURT: Be seated, please.

5 Will counsel stipulate to the presence 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?

9 MR. POLAHA: Yes, your Honor.

10 MR. GRELLMAN: We are, your Honor.

11 THE COURT: You may.

12
13 CROSS-EXAMINATION

14 (Resumed)

15 BY MR. GRELLMAN:

16 Q Mr. Biggs, before we concluded for our noon recess,
17 we were talking about the Mustang, and in particular, the
18 characteristics of this differential. Do you remember that?

19 A We were talking about differentials.

20 Q Right.

21 A And at that period of time, it seems before that we
22 were having a little trouble with semantics, what the word
23 "break" would mean to you and what the word "break" would mean
24 to me.

25 A Yes.

26 Q All right. You, refreshing your memory just a little
27 bit, indicated that you've worked on thousands of Mustangs?

28 A No, I don't believe I said thousands of Mustangs.

29 Q Thousands of what?

30 A Automobiles.

1 Q Did you make work orders on those automobiles?
2 A Certainly.
3 Q What does this work consist of? Tell me about it.
4 A Work on just about every phase of one.
5 Q Does that include like when you give a car a lube job,
6 you make a work order on that?
7 A Most certainly.
8 Q Is that one of the thousands of cars you work on?
9 A In part, yes.
10 Q Did you happen to make a work order out on this
11 particular 1966 Mustang?
12 A Yes.
13 Q Do you have that work order available?
14 A I would have to find it. But I'm sure I can, yes.
15 Q You are in a position that you can be able to produce
16 it for us?
17 A Should be able to, yes.
18 Q Now, to the best of your memory, do you happen to
19 have any general idea of how many miles was on this automobile?
20 A No, I don't.
21 Q Do you happen to know the exact year of that
22 automobile?
23 A I believe it's a 1966.
24 Q Do you happen to know prior to the time that you've
25 ever worked on that car what the prior owners-- how they drove
26 that car?
27 A This, I had no idea.
28 Q No idea at all, so you don't know if the car was used
29 at a drag strip or used by a little old lady from Pasadena?
30 A No.

1 Q Now, getting back to talking about the problems that
2 we were having with the breaking of the pinion shaft, you've
3 indicated to me that that pinion shaft snapped because of a
4 substantial amount of torque placed on it; is that correct?

5 A Correct.

6 Q Now, in light of that, did you have an opportunity
7 when examining that pinion shaft to determine if the torque was
8 applied in the right-hand direction or the left-hand direction?

9 A As it made no difference to me, no.

10 Q So then you don't know if the car was going forward
11 when the pinion shaft snapped or whether it was going in
12 reverse, do you?

13 A If I were to--

14 Q Yes or no. Just yes or no. Do you know if it was
15 going forward or do you know if it was going in reverse?

16 A If you'll let me finish, other than interrupting me,
17 I might be able to tell you.

18 Q I asked for a simple answer, yes or no. If the
19 District Attorney wants you to explain your answer--

20 THE COURT: Sir, you may answer the question yes or no.
21 And if you wish to explain your answer, you may then do so.

22 THE WITNESS: Okay. I couldn't say if it was going
23 one way or the other.

24 BY MR. GRELLMAN:

25 Q That's from your observation of the shaft when you
26 took it from the car?

27 A Right, because of the way it was broken.

28 Q Now, you've indicated-- Let me rephrase the question.

29 Did you have an opportunity at any time to see the
30 car where the Sheriffs originally found the car in the parking

1 lot?

2 A No, I did not.

3 Q So you wouldn't know whether or not the wheels were
4 in the sand or on pavement, or what the condition of the car was
5 at that time, would you?

6 A I have seen pictures of where the car was.

7 Q Did you see them in court today?

8 A Yes. He handed me one earlier.

9 Q But you wouldn't be able to say of your own knowledge
10 the pictures that you saw was at the parking lot in question,
11 would you?

12 A No, no, I could not say that.

13 Q Let me ask you another question, Mr. Biggs: You're
14 very familiar with mechanics; right? Would you tell me the
15 type of differential that this car had in it? Was it a limited-
16 slip differential, a positraction?

17 A No, it was not a positraction unit.

18 Q What kind was it?

19 A What kind was it?

20 Q Yes.

21 A The name specifically of it, it was of the third-
22 member type. The make, I would say, would be Ford.

23 Q But you don't know for sure?

24 A Yes, I would say for sure it's a Ford differential.

25 Q Would you give me some of the characteristics of that
26 Ford differential?

27 A I can't say that there really are any.

28 Q Okay. Is that the type of differential that if, say,
29 for instance, you were stuck in the mud, one of the wheels would
30 slip, and the other automatically-- The car wouldn't go forward

1 or backwards if one of the wheels were slipping?

2 A This is of that type, yes. There are two types. One
3 is a limited-slip and one is of the normal construction where
4 you will have power to one wheel.

5 Q Would you explain that particular type?

6 A Would I explain that?

3 7 Q Yes, what are the characteristics of it?

8 A Were you, say, in snow, had one wheel in the snow and
9 one wheel on hard pavement, the power would transmit to the
10 wheel with the least resistance.

11 Q If one of the wheels were to slip, then what would
12 happen to the other wheel?

13 A It would stay still.

14 Q So that that particular type of car there, that
15 particular type of rear end, then one of the wheels would dig
16 in, if there was a slipping. Do you happen to know which wheel
17 it would be, the right or the left?

18 A No, sir. Generally, the right.

19 Q Mr. Rose asked you a question in regards to the fact
20 that this particular-- in your opinion, how this particular
21 pinion bearing broke, and that was a sudden transfer of torque
22 to the rear end; is that correct?

23 A Yes.

24 Q Now, is it your testimony that just a sudden torque
25 would break that shaft?

26 A Yes.

27 Q Is there any other way that you know of that a sudden
28 amount of torque could be applied to that rear end or a similar
29 rear end?

30 A Other than from the engine, no.

1 Q Okay. Have you ever been in a situation or had an
2 opportunity to work on a car that was stuck in place and the
3 person tried to rock it out, put it in one gear, run it forward,
4 and then run it back?

5 A Yes.

6 Q Could that condition cause the same snapping of the
7 differential?

8 A We're speaking of the same thing, an application of
9 torque.

10 Q Right. So then you can't necessarily say, under
11 Mr. Rose's hypothesis, that the ultimate reason for breaking
12 that pinion shaft was the fact that there was a rapid
13 acceleration and a letting of the clutch out in a forward or
14 reverse position; is that correct?

15 A Rephrase that again.

16 Q Can you positively say, as Mr. Rose asked the question
17 in his hypothetical, that the way that this particular pinion
18 shaft was snapped was from somebody pressing on the gas,
19 accelerating, revving the engine up and then suddenly letting
20 the clutch out?

21 A Yes, I can.

22 Q But is it also possible that under the same given
23 circumstances that somebody could have been in a car of similar
24 nature, could have been stuck and they could have used the same
25 procedure to rock the car in and out of the stuck place?

26 A We're talking about the same thing. I said that it
27 would take a tremendous amount of torque to break that shaft,
28 whether it be from rocking or whatever. A tremendous amount of
29 torque to break the shaft.

30 Q Okay. Would anything like wear on the car over a

1 period of time have any characteristics toward weakening that
2 pinion shaft?

3 A Yes, it would, yes.

4 Q Then in light of this, do you have any recollection
5 as to how many miles are on that '66 Mustang?

6 A I told you I have no idea.

7 Q Now, Mr. Rose asked you some other questions about
8 hot wiring a car. You said that you are very familiar with
9 hot wiring a car; is that correct?

10 A Yes.

11 Q How many Mustangs of any nature, of any brand, have
12 you hot wired?

13 A Have I hot wired personally?

14 Q Yes.

15 A Oh, I would say probably just round figures, around
16 500.

17 Q What generally were the circumstances in which you
18 had to hot wire those cars?

19 A Lost keys, repossessions, starting them to work on
20 them when I didn't have the keys.

21 Q This was all under somebody's supervision, is that
22 correct, under somebody's supervision?

23 A I wasn't stealing them, yes.

24 Q Right. Well, if somebody was stealing a car, how
25 would they hot wire it?

26 A Were it on a Ford product, the solenoid is in direct
27 connection to the battery, and from there a direct connection
28 to the starter. There are two small terminals on the solenoid
29 where you connect the hot wire to one and touch the other one,
30 and this will start the vehicle.

1 Q So that would entail a guy who is going to steal the
2 car would have to lift the hood up?

3 A Yes.

4 Q Is it possible in your experience to hot wire a
5 Mustang, particularly a 1966 Mustang from underneath the dash?

6 A Certainly it is.

7 Q What would that entail, just generally, if you had
8 to do that?

9 A A lot of work.

10 Q Well, like what? Ripping some wires loose and
11 crossing them?

12 A No. No, you'd have to get to the ignition switch
13 itself, which is up and under the lip of the dashboard and very
14 hard to get to. There is very little room underneath. You
15 would have to really know what you are doing in order to do
16 it.

17 Q Is it possible for somebody in that situation to
18 reach under the dash and pull the wires down, rip them out and
19 then try to cross them until they start the car?

20 A They would have to be extremely strong. Extremely
21 strong.

22 Q Why is that? How strong are the wires?

23 A You couldn't break one.

24 Q You don't know, that's a conclusion?

25 A Yes, I do.

26 Q Have you ever had an opportunity to reach under and
27 pull the wires out?

28 A No, I haven't.

29 Q Is it possible for somebody to reach under there with
30 a metal object, place it against the contacts on the back of the

1 switch and short it out that way?

2 A They would have to be looking at what they were doing.
3 It's enclosed in a rubber loom.

4 Q And you wouldn't be able to say from the photographs
5 that the State showed you right here, you've indicated earlier,
6 that these wires that are hanging down-- I'll show you what is
7 marked State's Exhibit E for identification. Can you
8 positively say those are not the wires that would start the
9 car?

10 A I would positively say that, yes.

11 Q What, that they are or are not?

12 A That they are not the wires that would start the car.

13 Q Why is that?

14 A Generally, they're red in color going to the ignition
15 switch.

16 Q Now, you've indicated earlier that the ignition switch
17 is on the right hand of the steering column over here; is that
18 correct?

19 A Correct.

20 Q You really can't tell from this picture whether or not
21 this blue wire here could have been to the ignition switch, can
22 you?

23 A I would say that they would not be, because the wire
24 going to the ignition switch is in a loom.

25 Q Is that true in every case?

26 A Most all newer vehicles, yes.

27 Q By a "loom", what do you mean? Just loosely wound in
28 a tape or what?

29 A No, no. Tightly wound.

30 Q This is true in all cases that you've come across?

1 A In newer vehicles, yes. I'm saying from 1955 on.
2 Q Fifty-five on.
3 Now, Mr. Biggs, in regards to the steering, the
4 steering horn rim, this is the part that activates the horn?
5 A Yes.
6 Q That's really kind of a weak thing; isn't it?
7 A Oh, yes. It's a very light alloy material.
8 Q What are they usually made out of?
9 A Some are made from plastic and some are from light
10 alloy.
11 Q On this particular car, '66 Mustang, Ford Mustang,
12 what was the horn activating device made out of?
13 A I would say an alloy.
14 Q Now, the District Attorney has showed you some
15 photographs here, and you've indicated that in these photographs
16 it looks like this steering rim was bent.
17 I show you State's Exhibit E-2 for identification.
18 A Rather than being bent, I would say it is loose from
19 its mounts.
20 Q And how are these particular steering activating--
21 horn activating devices usually mounted?
22 A There are three-- On that particular one there, there
23 are three small fingers that you twist into three slots.
24 Q Do you happen to know what these little fingers that
25 hold them are made out of?
26 A Again, the same material.
27 Q The same material that the horn is made out of?
28 A The same material that the horn ring is made out of.
29 Q You wouldn't be able to say it was made out of
30 something different like nylon or something like that?

1 A It's-- No, no. That mounts onto the portion that
2 activates the horn.

3 Q The first time you saw the car was at the Sheriff's
4 Substation; is that correct?

5 A Correct.

6 Q Is this picture here, is that exactly the same way
7 that you first saw the horn, or can you remember that?

8 A I couldn't really tell you that.

9 Q Did you have an opportunity to remove that horn rim?

10 A That, I could not tell you, either.

11 Q Did you know that if in towing the car you could have
12 turned the wheel to align the wheel straight up, you could have
13 turned it?

14 A I could have turned the wheel, but I don't believe I
15 would have turned that for any particular reason.

16 Q Once those little clips are broke off in there,
17 wouldn't that kind of turn freely in there?

18 A Right.

19 Q Kind of like a bearing?

20 A If the clips were broken, if all three clips were
21 broken, the ring would fall off. You'd have nothing else to
22 hold it.

23 Q According to the picture you've just seen, are all
24 three clips broken?

25 A I would say not, because it would fall off.

26 Q Let me show you the photograph again, Mr. Biggs.
27 This photograph represents that the horn rim is turned in an
28 opposite direction than where the posts in the figures are.
29 Can you see that picture again now? Does it look like from
30 that picture that all three of the clips are hooked on, or is

1 it broke off?

2 A I would say the clips aren't broken. It looks like--

3 In order to remove this, you generally take it and push down

4 on it and turn it to a clockwise position.

5 Q Sort of like unscrewing a cap on a jar; is that

6 correct?

7 A Right.

8 Q Do you know that for a fact?

9 A What is that?

10 Q That you have to push down and unscrew it like a cap

11 on a jar?

12 A Yes.

13 Q How many Ford Mustang horn rims have you removed?

14 A I really couldn't tell you that.

15 Q One, two? Have you removed any?

16 A I've removed many of them.

17 Q You didn't have an opportunity to remove this

18 particular one?

19 A I don't believe so. Not to my recollection.

20 Q How many 1966 Ford horn rims did you remove?

21 A I couldn't really tell you that. I have replaced--

22 Q Do you actually know if you did any at all on a

23 Mustang?

24 A I'm sure I have, yes.

25 MR. GRELLMAN: Mr. Biggs, thank you. We have no

26 further questions.

27 MR. ROSE: I have no questions of this witness, your

28 Honor.

29 THE COURT: You may step down.

30 MR. ROSE: May Mr. Biggs be excused, your Honor?

1 MR. POLAHA: Sure.
2 THE COURT: You're excused, sir.
3 MR. ROSE: The State's next witness will be Bernard
4 Greenwald.

5
6 BERNARD GREENWALD
7 called as a witness on behalf of the State,
8 being first duly sworn, was examined and
9 testified as follows:

10
11 DIRECT EXAMINATION

12 BY MR. ROSE:

13 Q Please state your full name and address.

14 A Bernard Greenwald, 1077 East Frost Drive in Tempe,
15 Arizona.

16 Q What is your occupation or profession?

17 A I work for Columbia Mortgage Company, and I'm a
18 schoolteacher.

19 Q Last summer, did you have the occasion to be working
20 at the Lake Tahoe area?

21 A Yes, I did.

22 Q Where were you working?

23 A I was a security guard at Cal-Neva Lodge.

24 Q Could you tell me what time during the summer you were
25 such a guard?

26 A At what time?

27 Q Yes, during the summer.

28 A 6:00 p.m. to 2:00 a.m., approximately from June 1st
29 through July 22nd.

30 Q Now, directing your attention to late July 14, which

1 was a Wednesday, or early July 15, and the 15th was a Thursday
2 of last year, were you working during that period of time?

3 A Yes, I was working from 6:00 p.m. to 2:00 a.m. That
4 was my scheduled shift.

5 Q That would be from the 14th into the 15th?

6 A That's right.

7 Q Now, at that time or during that time, did anyone
8 approach you with a missing-person report?

9 A Well, there was a page on the-- There was a call for
10 security to go to the registration desk area of the hotel, which
11 I did. At that time, I met Mr. Anselmo at that point.

12 Q What did he say?

13 A He told me that there had been a girl dragged down by
14 a man and to come with him and make a search of the area. This
15 is what I did.

16 Q Now, would this be on the 15th or would this be on the
17 17th? The 17th was a Saturday morning.

18 A I really couldn't remember on the date.

19 Q Could you tell whether or not this was the day when
20 the body was found?

21 A It was at-- Not the date the body was found, no. It
22 must have been on the 15th. It wasn't on the date that the body
23 was found, actually. The body was found a couple of days after
24 I had made the search.

25 Q Okay. Then what happened?

26 A What had happened?

27 Q Yes, when you made your search?

28 A I made a search with Mr. Anselmo for approximately
29 fifteen to twenty minutes, fifteen to twenty minutes, and we
30 could find nothing at all. And then I came back to the hotel

1 with Mr. Anselmo, paged Mr. Rose, who was another security guard,
2 and the three of us went out and re-searched the area.

3 Q Could you tell me what then transpired?

4 A At that time, we still could find nothing. And we
5 did split up, split up into two different sections of the search
6 area. And we hadn't found anything at that point, either.

7 Q Do you know whether or not there was a body found in
8 that general area later that day?

9 A There was a body--

10 MR. POLAHA: Objection, your Honor. That's a leading
11 question. The question was put to the witness, "Was this the
12 same day that the body was found?" He said, "No, it was two
13 days earlier."

14 Now, Mr. Rose asked him a question, "Was the body
15 found later that day?"

16 That's a leading question. He's trying to--

17 THE COURT: Don't tell me what he's trying to do,
18 Counsel.

19 MR. POLAHA: I object to that.

20 THE COURT: Your objection is sustained.

21 BY MR. ROSE:

22 Q Now, I want you to think very hard. Did the
23 transaction that you're telling me about happen two days prior
24 to when the body was found?

25 A No, I believe the body was found that same night.
26 The body was found later on that morning, as I understand it.
27 But I did not find the body.

28 Q Okay. If Trudy Hiler became missing on July 15th,
29 when did this transaction occur?

30 A The finding of the body?

1 Q Yes.

2 A The 16th. Well, we're talking about 1:10 a.m. Are

3 you talking about past midnight?

4 Q Yes.

5 A On the 15th. I'm sorry.

6 In other words, at 1:10 a.m., we're talking about the

7 15th? Are we talking about the 15th, 1:10 a.m.?

8 Q I think you're talking about the 17th, Saturday

9 morning.

10 A I don't remember. The dates, I don't remember.

11 MR. POLAHA: Objection, your Honor. The District

12 Attorney should do the questioning. What he's doing now is

13 trying to lead--

14 THE COURT: The objection is sustained.

15 Mr. Rose's remarks will be stricken, and the jury will

16 disregard them.

17 BY MR. ROSE:

18 Q Did you ever receive a report that a body was missing,

19 Mr. Greenwald, that a person was missing?

20 A No, I did not.

21 Q Okay. Then you received a report from someone you've

22 identified--

23 MR. POLAHA: Objection, your Honor. These are

24 leading questions, also.

25 THE COURT: Sustained.

26 BY MR. ROSE:

27 Q Who did you receive a report from, Mr. Greenwald?

28 A That the body was missing?

29 Q That someone-- Well, did you receive a report?

30 A Only from Mr. Anselmo, that somebody was being dragged

1 down into the bushes.

2 Q Okay.

3 A That's the only report that I received.

4 Q Okay, fine. Do you remember when that was?

5 A The date?

6 Q Yes.

7 A No, I do not.

8 Q Do you remember what day of the week it was?

9 A No, I do not.

10 Q Do you see Mr. Anselmo in court today?

11 A Yes, I do.

12 Q Where is he?

13 A The gentleman with the black suit and white shirt

14 next to the public defender's, sitting at the public defender's

15 desk.

16 Q Then after you received that report, what did you do?

17 A When I received that report, I went with Mr. Anselmo

18 to search the area that he had told me that this woman had been

19 dragged by a man, and this is what we did. We searched the area

20 that he had requested. He asked me to search.

21 Q Was anything uncovered in that search?

22 A No.

23 MR. POLAHA: Excuse me, your Honor. I think we're

24 going back over the ground that has already been asked and

25 answered.

26 THE COURT: I'm going to allow it, because there's

27 been some confusion about what his testimony was.

28 BY MR. ROSE:

29 Q Then what did you do, Mr. Greenwald?

30 A We searched the area. We found nothing. We came back

1 about ten to fifteen minutes later, got Mr. Rose, the other
2 security guard, and we went out again on a second search.
3 Still found nothing.

4 Q Were any sheriff's deputies with you on any of these
5 searches?

6 A At the second search, no. Not at the second search.

7 Q When you say "the second search"--

8 A And the first search.

9 Q Okay. Now then, what did you do?

10 A At that time, when we came back from the second
11 search, we came back to the-- I came back to the hotel later on.
12 It was approximately 2:30, and I went off shift.

13 Q Was anyone left on shift when you went off shift?

14 A Mr. Rose.

15 MR. ROSE: Thank you, Mr. Greenwald. I have no
16 further questions, your Honor.

17 MR. POLAHA: I just have one, Mr. Greenwald.

18

19 CROSS-EXAMINATION

20 BY MR. POLAHA:

21 Q Approximately what time was it when you were
22 approached by Mr. Anselmo?

23 A Approximately 1:10 initially, a.m.

24 MR. POLAHA: Thank you very much. I have no further
25 questions.

26

27 REDIRECT EXAMINATION

28 BY MR. ROSE:

29 Q And you can't specifically recall the exact date?

30 MR. POLAHA: Objection, your Honor. That's been

1 asked and answered several times.

2 THE COURT: Sustained.

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

4 You may step down, Mr. Greenwald.

5 Our next witness will be Randall Rose, your Honor.

6
7 R A N D A L L N O R R I S R O S E
8 called as a witness on behalf of the State,
9 being first duly sworn, was examined and
10 testified as follows:

11
12 DIRECT EXAMINATION

13 BY MR. ROSE:

14 Q Please state your full name and address.

15 A Randall Norris Rose. I live at 110 Masters Court,
16 Apartment 4, Walnut Creek, California.

17 Q What is your occupation or profession?

18 A Right now, I'm a law student and I work part time at
19 the Alpha Beta Markets in Walnut Creek.

20 Q During the summer of last year, did you happen to be
21 working in the Lake Tahoe area?

22 A Yes, I did.

23 Q Where were you working?

24 A Cal-Neva Lodge.

25 Q What was your capacity there?

26 A Security officer.

27 Q Would you tell me the length of time you were
28 working during that summer?

29 A As I recall, it's from about May 27th till July 18th
30 of 1971.

1 Q July 18th was what day, if you can recall?
2 A That was a Sunday.
3 Q During the week preceding that Sunday, did you receive
4 any information about a missing person?
5 A Yes, sir, I did.
6 Q When was that?
7 A That was Friday night when I came in on my shift.
8 Q When did you come to work?
9 A That was 8:00 o'clock on Friday. Eight o'clock p.m.
10 Q What were you told?
11 A I was told something to the effect that Trudy Ann
12 Hiler, one of the change girls, was missing.
13 Q Did you know her?
14 A Not by name or anything like that. Just as an
15 employee. I'd seen her around inside the casino and whatnot.
16 She was more or less on my shift.
17 Q Was there any other security guards on with you?
18 A There was a fairly good number. Do you want me to
19 elaborate on who?
20 Q Well, specifically, was a Bernard Greenwald working
21 that shift?
22 A Yes, sir, there was.
23 Q Did he receive any report during that shift?
24 MR. POLAHA: Objection, your Honor. That calls for
25 a conclusion on the part of this witness.
26 BY MR. ROSE:
27 Q Do you know whether he received any report during
28 that shift concerning Trudy Hiler?
29 A Yes, sir.
30 Q What did he receive?

1 A He received something to the effect that--

2 MR. POLAHA: Objection, your Honor. Unless this
3 witness received it, that's hearsay. He's testifying as to
4 hearsay.

5 THE WITNESS: I also--

6 THE COURT: Just a minute, please.

7 Mr. Rose, do you want to be heard on this subject?

8 MR. ROSE: I'll go along with the objection, your
9 Honor. I'll ask another question.

10 THE COURT: Objection sustained.

11 BY MR. ROSE:

12 Q Was any activity taken with regard to the location of
13 Trudy Ann Hiler during your shift?

14 A Yes, sir.

15 Q What was that activity?

16 A We received a report. I was summoned to the front
17 desk where I met Mr. Greenwald, and he told me, or Mr. Anselmo
18 told me, one of the two told me that Mr. Anselmo, while
19 standing near Somers Drive had seen a girl being dragged down
20 the road and took a path towards or down Crystal Bay Drive.
21 There's an intersection between Crystal Bay Drive and Somers
22 Drive. And looking from--

23 Oh boy. Okay. Well, they went up Somers Drive and
24 took a right down Crystal Bay Drive. And then he went and
25 notified the authorities on it.

26 Q Now, could you tell us when that was?

27 A When I received the report myself was at 1:30, and
28 Mr. Greenwald received it at about 1:10, approximately.

29 Q That was on what date?

30 A This is on the 7th-- Excuse me, the 17th.

1 Q It would be the early morning hours of Saturday
2 morning?

3 A Saturday, yes, sir.

4 MR. ROSE: Okay. Your Honor, I'd like this marked
5 for identification, if I may.

6 (State's Exhibit G was marked
7 for identification.)

8 BY MR. ROSE:

9 Q Mr. Rose, I'm going to show you --

10 MR. POLAHA: Excuse me, your Honor. The item, as I
11 understand it, is a chart, purports to be a chart of the area
12 involved here at Lake Tahoe. Now, Mr. Rose has it marked for
13 identification. I imagine he's going to sometime later
14 introduce it.

15 At the present time, he's going to ask this witness
16 to look at something that is not properly in evidence, and I'm
17 going to object to that unless he lays a proper foundation for
18 the use of that chart.

19 MR. ROSE: I've already showed it to counsel, and
20 it's usually customary that it is for demonstrative purposes
21 and will be stipulated into evidence. But if we want to get
22 technical, I'll be glad to.

23 I have shown it to counsel already, your Honor, and I
24 think they've had time to look at the map. If you'd like me to
25 call the highway engineers and go through all that, I'll be
26 very glad to take up additional time, if defense counsel wants
27 me to.

28 MR. POLAHA: Your Honor, I don't think it has
29 anything to do with time. I was indeed shown the chart prior
30 to the commencement of this portion of the proceedings. I was

1 of the impression that an engineer would come in and show what
2 in fact he did. After having heard Mr. Rose's explanation, I
3 would like to look at the chart again and confer with co-counsel
4 and maybe we could stipulate to it.

5 MR. ROSE: Your Honor, for your own information, the
6 chart has been prepared by engineers of the Highway Department
7 and is drawn to scale.

8 MR. POLAHA: Your Honor, once again, what Mr. Rose is
9 saying is evidence and this goes to the admission of this
10 particular chart.

11 THE COURT: It's not going to be admitted without
12 foundation over your objection, Counsel. I just want to know
13 whether you are still objecting.

14 MR. POLAHA: Yes, your Honor, I am.

15 THE COURT: Then you'll have to lay a foundation,
16 Mr. Rose.

17 MR. ROSE: Okay, fine, your Honor. If I feel it's
18 that important, I'll call additional witnesses and take the
19 additional time.

20 MR. POLAHA: Excuse me, your Honor. I protest for the
21 record Mr. Rose saying that we are taking time here. We are
22 faced with a capital case. Now, the time that's going to be
23 expended in getting a witness to lay a proper foundation to
24 properly introduce evidence, time should be of no concern,
25 really. And the time we're talking about--

26 THE COURT: Time is of no concern, Counsel, if there's
27 a good reason for spending it.

28 MR. POLAHA: And it's proper for an introduction of
29 evidence.

30 THE COURT: If you believe that that document is not

1 accurate, then you're entitled to have a foundation laid.

2 MR. POLAHA: Thank you, your Honor.

3 BY MR. ROSE:

4 Q After receiving this report in the early morning
5 hours of July 17th, Saturday morning, what then transpired?

6 A Then we went to the scene around Crystal Bay Drive
7 and searched the area. Mr. Greenwald and Mr. Anselmo went off
8 on one side of the drive and searched to the right of the drive
9 as you are looking towards its end.

10 Q Mr. Rose, at this time I think it might be
11 appropriate if you would step over here. Although we don't
12 have a prepared drawing, could you draw one for us.

13 A Okay. Here would be the Cal-Neva Lodge, and you have
14 a number of dormitories here which are kept here for employees.
15 You have a small, about a single-lane road that goes down
16 through the area of the dormitories through here. And this
17 connects to Somers Drive.

18 Up here, you have the Crystal Bay Club parking garage.
19 It's a multi-layer garage. And then you have the Crystal Bay
20 Club.

21 At approximately this point, you have an
22 intersection. This is Crystal Bay Club Drive here. Crystal
23 Bay Drive will go down here for a short distance, and it takes
24 a turn to the left.

25 And after we got the initial report, we proceeded by
26 either the dormitories, or you have Stateline Drive which
27 comes right to the club. We went in a company vehicle either
28 here or by this route. It's really of no import, I don't think.

29 We crossed over here and we parked the vehicle at
30 approximately this location right here, approximately. We got

1 out, and Mr. Greenwald and Mr. Anselmo went, as far as I know
2 at that time, and they searched on this side of the road here.
3 I went along through here. There's a few residences up in this
4 area here. I went along here and searched on this side of the
5 road, which is more or less uphill of the road. There's a
6 pretty steep mountain here. I couldn't show it without a
7 contour map or something.

8 Eventually, Sheriff's deputies arrived on the scene
9 and we searched out this area as well as this area, finding
10 nothing. That search went on for a short while, and a Deputy
11 Trackwell, I believe, after deciding there was nothing--

12 MR. POLAHA: Objection, your Honor. He doesn't know
13 what Deputy Trackwell decided or not decided.

14 THE COURT: Sustained.

15 THE WITNESS: Excuse me, Counselor. All I'm trying
16 to do is establish a fact that he gave us an order to stay
17 behind this wall.

18 THE COURT: Sir, you may tell what you did and what
19 you observed, and that is all.

20 THE WITNESS: Upon orders of the deputy, Mr. Anselmo
21 and I stayed behind the stone wall here, and the idea being
22 that if there was anybody in the area, due to the terrain, the
23 easiest way to get out of the area, if you weren't discovered,
24 would be to come down and get onto Crystal Bay Club Drive and
25 then exit along here.

26 Mr. Anselmo and I stayed at this stakeout for a short
27 while, and just kept down more or less behind the stone wall,
28 which is maybe two and a half to three feet high. And we
29 stayed down there, and as I was just thinking about leaving at
30 that time, Mr. Anselmo said that he heard a noise up in the

1 direction of the cabin, which would be over in this area.

2 You have a driveway which goes to this cabin. Okay.
3 He said that he heard the noise in that area. So we proceeded
4 to go to the cabin, and we searched around here on the back
5 side of the cabin initially. And there was very heavy brush
6 and growth through that area around the cabin, almost right up
7 to it. We searched around that area.

8 The thing that I noticed that was sort of peculiar
9 was the fact that if there was a person in that area that had
10 been abducted by somebody--

11 MR. POLAHA: Excuse me, your Honor. I'm going to
12 object. This is a conclusion on the part of this witness. He
13 was called to testify to the facts that he--

14 THE WITNESS: Excuse me, Counselor.

15 MR. POLAHA: No conclusions or opinions.

16 THE COURT: Objection is sustained.

17 THE WITNESS: We went around this area and through
18 heavy brush without showing a great deal of caution.
19 Mr. Anselmo zigzagged through the brush--

20 MR. POLAHA: Objection, your Honor. I ask that that
21 be stricken. He is once again forming an opinion as to the
22 reason for Mr. Anselmo's action, "a lack of caution", as he
23 described it. I don't think that's proper, your Honor.

24 THE COURT: Overruled.

25 MR. POLAHA: It goes to a mental state.

26 THE COURT: You may proceed.

27 THE WITNESS: Mr. Anselmo went through the brush,
28 glancing about very quickly through the area.

29 Let's see. He went through this area, which is
30 rugged terrain and large rocks and whatnot, while I stood up

1 on a boulder which was approximately here and covered the area
2 for him with a six-volt spotlight that we had. And Mr. Anselmo
3 several times got out of my sight while he was ducking in and
4 out of this brush. In other words, I wasn't able to cover him
5 in the event that he ran into somebody that was hiding in that
6 area. I wouldn't have been able to cover him or protect him
7 immediately.

8 After awhile, we eventually got around-- I came down
9 off the rock, and Mr. Anselmo took me down through a basement,
10 which there's an open door to, went in and took a quick look
11 around in the basement, discovering nothing of any import.

12 Mr. Anselmo at that time wanted to branch off into
13 this area, which as this map would show. I don't know if the
14 direction is proper. Let's say for the point of discussion,
15 this is north.

16 MR. POLAHA: Excuse me. Can you show us where the
17 lake is and we can go in relation to the lake.

18 THE WITNESS: Okay. Here is the lake right here,
19 roughly. Mr. Anselmo wanted to go around in this area a little
20 bit more, in this immediate area.

21 BY MR. ROSE:

22 Q Mr. Rose, pardon me a second. Can you speak to the
23 jury?

24 A Oh, get out of their way?

25 Q Yes, get out of their way.

26 A Excuse me. He wanted to go around this area quite a
27 bit more, and I felt that it wasn't of any real use investigating
28 that area any further, seeing as how we'd already been over it
29 quite thoroughly without finding any evidence.

30 So we departed. We went around the house in this

1 direction, down the driveway and straight on down here. At this
2 point, when we're at the intersection of Somers and Crystal Bay
3 Drive, looked up towards the Crystal Bay Club parking garage,
4 seeing somebody walking there. It was late at night and there
5 was very little moonlight. We could see the silhouette of
6 somebody against the artificial illumination inside the garage.
7 And this person was walking along. It was apparently a man, but
8 it happened to be a man that looked like he was carrying a purse
9 or a large handbag of some sort. So thinking that there was a
10 possibility of a purse snatch, I began to go after him.

11 Just prior to that, incidentally, I did note on my
12 watch that it was 2:30 at the approximate time we got to this
13 intersection.

14 Okay. We ran down here, as soon as this guy bolted,
15 whoever it was. He ran before we even indicated that we were
16 coming after him. I wanted to stop and just make sure. I
17 wanted originally just to walk down and see why this person was
18 carrying something that looked like a purse, thinking that it
19 might be a purse snatch. This person ran off and he eluded us.

20 We searched in the area of the Crystal Bay Club
21 parking garage for maybe ten or fifteen minutes. And not finding
22 him, we went back to the club and went, I guess, by this route.
23 It's really not-- I don't have my memory that well which route
24 we took back to the club. That took us approximately five
25 minutes, which would put us back at the club, subtracting the
26 2:30 here, and by the time we got through with the search,
27 maybe 2:45 when we finished the search, a.m.

28 We went back to the club and probably arrived there
29 about 2:50, where I took down a short brief report of what
30 Mr. Anselmo had reported. This is the report that the Cal-Neva

1 Club alone uses. It's called an incident report. It probably
2 took me about ten minutes or a little bit less to get that.

3 And I got the report and told Mr. Anselmo that he
4 could leave the security office. He went out of the office,
5 closed the door, and almost immediately came back in. And he
6 requested that I loan him the flashlight. And I objected to
7 this idea. He wanted, in other words, to search this area
8 alone, which I didn't think was really a good idea.

9 Q Mr. Rose, that area had already been searched; had it
10 not?

11 A Yes, sir, it had.

12 Q Could you tell me how many individuals that
13 participated in that search?

14 A I didn't count the deputies that got out of the car.
15 As I remember, there were three carloads of deputies. There
16 was myself, Mr. Greenwald of Cal-Neva security, and Jack Horton
17 who is the chief of Cal-Neva security, checked that area out
18 with no success.

19 Q Now, Mr. Anselmo made that request. Would you please
20 continue with your testimony about what happened.

21 A Yes. He made the request, and he almost pleaded with
22 me to loan him the flashlight. I kept repeatedly cautioning
23 him that it was almost foolhardy to go down in that area if
24 there was in fact anybody still hiding in that area, because
25 being out in the bush. It was to any reasonable person,
26 appeared to be quite dangerous, especially if you were unarmed,
27 to which to my knowledge, Mr. Anselmo carried no weapon. The
28 brush through here, rather briefly, is entirely manzanita type
29 growth which might be from three to four feet high, and pretty
30 well covers this area here as well here.

1 Excuse me. I'm putting the things on the lake. I
2 meant over here. I'll put some ripples here so you'll know.

3 This area over in here pretty well covered with very
4 heavy manzanita. In other words, if you are chasing after
5 somebody or just walking through there and somebody happened to
6 be in the area--

7 MR. POLAHA: Objection, your Honor. We're getting
8 into an explanation not called for by the question.

9 THE COURT: Sustained.

10 BY MR. ROSE:

11 Q Can you tell me what then transpired between you and
12 Mr. Anselmo and the flashlight?

13 A Okay. Well, I cautioned him very thoroughly against
14 the dangers of going into that area, and notwithstanding that
15 he kept insisting on borrowing the flashlight. I reluctantly
16 gave it to him.

17 Then this is about approximately, anyway, 3:00 o'clock
18 a.m. After Mr. Anselmo left with the spotlight, I went back to
19 finish my lunch, which had been interrupted with the initial
20 report at 1:30 that I got. So I went back towards the
21 restaurant in the casino.

22 On my way over there, I found a young man over there
23 with-- He was loitering in the area of the slot machines. I
24 asked him for his I.D. His identification turned out to be
25 forged. I took him into the office where I was chewing him out
26 for having forged identification. I was making out a report on
27 that particular incident.

28 About 3:15, Mr. Anselmo suddenly came bursting into
29 the door and stated that he had found the body. At that point,
30 myself and Mr. Anselmo went through the casino, and at the door

1 I saw Mr. Paul Feiten or Fenton, who was also another security
2 officer. I told him to notify the proper authorities that the
3 body had been found.

4 Thereupon, Mr. Anselmo and I got into the truck and
5 came down over Crystal Bay Drive to the scene of the body,
6 which was found approximately up in this area.

7 Excuse me. Do you want me to tell about Mr. Anselmo,
8 how he behaved when he came into the office?

9 MR. POLAHA: Objection, your Honor.

10 MR. ROSE: I'll get to that, your Honor.

11 THE WITNESS: Okay.

12 BY MR. ROSE:

13 Q Mr. Rose, would you please tell me whether or not
14 the body was found in the area that had been previously
15 searched?

16 A Yes, sir, in the same general area, yes.

17 Q Okay, fine. You may take the stand, now.

18 A Oh.

19 Q When Mr. Anselmo came into the office at approximately
20 3:15 a.m. that morning, did you have a chance to observe his
21 demeanor?

22 A Yes, sir, I did.

23 Q Could you tell me what that demeanor was?

24 A He seemed to be extremely upset, almost like he was
25 in a state of shock at the time he came in the office.

26 Q At that time, what did he say to you?

27 A He said something to the effect that he found the
28 body. He said this quite loudly, and that was about it. I
29 just said, "Let's go." Like that. And then we exited from the
30 office.

1 Q And you told us what then transpired?

2 A Yes, sir.

3 Q Now, could you describe the area where the body was
4 found?

5 A Well, like I stated earlier, the area on both sides of
6 that road was very dense and heavy brush. It was covered over,
7 like I said, with manzanita or chaparral type growth.

8 Q Did you have any difficulty in getting to the body?

9 A May I return to the chart?

10 Q Yes, you may, if you feel it is important.

11 A We took the Blazer and parked alongside the road.

12 On the way to the scene, Mr. Anselmo told me almost exactly
13 where to pull over, as if he'd had it marked. And then we got
14 out of the Blazer, and this part of the road here was more or
15 less all alike. Nevertheless, he had it quite well marked, and
16 we entered into the brush at approximately this point right here.

17 Then we proceeded almost directly to it, Mr. Anselmo
18 leading.

19 Q Was this all thick brush throughout?

20 A Yes, sir, it was.

21 Q Did you take a straight path or not?

22 A Almost a straight path as far as the terrain would
23 allow. There's various animal trails and whatnot going through
24 there, natural breaks in the brush. In other words, what I'm
25 trying to say is Mr. Anselmo took me by what is probably the
26 most direct route to the body almost immediately with very little
27 trouble.

28 Q You may take the stand again.

29 THE COURT: Gentlemen, we're going to take a ten-minute
30 recess at this time.

1 Ladies and Gentlemen, you are instructed not to discuss
2 the case among yourselves or with anyone else, or to form any
3 conclusions concerning the case until it is submitted to you.
4 And you are not to read or listen to or in any other way gain
5 any information concerning the case, other than what you hear in
6 the courtroom.

7 (Recess.)

8 THE COURT: Be seated, please. Will counsel stipulate
9 that the jury is present?

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 Mr. Rose, when you were going to the body location
15 with Mr. Anselmo, how were you traveling?

16 A By what means?

17 Q Yes.

18 A We were going in a company vehicle.

19 Q And during that period of time, did you have the
20 opportunity to observe Mr. Anselmo's demeanor?

21 A Yes, sir, I did.

22 Q Could you tell me what you observed?

23 A As far as behavior is concerned, one of the
24 incidences that I can remember was when we were at the
25 intersection of Somers and Crystal Bay Drive, one time I was
26 looking straight ahead, driving, and I was going to ask
27 Mr. Anselmo a question. As I started to turn towards him to
28 ask him, I noticed that he was looking straight ahead in a very
29 calm manner. In other words, as if he were on a picnic or
30 something to that effect. And when he noticed--

1 MR. POLAHA: Objection, your Honor. I ask the Court
2 to strike that last remark. The question was to describe his
3 demeanor, not to editorialize it or give his own impressions
4 about it. He said he was looking calm, and that was enough for
5 an answer for that question. As to "picnic", that was uncalled
6 for, your Honor.

7 THE COURT: The objection is sustained. The remark is
8 stricken from the record and the jury will disregard it.

9 MR. POLAHA: Your Honor, may I have one more thing
10 from the Court. I respectfully request the Court to admonish
11 the witness not to volunteer such as he is and has been doing
12 throughout his testimony.

13 Now, he knows. He's a law student. He testified that
14 he is a law student. Evidently he had evidence. He knows what
15 is proper testimony, and he is volunteering unsolicited remarks
16 which are detrimental to the defendant.

17 THE WITNESS: As a point of information, your Honor--

18 THE COURT: You are to say nothing, sir, unless you
19 are asked a question, and then you are to respond to the
20 question. You will please testify as to what you observed and
21 what you did, and give us no conclusions from that.

22 THE WITNESS: Okay. I haven't had any evidence or
23 anything.

24 BY MR. ROSE:

25 Q Mr. Rose, would you continue with your observation of
26 Mr. Anselmo while you were en route to the body.

27 A Yes, sir. As I turned to look at him and noticed that
28 he was calm and whatnot, it appeared that when he noticed that I
29 was looking in his direction--

30 MR. POLAHA: Objection, your Honor. That's calling

1 for a conclusion as to the defendant's state of mind at that
2 time.

3 THE COURT: The objection is sustained. You may say,
4 sir, what he did.

5 THE WITNESS: That's just what I was getting to, your
6 Honor.

7 He immediately, upon my looking towards him, leaned
8 his head against the window on his right and sort of moaned as
9 if he were still in this high state of shock.

10 MR. POLAHA: Objection. That's a conclusion, your
11 Honor.

12 THE COURT: Sustained.

13 THE WITNESS: I heard it.

14 MR. ROSE: You can simply say what you observed.

15 THE COURT: Sir, you may say that he moaned. At that
16 point, not as if something.

17 THE WITNESS: Okay. I understand.

18 BY MR. ROSE:

19 Q Did Mr. Anselmo tell you how he came to find the body?

20 A Yes, sir, he did.

21 Q What did he tell you?

22 A May I return to the board?

23 Q Yes, if you feel it's necessary, with the Court's
24 pleasure.

25 A Mr. Anselmo stated to the effect he was walking down
26 Crystal Bay Drive someplace in this area when he heard another
27 noise up towards this cabin. And he wanted to investigate this
28 noise, and started to walk directly towards the cabin.

29 While on his way to the cabin, he fell over something,
30 somewhat like a short cliff, three to four feet in height, and

1 he landed in a face-down prone position, and he was reaching out.
2 At that time, he felt the corpse. When we finally got to the
3 body, I noted that there was a brush barrier sort of between
4 the corpse, like a--

5 MR. GRELLMAN: Your Honor, I'm going to object to
6 this question. The question here was, "Would you tell us how
7 Mr. Anselmo came across the body?" All this rest is
8 volunteered again, and we would ask the Court to continuously
9 admonish the witness to answer only the question.

10 THE COURT: The objection is sustained. Nothing you
11 have said at this point, sir, is inadmissible, but it's not in
12 response to the question. Please answer the question and then
13 allow the District Attorney to ask you another.

14 BY MR. ROSE:

15 Q Now, when you got to the area where the body was
16 found, did you notice anything around or covering the body?

17 A Yes, sir. There was some degree of broken brush and
18 brush that was still standing immediately next to the body.

19 Q And were there any rocks around the body?

20 A Yes, sir, there was. The body was laying next to
21 the rock, and that would be on the deceased's-- The rock would
22 be located to the left of the deceased as she was laying face
23 down. On the other side of the girl was a little brush barrier,
24 sort of like.

25 Q After you had the opportunity to observe where the
26 body was found, did you find anything unusual with the
27 defendant's statement of how he found the body?

28 A Taking into consideration the extreme density of the
29 brush, it was something of a miraculous coincidence--

30 MR. POLAHA: Objection, your Honor, to the--

1 THE COURT: Sustained.

2 BY MR. ROSE:

3 Q Did it seem unusual?

4 A Yes, sir, it seemed highly unusual, sir.

5 Q Why?

6 A Because of the dense terrain and brush through that
7 area. It was almost like trying to find a needle in a haystack.

8 Q All right. Mr. Rose, I want to show you several
9 photographs here. I will show you three that have been marked
10 for identification, and they haven't been admitted into
11 evidence, so don't show them to the jury at this time.

12 A Yes, sir.

13 Q The first is G-12. Could you tell me what is depicted
14 in that photograph?

15 A This is a picture of the cabin near where the body
16 was found. The road in the foreground of the picture is
17 Crystal Bay Club Drive, or Crystal Bay Drive.

18 Q Does that clearly and accurately show the undergrowth
19 in the general area where the body was found?

20 A Yes, sir, it does.

21 Q And that would be on the day that it was found?

22 A Yes.

23 Q I'm going to show you--

24 MR. POLAHA: Your Honor, I object and ask that the
25 last question and answer be stricken, and the jury admonished
26 not to regard that because there was no questions asked when in
27 fact or if this witness has knowledge when the photographs were
28 taken. Mr. Rose just said that this was taken that day.

29 THE COURT: The objection is sustained. The question
30 and answer is stricken. The jury will disregard it.

1 MR. ROSE: Your Honor, if I may address myself to
2 that objection being sustained, I asked did that reflect the
3 brush on that day. I will have another witness to show when
4 they were taken. I'll admit them through him.

5 MR. POLAHA: But then, your Honor--

6 THE COURT: Counsel, I think you are going to have to
7 lay a foundation for the photographs before you take on a
8 witness with them.

9 MR. ROSE: Okay, fine.

10 BY MR. ROSE:

11 Q Did you have a chance to observe the brush during
12 that day in that area?

13 A Yes, sir.

14 Q That would be on July 17th in the early morning hours?

15 A Yes, sir.

16 Q And I want you to tell me whether or not this
17 photograph, G-12, clearly and accurately reflects that growth
18 in and around the area where the body was found.

19 A Yes, sir, it does.

20 Q I am going to show you State's Exhibit G-9 for
21 identification, and I would like you to tell me what is in that
22 picture?

23 A Here you have the house as well as the brush. The
24 only thing that is absent here is the--

25 MR. POLAHA: Objection, your Honor. He was not asked
26 what's present or what's absent. He said, "Can you identify
27 it."

28 THE COURT: Sustained.

29 THE WITNESS: Yes, sir. This is the house and the
30 general location of where the body was found.

1 BY MR. ROSE:

2 Q And does that clearly and accurately reflect the
3 condition of the brush the day the body was found?

4 A Yes, sir, it does.

5 Q I am going to show you State's Exhibit G-11 for
6 identification. Could you tell me what that photograph shows?

7 A This is another shot of the same general area as
8 where the body was found, and in the background you have the
9 same house and surrounding brush.

10 Q Does that clearly and accurately reflect and show the
11 condition of the brush on the day the body was found?

12 A Yes, sir, it does.

13 Q Mr. Rose, I'm going to show you State's Exhibit G-1
14 in identification. Could you tell me what that photograph
15 shows?

16 A This is a photograph of the body of the deceased--
17 MR. POLAHA: Your Honor,--

18 THE WITNESS: And also of the rock near which it was
19 found.

20 BY MR. ROSE:

21 Q Does that clearly and accurately reflect that portion
22 of the body on the day it was found?

23 A Yes, sir, it does.

24 Q I am going to show you State's G-2 marked for
25 identification. What does that photograph show?

26 A This is a picture of the body next to the rock, and
27 also shows some of the surrounding brush.

28 Q Does that clearly and accurately show that portion
29 of the body and the brush in front of it on the day that the
30 body was found?

1 A Yes, sir, it does.

2 Q I'm going to show you now, Mr. Rose, State's Exhibit
3 G-3 for identification. Can you tell me what that picture
4 shows?

5 A This is a picture of the body laying next to a rock
6 with surrounding brush.

7 Q Does that clearly and accurately show the brush and
8 that portion of the body?

9 A Yes, sir, it does.

10 Q On the day that Trudy Hiler was found?

11 A Yes, sir, it does.

12 Q I'm going to show you State's Exhibit G-4 for
13 identification. Could you tell me what that picture depicts?

14 A This is the body near the rock with the surrounding
15 brush.

16 Q Does that clearly and accurately show a portion of the
17 rock, some of the brush and the majority of the body of
18 Trudy Hiler on the day that she was found?

19 A Yes, sir, it does.

20 Q State's Exhibit G-5 for identification. Could you
21 tell me what that depicts?

22 A Yes, sir. It shows the rock and the body and the
23 surrounding brush.

24 Q Does that clearly and accurately depict that portion
25 of her body, the rock and the brush clearly and accurately as
26 it was shown on the date she was found?

27 A Yes, sir, it does.

28 Q I'm going to show you State's Exhibit G-6 for
29 identification. Could you tell me what that picture shows?

30 A This is a picture of the body near the rock with the

1 surrounding brush.

2 Q Does that clearly and accurately depict the rock,
3 that portion of her body and some of the brush as was shown on
4 the day the body of Trudy Hiler was found?

5 A Yes, sir, it does.

6 Q Mr. Rose, I'm going to show you State's Exhibit G-7
7 for identification. Could you tell me what that picture
8 depicts?

9 A This is a picture of the rock and the body and
10 surrounding brush.

11 Q Does that clearly and accurately reflect the portion
12 of the body and a portion of the brush as it appeared on the
13 day that Trudy Hiler's body was found?

14 A Yes, sir, it does.

15 Q I'm going to show you State's Exhibit G-8 for
16 identification. Could you tell me what that picture depicts?

17 A It shows the rock and the body and surrounding brush.

18 Q Does that clearly and accurately reflect that portion
19 of her body, portion of the rock and a portion of the brush as
20 you saw it on the day that Trudy Hiler's body was found?

21 A Yes, sir, it does.

22 Q Thank you. Mr. Rose, I'm going to show you State's
23 Exhibit G-10 for identification. Could you tell me what that
24 picture shows?

25 A It shows the rock and the body and the surrounding
26 brush.

27 Q Does that clearly and accurately show a portion of
28 her body, some of the rock, a good bit of the brush as it
29 appeared on the day her body was found?

30 A Yes, sir, it does.

1 Q And is that a clear and accurate representation?
2 A Yes, sir.
3 Q And did you have the opportunity to observe her body,
4 the rock and the brush on the day her body was found?
5 A Yes, sir, I did.
6 Q And when would that have been?
7 A That would be-- We left the casino at approximately
8 3:15 a.m., and we were probably there within another ten
9 minutes. In other words, approximately 3:25 a.m.
10 MR. ROSE: Thank you, Mr. Rose. I have no further
11 questions.
12

13 CROSS-EXAMINATION

14 BY MR. POLAHA:

15 Q Mr. Rose, you've been looking at a piece of paper
16 here throughout your testimony. May I see that, please?
17 What is this, sir?
18 A I took the various reports that I wrote on that night,
19 specifically the report that I wrote concerning when we saw
20 the-- got the first report on a girl being abducted.
21 Q Where'd you get this from, is what I'm asking you?
22 A From my own report, sir.
23 Q When did you write this down?
24 A A few weeks ago.
25 Q So you had an opportunity to reread the reports you
26 submitted to the Cal-Neva and to the District Attorney two
27 weeks ago; is that correct?
28 A Yes, sir.
29 MR. POLAHA: Your Honor, inasmuch as the witness
30 admitted that he did in fact refresh his memory from the notes

1 and official report submitted to the Cal-Neva as the incident
2 report and to the District Attorney, I would request the Court
3 now to ask the State to give us a copy of those for the purpose
4 of cross-examination.

5 Thank you.

6 MR. ROSE: You are welcome.

7 BY MR. POLAHA:

8 Q Did you make one report, sir, or two?

9 A I made two, sir.

10 Q I was just handed a report. Is that your complete
11 report?

12 A This is not the Cal-Neva report. This is the statement
13 I made for the Washoe County Sheriff's Department. The only
14 Cal-Neva report that I actually made was the one where I wrote
15 down the incident where a girl was seen being abducted down the
16 road, and also I made a notation of the time which we saw this
17 suspicious person over towards the Crystal Bay Club parking
18 garage.

19 Q All right. This is your report, the official report
20 to the police; is that correct?

21 A Yes, sir, it is.

22 Q Now, your report to the Cal-Neva, where is that?

23 A I can get you one, if you like.

24 Q Can you get me one tonight?

25 A Right now.

26 Q Would you have it with you?

27 A I don't have it. Mr. Rose would have a copy of it
28 someplace.

29 MR. ROSE: I don't know.

30 THE WITNESS: I guess.

1 MR. ROSE: That's the official police report. I
2 think we have a copy. I'm not sure of the Cal-Neva report. I'd
3 have to check, your Honor.

4 THE COURT: Do you have any objection to supplying it
5 to counsel?

6 MR. ROSE: I have none whatsoever, your Honor.

7 MR. POLAHA: All right, your Honor, we'll take it up
8 later.

9 BY MR. POLAHA:

10 Q Mr. Rose, we will, of course, like a chance to
11 examine your statement and what you have said in court here.
12 But while we're doing that, let me go over these photographs
13 with you.

14 Now, you arrived on the scene, as I understand it,
15 what, 3:15 a.m. or sometime after 3:15?

16 A 3:15 is when I got the report from Mr. Anselmo, and
17 we drove directly over there.

18 Q And you arrived at what time, approximately?

19 A The fact that we were driving in a vehicle--

20 Q What time did you get over there, sir, was the
21 question.

22 A Approximately 3:20.

23 Q 3:20. So this was at night, it was dark; right?

24 A Yes, sir, very dark.

25 Q Did you go back to the body that day? Did you go back
26 to the body that day?

27 A After we initially discovered it?

28 Q Yes.

29 A No, sir, we stayed at the body and then--

30 Q So the only time you saw the body was in the early

1 morning hours of July 17th?

2 A With a spotlight, yes, sir.

3 Q Okay. Now, did you move the body around?

4 A No, sir.

5 Q Did you move the brush around?

6 A No, sir.

7 Q Did anybody in your presence move the body or the
8 brush around?

9 A When we got to the body--

10 Q Yes or no, sir?

11 A Yes, sir. The defendant, Mr. Anselmo, moved the
12 brush around.

13 Q Okay. So then when you were asked does this represent
14 what you first saw upon arriving at the scene, that's not
15 necessarily so, is it? There was some rearranging, whether by
16 Mr. Anselmo or somebody?

17 A I got down into that area, but he went down on the
18 more or less solid ground--

19 Q Okay. G-1 --

20 MR. ROSE: I'm going to object to that. The witness
21 is answering the question, your Honor. I don't think counsel
22 should cut him off. I think he should let him finish his
23 answer.

24 MR. POLAHA: I apologize.

25 THE COURT: In other words, Mr. Anselmo--

26 MR. POLAHA: Excuse me. Could you read the question
27 back, please.

28 (Record read.)

29 THE WITNESS: To the best of my knowledge, Mr. Anselmo
30 did not rearrange any of the brush shown in the pictures, or the

1 body as also shown, as well as the rock. The part of the brush
2 that he touched that I saw was right next to this little short
3 cliff that he fell off of. In other words, it was maybe four
4 or five feet away from the body.

5 BY MR. POLAHA:

6 Q All right.

7 Were you there when the photographer was there?

8 A No, sir, I was not.

9 Q Do you know when the photographer got there?

10 A Not positively, no, sir.

11 Q How long did you stay in that area?

12 A Myself and some of the security and Sheriff's
13 deputies went through that area searching for other pieces of
14 evidence.

15 Q Well, how long-- The question was, how long were you
16 in that area?

17 A I assisted in the search through that area until
18 maybe 5:30 or 6:00 o'clock that morning.

19 Q All right. The house depicted in State's Exhibit G-9
20 for identification I believe is the photograph that you
21 mentioned about the road in the foreground. Now, is that a
22 road?

23 A No, there was another picture and it showed the
24 pavement, the asphalt.

25 Q This one here?

26 A That's the one I'm talking about. This part here
27 where the brush is slightly cleared, judging from that
28 distance,--

29 Q Wait a minute, wait a minute.

30 A This part of the-- In other words, it's a shoulder of

1 the road possibly showing there.

2 Q So you're saying G-9 and G-12 are roughly the same
3 thing?

4 A Only from a different angle, yes, sir.

5 Q Now, what specifically in that particular picture can
6 you identify as being Cal-Neva or Lake Tahoe, Nevada?

7 A Okay. This is the house here as well as the crest
8 upon which the house stood. And on the other side of that
9 crest would be Lake Tahoe.

10 Q No, no. No, but you can't tell from that picture,
11 can you? Do you see the lake there in the picture?

12 A From my own memory, I can tell you positively that
13 there is a lake on the other side of it.

14 Q I don't know that from looking at the picture. I'm
15 asking you can you look at that picture and tell me precisely
16 which point in the entire Western United States that is? Now,
17 you're saying it accurately and fairly represents the area as
18 you saw it on that particular day.

19 I'm asking what area can you tell me that represents
20 by that picture?

21 A Well, let me put it this way: If we went from the
22 courtroom to that area, and I was blindfolded and you took the
23 blindfold off and placed me on the road, and I would look at
24 that cabin and say, "There's a lake on the other side of that."

25 Q Precisely because you're used to that. I'm saying the
26 ladies and gentlemen of the jury did not work as security guards
27 up there. I'm saying by the basis of this picture, now we're
28 asking you, does this fairly and accurately represent what it
29 depicts to represent?

30 Now, I'm asking you how do you know where that is?

1 Were you told that this is Lake Tahoe?

2 A From experience.

3 Q Is that it?

4 A I wasn't told that was Lake Tahoe. I just know it

5 from experience, sir, and memory.

6 Q You remember the house up there, and it's unique in

7 a fashion, and the tree up here, that's unique?

8 A Well, not necessarily the tree. But the trees and

9 the house and the hillside all construed together along with

10 the road are unique.

11 Q You were shown these photographs prior to your

12 testimony, were you not?

13 A Yes, sir.

14 Q Okay. When was that?

15 A Once prior to the Grand Jury hearing of this case,

16 and once today.

17 Q You mean right here in court?

18 A Yes, sir. And then just before the procedure, so

19 Mr. Rose would give us an idea of what he was going to be asking

20 during the actual trial.

21 Q Was there anyone else there with you?

22 A Just Mr. Rose and possibly Mr. Canfield.

23 Q So just the three of you?

24 A Yes, sir.

25 Q Now, you saw these marked, I think, G-1 through G-12.

26 Were they shown to you in that order, or were you shown a whole

27 series of photographs?

28 A I wasn't shown them in any specific order that I can

29 remember.

30 Q Were the photographs depicting the body segregated

1 from the photographs showing the house which in turn were
2 segregated from the body and maybe the ones just showing the
3 branches of the trees, or were they all lumped together and
4 said, "Here's the photographs we're going to be asking you
5 about"?

6 A As I remember, the thing that stuck out was the body
7 were lumped together somewhat. But the other pictures, I'm
8 not positive about.

9 Q So when you're saying that they fairly and accurately
10 represent a scene as it occurred to you at 3:30 or 3:45 the
11 morning of July 17th, you are really saying, "Well, I suppose
12 it does, because I was there and that is the approximate area
13 that we're talking about"; right?

14 A Yes.

15 MR. POLAHA: Will the record indicate the defendant
16 nodded his head.

17 BY MR. POLAHA:

18 Q Now, I'm puzzled, Mr. Rose: I see by these photographs
19 that you were shown and identified as once again fairly and
20 accurately representing the scene that they depict. Well, can
21 you explain to me how-- Well, here in this picture here, for
22 example, G-1, is quite different from this picture G-8.

23 Now, is it open underneath? Does that brush depicted
24 in G-1 go up or start--

25 A Which one is G-1 now?

26 Q This is G-1 right here. I mean, there's obviously a
27 difference there; isn't there?

28 A The rock, you can identify it as being more or less
29 in the same granite type of structure. And then I believe they
30 call it lichens or moss growth on the rock, and then the type

1 of vegetation growing around is of the same general type. And
2 the portion of the body shown in this one, I believe is G-1;
3 correct?

4 Q Yes.

5 A Okay. The portion of the body, it's consistent, in
6 other words, with its location as far as crossing over to this
7 photograph right here.

8 Q So perhaps to the brush here, was it pushed aside,
9 moved aside?

10 A No, sir, it wasn't. If you look at it-- See, in
11 other words, this is sort of like a brush wall, and then
12 immediately growing next to the rock itself there's very little
13 brush, as this.

14 Q Okay.

15 A In other words, when I say "it", the brush was more
16 or less like it--

17 Q So this, in other words,--

18 A Taken from a different angle.

19 Q Right. And the area where the body was wasn't
20 completely obscured from a vantage point of a few feet away?

21 A From just one particular vantage point, you could see
22 it quite easily.

23 Q Right. And that evidently would be the vantage point
24 looking as a result of that vantage point, the G-8 photograph;
25 correct?

26 A Yes. Would you like me to show you the one in order
27 for Mr. Anselmo to touch the body?

28 Q No, no. I'll do the questions.

29 Now, from your experience and your having had the
30 occasion to be in this particular area at this time, how about

1 the vantage point shown in G-6? Now, that is different from
2 what you explained to me for the G-8 and the G-1 pictures. Let
3 me put those here, and if you could keep them away from the
4 jury's view, please.

5 A This one, there would be two, as far as I remember.

6 Q Wait until I show you G-1 and G-8. There's G-8. Now,
7 G-8 and G-6, now there must be a wider vantage point, must
8 there not be, because look at the angle and the portion of the
9 body that's photographed in each.

10 A The photographer in my opinion was standing slightly
11 above--

12 Q Well, the question was, was it the same vantage point?

13 A Well, this one, G-6, is slightly more to the rear of
14 the deceased. And this one is almost taken from the middle of
15 the deceased's body here.

16 Q I guess I could simplify this in my own mind. Could
17 you come to the chart, please.

18 I know we can't get a three-dimensional drawing here.
19 Could you give me a side view of the rock and the brush--

20 A Standing on the ground now?

21 Q Yes. First of all, so we could orient ourselves,
22 give me where the road is in relation to the house.

23 A Okay. This would be Crystal Bay Drive.

24 Q Well, what I'm talking about is in that photograph you
25 saw the road at the bottom?

26 A Yeah, I'm going to show you that.

27 Q This one. That's G-12. Just give me the road and
28 the house.

29 A As near as I can estimate it. I'll make it a little
30 blacker here so the jury can see it. As near as I can estimate

1 it, the photograph was taken someplace in this vicinity of the
2 road right here.

3 Q All right. Now, where is the house?

4 A Right here, sir. This square here on the chart.

5 Q All right. Now, where would that rock and the body
6 found be?

7 A It would be in the approximate location right about
8 maybe here, and the body itself was laying-- Wait a minute.

9 Can the jury see this? Okay. I know it's a little
10 bit small detail. Would you like me to make it larger for you?

11 A JUROR: Please.

12 THE WITNESS: This is your house here, and I'll draw
13 the approximate vicinity of where I estimate the photograph to
14 be taken, which is someplace in this area.

15 The rock is someplace up in this area right here, and
16 then the body, as we came to it--

17 BY MR. POLAHA:

18 Q No, no. No, no. My question is draw the road, rock,
19 house. And that relates it; right?

20 A Okay.

21 Q Now, would you give me a top view of the--

22 A Of the body?

23 Q Make a line where the body would be.

24 A Okay. Here would be your rock, and your body was
25 immediately adjacent to the rock. I'll do a little drawing
26 here, with the head facing in this direction. The rock,
27 incidentally, is quite a bit larger to the proportion of the
28 body than I've drawn.

29 Q Let's go to the side here, because I want to get
30 centered into that rock and get my mind straight as to the

1 photographs, what they do in fact depict.

2 So if you'd come over here, please. Now, show the
3 rock in a little bigger size with a line indicating the body, if
4 you would. What I want is a top view of the rock, the body and
5 the brush surrounding the body.

6 A Yes, sir. Here is your rock right here. Starts with
7 an R. Here is the body, and your brush goes right along through
8 here. I'll draw that in green.

9 Then all through this area, of course, there's quite
10 a bit of brush. There's a small clearing right in here where
11 Mr. Anselmo fell.

12 Q The green stuff is the brush?

13 A Yes.

14 Q That obviously is not drawn to scale, or is it?

15 A No, sir, it is not.

16 Q Now, would you give me a side view from the green area
17 to the rock?

18 A Are you talking about from a prone position after
19 falling?

20 Q No. Let's say if you were looking at the counsel
21 table, here was the rock and you were back a few feet right
22 on at it, exactly what you see. Because my confusion lies in
23 the fact that you have G-5 identified and G-1 identified as
24 an accurate representation of what you saw. And to me, unless
25 there was some substantial moving about of the brush, I don't
26 see where they get that picture. And you said there was none.

27 A The only portion of the brush that I noticed that was
28 disturbed by Mr. Anselmo was, as you recall, there is a little
29 cliff here three or four feet that he fell off of.

30 Q Coming from the road to the house?

1 A He was going actually uphill to this point.

2 Q There was a hole in the ground?

3 A Sort of a depression. If you want to call it that.

4 It was actually just a cliff, and then a little change in the

5 elevation, and you had to go in an uphill direction.

6 He fell, and in the position that he fell, I'll have

7 to draw in-- Well, I'll shade the brush a little bit.

8 Q Did you fall when you were there?

9 A No, sir. He told me that he fell. He said that

10 when he fell off, he fell flat on his face and he reached over--

11 Q Wait a minute, wait a minute. My question was, draw

12 me, if you would, a diagram face on. Now, here again you gave

13 me a top view, rock, body, brush. Now, I want what you could

14 see looking from this point here, looking at the rock. What

15 would you see?

16 A You'd see a considerable amount of brush through here,

17 and then you'd see probably the top of the rock and possibly

18 you could see the body laying through there.

19 Q All right. Did you stand on top of the rock?

20 A I didn't stand on this particular rock here. I stood

21 at the edge of the cliff. I got up closer. Mr. Anselmo went

22 down to this area. He jumped off the cliff.

23 Q Wait a minute. Excuse me, please. My question was,

24 did you stand on top of the rock?

25 A Not this rock, no, sir.

26 Q All right.

27 A I saw it pretty well from this angle here.

28 Q How close were you to the body?

29 A At the closest, about three to four feet.

30 Q Three to four feet. Were you at any time looking

1 directly down at the body?

2 A It was downhill of me as I looked down at it. In
3 other words, right about where this brief case stands from me
4 now, which is maybe four or five feet.

5 Q Okay. And you got no closer than that?

6 A I leaned over to take a closer look. I didn't want
7 to go down in that area. I pulled Mr. Anselmo out of there
8 almost immediately. He stepped down off the cliff--

9 Q Did you get any closer than that?

10 A No, sir, I didn't. Not any closer than this
11 particular rock. I leaned way over so I could see better.
12 I was trying to identify the cause of death, and I couldn't
13 actually see any cause of death from the back angle, in other
14 words.

15 Q Okay. You were approximately four feet away, and how
16 high?

17 A Three to four feet. Probably closer to the three.
18 About this high, sir. Waist-high, almost.

19 Q You were waist-high above the body and four feet
20 beyond it; is that correct?

21 A Pretty much.

22 Q And then you bent over. How tall are you from the
23 waist to your head, sir?

24 A Six feet, sir.

25 Q No, no. From the waist to the head.

26 A Okay. I would estimate about two and a half feet.

27 Q Two and a half feet. So you got the closest part
28 one and a half feet away from it?

29 A The closest that I was able to get without falling
30 off the cliff, sir, was about as close as you can get to any

1 point without actually falling off. In other words, maybe three
2 feet. If you want to measure, you can do it. I'll bend over
3 and you can measure the distance between my eye and the ground.

4 Q No, no. That won't be necessary. But if you would,
5 the brief case you indicated might be the body, how close? I
6 just want to know because I see different angles here.

7 A I was slightly closer. From the cliff standing where
8 I first saw the body, it was about like how it is there.
9 There is one particular photograph, if I might show you that--

10 Q So that's a demonstration of how close you were?

11 A Roughly, yes, sir.

12 Q At the closest?

13 A Yes.

14 Q You may resume the stand, if you would, sir.

15 This is Photograph G-10, State's G-10 for
16 identification. You were shown that picture, were you not?

17 A Yes, sir, I was.

18 Q You were also shown G-2, were you not?

19 A Yes, sir.

20 Q You were also shown G-4, were you not?

21 A Yes, sir.

22 Q You were also shown G-7, were you not?

23 A Yes, sir.

24 Q Can you see all those angles and all those views of
25 the body from where you were situated on the top of that little
26 crevice?

27 A If you measured it by a protractor, perhaps not.

28 Q I'm talking about what you saw. You testified that
29 this was fairly and accurately portraying what you saw on that
30 particular morning.

1 A It was the same body, as far as I can tell, sir.
2 Q We're not asking that. What we're asking is does
3 this photograph, this photograph--
4 A That particular one--
5 Q Did you see this body in that position with everything
6 there?
7 A Not from that exact position, but the body is laying
8 in the--
9 Q So you're assuming that this is what you saw; is that
10 not true?
11 A Yes, sir.
12 Q Okay. Now, we don't want your assumptions. We want
13 to know whether or not these photographs fairly and accurately
14 represent what you saw on that particular morning.
15 Now, if you didn't see it that way, if you did not
16 notice it that way, well then, say no. That's all we're after.
17 A A few of the photographs, such as this, the one that
18 you're just showing now--
19 Q G-6?
20 A G-6, was taken like I said from behind the body. So
21 quite obviously, it would be rather hard to see it from that--
22 Q Precisely.
23 A That particular angle.
24 Q You were down where the girl's head was, were you not?
25 A Yes, sir.
26 Q So you could not have seen and you do not know-- In
27 fact, you didn't see the body in that position; is that not
28 true? Yes or no, sir.
29 A I saw the body in that position, but not from that
30 angle, if that's what you mean.

1 Q Very good. You did not see the body in this position
2 from that angle; right?

3 A Right.

4 Q Okay. That's G-6.

5 How about the same thing, G-5?

6 A May I see that? You were showing it upside down.

7 Standing from the rock or the cliff, I should say,
8 this is probably one of the better angles from which I
9 immediately saw it, without having to bend over to try to get
10 a closer look.

11 Q All right. Now, that's what we're asking. So G-5
12 is what you saw when you first encountered the body; right or
13 wrong?

14 A Without looking, yes, sir.

15 Q Without looking.

16 A Without looking closely, bending at various angles to
17 try to see anything.

18 Q Okay. That is G-5.

19 MR. ROSE: Your Honor, for expediency's sake, I'll
20 bring the photographer in tomorrow morning and he will testify
21 to the precise and exact angle, if this will help Mr. Polaha,
22 and maybe expedite this cross-examination.

23 MR. POLAHA: Thank you, Counselor. That's not my
24 purpose. Mr. Rose volunteered very much evidence and very much
25 testimony, and I'm trying to find out how much we can accept
26 and how much we can accept lightly. I appreciate your offer,
27 Counselor.

28 MR. ROSE: Anything to help, Mr. Polaha.

29 BY MR. POLAHA:

30 Q I'm showing you what has been marked G-8 in evidence.

1 You were not in a position to see the body at that angle, were
2 you? Once again, that's coming from the back of the body
3 forward.

4 A I was never-- In order to see that from that exact
5 angle, you would have had to be off the rock, seeing as how--

6 Q The question was were you?

7 A No, not from that angle.

8 Q Okay. Now, G-10, did you ever see the body in that
9 position?

10 A I'm not altogether certain from what angle this is
11 taken--

12 Q You said it was a fair and accurate representation
13 of what you saw. Did you see the body in that position?

14 A From that position-- What I'm trying to determine is
15 from what angle the photographer was standing, because the rock
16 is one of the best landmarks of determining from what angle the
17 body is being viewed. Especially-- Okay.

18 Q Now, this is G-5.

19 A This is the approximate angle. The photographer may
20 have very easily been standing on that particular little ledge
21 when he took this one, which is G-5.

22 Q That's G-5. You identify that as fairly representing
23 what you first saw when you encountered the body?

24 A Yes, sir.

25 Q After having seen that and said what you said, where
26 would you have to go to see that?

27 A Well, this is what I'm not altogether certain about.

28 Q Well, do you know what that is?

29 A Wait a minute. Excuse me. I do see the rock here.
30 I do see the rock.

1 Q Well, there was no hesitancy when asked if that
2 fairly depicts what you saw the first time.

3 A I didn't know you're going to make such an issue out
4 of it. This would be viewed from the side, I believe.

5 Q So you were not in a position to see that?

6 A This is right here, the brush appears to be the--
7 that little brush barrier which is indicated in green on the
8 diagram that I showed you.

9 Q Well then, it's a picture taken from the feet towards
10 the head; is that correct?

11 A This appears to be a leg area.

12 Q Now, is that consistent with what you said was your
13 first view?

14 A This particular photograph, I don't know if I can get
15 it down on the record. It was probably taken at this angle.

16 Q Well then, you weren't in a position to see it at
17 that angle, were you?

18 A Not from this exact angle. I saw the same body.
19 To the best of my ability, it looks like the same surroundings.

20 Q Did you identify the body or parts of the body
21 depicted in the photographs as being the body of Trudy Hiler?

22 A Yes, sir.

23 Q You did?

24 A I don't think anybody substituted bodies.

25 Q You're saying that you saw the same body. Now, do
26 you see any identifying marks that could let you know for
27 certain that's the same body?

28 A When the surrounding brush and rock are taken into
29 consideration, I think it's fair to assume that that is--

30 Q But you are assuming, are you not, and that's what

1 we're trying to get at.

2 A On that particular photograph.

3 Q Okay. I take it G-2, being somewhat similar to G-10,
4 the answer is the same, a different angle? You didn't see it
5 from that angle?

6 You're observing it rather closely.

7 A Going to the rock and the brush, this appears to be
8 the body from a slightly more headward position as near as I
9 can tell.

10 Q Can you make that out? Can you really make that out?

11 A Well, there's the body, a body.

12 Q Can you make the head beyond?

13 A This particular part of the body shown-- Could you
14 hold this for a second so I can take a close look?

15 Q Surely.

16 A This part of the body, which is visible in this
17 particular photograph, appears to me to be part of a torso and
18 part of the arm through the brush as you look through the brush.
19 It has a little hole in the brush.

20 Q You didn't look through the brush to see it that way,
21 though, did you?

22 A Not from that particular angle. I didn't really have
23 to.

24 Q Did you look through the brush to see the body?

25 A There was brush obscuring the body to some degree.

26 Q Did you look through the brush, was the question.

27 A To some degree.

28 Q You looked through the brush to see that view of the
29 body?

30 A As you can see, there's brush between the photographer

1 as he took the picture and the body.

2 Q Aren't you looking over the brush? Isn't that a
3 fair representation--

4 A You're looking yes, slightly above it.

5 Q Here you're looking through.

6 A This is looking through.

7 Q You did not look through the brush, did you?

8 A Not from that angle, no, sir.

9 Q Okay. Thank you.

10 You didn't see the body from that angle, did you?
11 This is G-4.

12 A I saw the body from more a headward angle than this
13 picture was taken at.

14 Q Not having gone and situated yourself in a position
15 to observe the body in such position, you do not know what the
16 photographer had to do, if anything, to get that view of the
17 body, do you?

18 A What the photographer probably did here--

19 Q Not probably did, Mr. Rose. Do you know what he did,
20 if anything. Yes or no, sir. Yes or no. Do you know what he
21 did? Were you there when he took the pictures?

22 A No, sir, I wasn't there when he took the pictures.

23 Q You didn't get to a position to observe the body at
24 that angle, did you?

25 A No, sir.

26 Q Thank you. G-7, does this look familiar to you?

27 A Yes, sir.

28 Q I believe G-1 and G-3 should be familiar, and they
29 should go in the didn't-look-at-that-angle file; correct?

30 A I didn't look at it from that exact angle, no, sir.

1 Q I think if my recollection serves me correctly you
2 were shown G-9, and you identified it as being the area in
3 question up at the Lake Tahoe, around the Cal-Neva; is that
4 correct?

5 A Yes, sir.

6 Q Then you were shown G-11?

7 A Yes, sir, I was.

8 Q Okay. Were you asked to identify-- or that the
9 picture reflects accurately what you saw upon arriving at the
10 scene?

11 A Yes, sir.

12 Q Who was there with you at that time?

13 A When we arrived at that scene, after the body was
14 found?

15 Q Yes.

16 A You're referring to?

17 Q Yes.

18 A Mr. Anselmo and I was followed shortly by Mr. Paul
19 Feiten, one of the security officers at the club.

20 Q Now, what do you see in that picture?

21 A This is a picture of the house--

22 Q What house? What house?

23 A The cabin in question.

24 Q You can tell that from that picture. Do you see the
25 shake roof on that?

26 A Well, I couldn't--

27 Q Do you see the color of the house?

28 MR. ROSE: Now, hold it a second, your Honor. Would
29 the counsel please let the witness answer one question before
30 he starts another.

1 MR. POLAHA: I'm sorry.
2 THE WITNESS: Okay. Could you ask the first one?
3 BY MR. POLAHA:
4 Q Do you see a shake roof on that photograph?
5 A You mean shingles? Yes, I do, sir.
6 Q You do?
7 A You can notice the bumps along the ridge of the roof.
8 Q Okay.
9 A In other words, it's not Spanish tile.
10 Q Do you see any color? Is there any color depicted
11 in that photograph?
12 A This has got rather poor light. It appears to be
13 dark gray or black. Looks like it was taken either late in the
14 evening or very, very early in the morning hours.
15 Q Okay.
16 A By "morning hours", I mean towards dawn. There's
17 obviously a little bit of daylight left, or it's a well
18 moonlit night.
19 Q I thought you told me there was no light that night?
20 A I don't know exactly when this picture was taken.
21 The photographer's bulb may have made it show up a little
22 easier. I know there's effects of artificial illumination
23 in the foreground there, and it gradually tapers out.
24 Q To your mind, what's a giveaway clue of where that
25 area is? Well, I'm not testifying. Tell me what you see.
26 A Okay. The same general type of roof.
27 Q As of what?
28 A Your brush is more or less the same type of brush in
29 the immediate area of the cabin.
30 Q Well, wait a minute.

1 A About the same percentage of pine trees.

2 Q How many pine trees do you see in the picture?

3 A As near as I can tell, there is two in this particular--

4 Q Now, the same percentage--

5 A Excuse me. Now, that's the top of the manzanita

6 showing on the skyline there.

7 Now, you have one pine tree in the upper right-hand

8 corner, and then another one a little further down. You can

9 see the top of one that might possibly be one of the lower

10 branches jutting out there.

11 Q So you see one pine tree definitely, and the other

12 one is a possibility; is that correct?

13 A Yes, sir.

14 Q Now, that's the same percentage as what?

15 A Well, in other words, the same density. What I'm

16 trying to state is it's not exactly what I would call a forest

17 of pine trees. I would call it a scattering of pine trees.

18 Q Is this particular area with which we're concerned,

19 Crystal Bay Drive, is this the only area in the lake that has

20 one pine tree?

21 A To the best of my knowledge, sir, there are several

22 pine trees and several manzanita bushes in the lake area.

23 Q You don't know what that represents, do you? You

24 have an idea. You're assuming.

25 A I have an idea.

26 Q You're assuming that it's the area of the crime, are

27 you not?

28 A Yes, sir, I am.

29 Q The question was, does this fairly and accurately

30 represent what it depicts to represent. Now, limited to it

1 showing light green in the foreground, gray, medium green and
2 dark green, a silhouette of a house and an arm of somebody in
3 a short-sleeve shirt, you don't have any indication, do you,
4 of where that is or what it depicts?

5 A It's simply this, the density of the brush, the type
6 of brush, the type of roof which is depicted in here leads me
7 to conclude that is the area where we found the body, the
8 general area.

9 Q Right. That is unique?

10 A Of course--

11 Q To that one lot?

12 A Of course, if you went to someplace in Spain, you
13 could probably find pretty much the same scene.

14 Q How about if I went to the next lot over or across
15 the drive?

16 A Then you wouldn't see it from that angle if you're
17 on-- Across the road, you're talking about now?

18 Q No, no. I'm saying if I showed you a picture, a
19 man with a short-sleeve shirt on, manzanita brush, a tree up
20 on the top of a little hill and a silhouette of the house,
21 whether it's the entire house, an eave of the house looking out,
22 and then say, "Mr. Rose, does this fairly and accurately
23 represent what you saw on that particular morning?" you
24 wouldn't know what I was talking about, would you, unless you
25 are assuming I'm going to show the area of the crime; right?

26 A Possibly.

27 Q Possibly?

28 A In other words, what I'm trying to say, I don't think
29 anybody substituted any pictures.

30 Q I'm not suggesting that. I'm suggesting that you,

1 sir, are saying, "Yes, yes, yes, yes, yes", all the way down
2 the line without really knowing that "Yes" is the proper answer.
3 There's a lot of doubt in what you're saying about the
4 photographs. That's all I want to show.

5 MR. POLAHA: Your Honor, inasmuch as it's a quarter
6 to 5:00, I was going to ask for a recess to give us a chance--
7 I'm through with the pictures, your Honor, and I was going to
8 go into the statement and compare them with my notes. I will
9 be taking time to read the statement, and inasmuch as it is a
10 quarter to 5:00, I would respectfully ask for a recess until
11 tomorrow morning.

12 THE COURT: I was going to ask you how long you
13 thought you'd be with this witness. If you can't finish in
14 the next few minutes, we'll adjourn now.

15 MR. POLAHA: No.

16 THE COURT: Ladies and gentlemen, you are instructed
17 not to discuss the case among yourselves or with anyone else,
18 or to form any conclusions concerning the case until it is
19 submitted to you; nor are you to read or listen to any accounts
20 relating to this trial in the news media or from any other
21 source.

22 We'll be in recess until 10:00 a.m. tomorrow morning,
23 and I would like to see counsel in chambers, please.

24 (Whereupon the proceedings were adjourned.)
25
26
27
28
29
30

1 RENO, NEVADA FRIDAY, APRIL 14, 1972 10:15 A.M.

2 --oOo--

3
4 THE COURT: Will the Clerk please call the roll of the
5 jury.

6 (The Clerk called the roll of the jury.)

7 THE COURT: Are counsel ready to proceed?

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

9 MR. POLAHA: Ready for the defense, your Honor.

10 THE COURT: It seems to me when we adjourned yesterday,
11 we had a witness on the stand, and you were cross-examining him,
12 Mr. Polaha.

13 MR. POLAHA: Yes, your Honor.

14 THE COURT: Was his name Rose?

15 MR. ROSE: Randall Rose, your Honor. He is the third
16 Rose in this trial. The only time we have to worry is when we
17 get the fourth Rose.

18
19 R A N D A L L N O R R I S R O S E
20 called as a witness on behalf of the State,
21 having been previously duly sworn, was
22 examined and testified as follows:

23
24 THE COURT: You are still under oath, Mr. Rose.

25 THE WITNESS: Yes, sir.

26
27 CROSS-EXAMINATION

28 (Resumed)

29 BY MR. POLAHA:

30 Q Mr. Rose, you indicated yesterday that you were

1 attending law school. Which law school is that?
2 A John F. Kennedy University in Martinez, California.
3 Q And what year student are you?
4 A Pardon me?
5 Q What year student are you?
6 A This is my first year.
7 Q I notice you are bringing out notes again.
8 A This one you can have. It's a copy of the one I had
9 yesterday.
10 Q What's that?
11 A This is a copy.
12 Q Okay, thank you.
13 Mr. Rose, before you were security guard up at
14 Cal-Neva, what did you do?
15 A I worked at Alpine Meadows, Lake Tahoe.
16 Q As what?
17 A Parking lot supervisor, lodge maintenance.
18 Q Were these more or less part-time jobs as you were
19 going to school?
20 A No. That was full time. I took a year interval
21 between undergraduate school and law school.
22 Q I was handed a copy of what purports to be a statement
23 given to you or given by you as part of your duties as security
24 guard at the Cal-Neva. I was handed this this morning before
25 we started here. Is that the extent of the report made by you
26 as part of your official duties for the Cal-Neva?
27 A Yes, sir, to the best of my knowledge.
28 Q Mr. Rose, when you found yourself involved in what
29 turned out to be a homicide case, at the time, I'm talking about
30 the July date, were you excited?

1 A Not truly excited at the time. Later on, maybe the
2 following day after I was home and whatnot, after seeing all of
3 the things and thinking about them, I felt a little bit sick at
4 my stomach over what had happened.

5 Q So then you became excited?

6 A Not excited, no.

7 Q But you were interested?

8 A Oh, yes, interested.

9 Q Were you ever a witness in another murder case?

10 A No.

11 Q Were you interested at the time you wrote your
12 reports?

13 A I was interested, but quite sleepy. I had been up
14 all night.

15 Q So then you wrote the reports while in a sleepy state?

16 A About 7:30 in the morning. Not sleepy, necessarily,
17 but physically tired.

18 Q But you think that you included all the pertinent
19 happenings on that particular morning, or not?

20 A When construed together, both reports, in other words,
21 the police report as well as that report, most of the
22 pertinent information to the best of my knowledge is there.

23 Q Would you step to the map, please, here, and lift
24 that page? I want to get a chart, if you can reproduce--

25 A Do you want to follow the sequence on the card?

26 Q No, no. Now, here is what I want so this will give
27 you an idea of what size to draw these things. I want the
28 roads involved, the house which you testified yesterday that
29 you checked with Mr. Anselmo, some indication of where the
30 lake is, the rock, the house, the road where you parked the

1 car, the area, I think it was Extel and Crystal Bay Drive or
2 something like that, Extel?

3 A You mean Crystal Bay Drive?

4 Q Wherever it is, the place where you said you saw a man
5 with a purse.

6 A Oh, okay. This road here would be Stateline Drive.
7 I'll try to label these for the court as I go here. These are
8 the dormitories in this area, which belong to the Cal-Neva Club
9 where the employees live, some of them. This, as I mentioned
10 yesterday, is approximately a one-lane road. It's a very
11 narrow road, and the connection over to Somers Drive.

12 Here you have the Crystal Bay Club-- or Crystal Bay
13 Drive, excuse me, and this intersects here at Somers Drive and
14 makes a turn to the left.

15 The house in question is in this approximate location
16 here, and the rock would be, to the best of my recollection,
17 someplace in this area here. You go up here to-- over Somers
18 Drive, and you have the Crystal Bay Club parking garage, as
19 well as the Crystal Bay Club up here, and this comes up against
20 the highway that goes around the shore of the lake, the main
21 thoroughfare, in other words.

22 The name of this particular road here, I cannot
23 remember. And the point where Mr. Anselmo and I were when we
24 saw this person walking with the possible handbag or purse, we
25 were at this point right at the intersection, approximately.

26 Q Excuse me, I didn't ask you that question.

27 A Oh, I thought you said you wanted to know where we
28 were.

29 Q I just wanted you to incorporate in the drawing that
30 particular area and the garage.

1 A No further questions on that?

2 Q Is that the entire area?

3 A Okay. As far as I know, it's pertinent, yes, sir.

4 Q Well, let me decide pertinency.

5 A Oh, except for the lake. The lake would be in this

6 approximate location.

7 Q Where does this road go?

8 A This one goes on down here a ways, and then it goes

9 into a private dirt road, and there is a sign saying private

10 road, no trespassing, or something to that effect. It goes on

11 down here a ways, like I said, and then it breaks into a dirt

12 road rather than a paved road, and it's all private beyond that.

13 Q Are there any other houses in the area?

14 A I can't remember the exact locations of those houses.

15 I remember they have a pretty--

16 Q Approximately.

17 A A pretty steep hillside here on this side of the road.

18 As I recall, there was a house here.

19 Q Now, the steepness of the hillside, coming from the

20 house up or going from the road up to the house?

21 A Going from the road up to the house. The house was

22 uphill from-- as opposed to the road.

23 Q All right, pretty steep?

24 A Yes. Also covered with dense terrain.

25 Q Are there any other houses along in here?

26 A Yes. There is one that stands out fairly clearly.

27 There was a house where this wall that we stayed behind on the

28 stakeout was. There was a stone wall here, and as I recall,

29 there was a house down in this area.

30 A As I recall, there was several houses down in this

1 area, with little footpaths going down to them. I can't recall
2 how many houses there were in that area.

3 Q Now, are any houses rather close to the shore here?

4 A Not really. When you get down to the shore, it is
5 quite steep. Let's see, as I remember, the terrain, it might
6 have been at approximately this angle and very dense, hard-to-
7 travel terrain.

8 Q Was it sandy soil down there, or was it rocky?

9 A I never got down to the shore. It was so steep and
10 whatnot. I never actually got down in that area.

11 Q Do you know if there are any stairs connecting to
12 these houses leading down to the--

13 A To the shore?

14 Q Yes.

15 A No, I don't know. I didn't check these houses out
16 too well. I saw them, but I didn't go over there and--

17 Q Then you wouldn't know whether or not there are any
18 piers down there?

19 A I can't recall seeing any piers. I could see the
20 part of the shore anyway the following morning down in this
21 area, but I can't recall seeing any stairs.

22 Q So you did go back to the area after your initial
23 visit there?

24 A Oh, it was part of the same search.

25 Q So you are talking about the early morning hours?

26 A Well, yeah, early morning till maybe 6:00 or so. It
27 was sunrise then.

28 Q Is there any house right here?

29 A Right here would be Jack Horton's house. That's some
30 real estate, also, owned by Cal-Neva--Crystal Bay, Incorporated.

1 You have several houses through here, too. Some of them are
2 multiple-unit dwellings.

3 In other words, you might have one of these houses
4 divided up into two or three or four families.

5 Q Okay. You have little blocks here?

6 A These are dormitories, sir.

7 Q Where is the security building?

8 A The security building is not really existent. There
9 is a security office inside of the Cal-Neva Lodge. Would you
10 like me to indicate the approximate location inside the lodge?

11 Q Okay.

12 A Let's see, in a corner of the casino, you would have
13 a theater over here, or an auditorium, where you have
14 entertainment and whatnot, and then you have a gambling area.
15 And then you have the security office approximately here, right
16 next to the entrance of the theater.

17 Q And you were here on that particular evening, is that
18 correct, or the morning of July 17th?

19 A Where we got the report?

20 Q Yes, sir.

21 A Which time, you are talking about 3:15?

22 Q No, no, I'm talking about the 1:30 report, when you
23 received the report.

24 A At 1:30, I was eating my lunch, and I was in the
25 casino restaurant, which is approximately here.

26 Q I thought you ate your lunch after you gave them
27 the flashlight?

28 A No. I went back after I handed them the flashlight;
29 I went back to continue my lunch, which had been interrupted
30 at 1:30. I had a hamburger, and then I had to run.

1 Q You may take the stand.
2 Are there any houses over here?
3 A This is a vacant field, as I remember it, and you have
4 a few small houses here.
5 We knocked on a few doors to see if there had been
6 anything of any importance happening on that particular day,
7 and nobody had heard anything.
8 Here is the approximate area of the employee parking
9 lot.
10 Q Please restrict your responses to my questions. I
11 didn't ask you if you knocked on any doors.
12 A Okay.
13 Q There are houses there, I take it, or buildings?
14 A Yes.
15 Q Are there any over here?
16 A As I can recall now, this is the only building that I
17 can definitely remember.
18 Q Okay, you may resume the stand. Thank you.
19 You worked under Jack Horton; is that correct? He
20 was your boss?
21 A He was the head of security, and my immediate
22 supervisor was Warren Mathews.
23 Q All right, did you know Jack Horton?
24 A Yes, sir.
25 Q Was he residing here by himself, or was his family
26 with him?
27 A His family was with him.
28 Q Does he have any dogs?
29 A As I remember it, he does have at least one dog.
30 Q What kind is that?

1 A As I recall, it was a mongrel dog, black and white,
2 sort of like a sheep dog, in a way.

3 Q Good-sized dog?

4 A Can I indicate by showing the height? I would say it
5 was a medium size.

6 Q All right, were there any other dogs in that area
7 that you remember seeing?

8 A Not that I can recall, sir.

9 Q All the houses, I take it, were occupied during this
10 period?

11 A With the exception of-- those houses up there towards
12 the employee parking lot, do you want me to indicate?

13 Q Well, I think--

14 A Put your finger on it, and I will tell you where I'm
15 talking about.

16 Q Here?

17 A No, go on up.

18 Q Here?

19 A As you recall, I mentioned that we knocked on some
20 doors.

21 Q Were they occupied or not?

22 A I'm not sure if they were occupied.

23 Q You told us they said nothing of importance happened
24 that night?

25 A Our reason for investigating it, sir, was to see if
26 we could find anything important happening. In other words,
27 we are searching for witnesses.

28 Q You said you knocked on the door and nothing happened?

29 A No. I said we knocked on the door and there was no
30 answer.

1 Q After you were contacted either at the 1:30 time or
2 the 3:15 time, did you stop on the way to the area at Jack
3 Horton's house?

4 A Yes. I believe that was the 3:15 time. We stopped,
5 and I was thinking maybe he was in there. At the time I wanted
6 to locate him.

7 Q Thank you. You did answer my question.

8 A Okay.

9 Q Did he tell you anything that his girls may have
10 heard, some screaming?

11 A Jack Horton?

12 Q Yes.

13 A Not that I can recall, sir.

14 Q He had no conversation with you about screams of his
15 children?

16 A When I stopped there, he wasn't present. He was in
17 the club, and they located him for me, and he came out to the
18 area.

19 Q You didn't talk to anybody in the Horton house?

20 A I just told one of his daughters to see if she could
21 get ahold of Mr. Horton.

22 Q Now, as I understand your testimony, you made two
23 searches, or you were in on two searches of this area?

24 A Yes, sir.

25 Q Now, the first search, you were with whom?

26 A The first search initially, I was with Mr. Greenwald
27 and Mr. Anselmo. Later-- Okay, three at that time, during the
28 same search, while that search was in progress, Jack Horton
29 arrived, as well as the Sheriff's deputies.

30 Q And this is with the three carloads as you referred

1 to them yesterday?

2 A Yes, sir.

3 Q So that was part of the first search which started at
4 1:30, approximately?

5 A Yes, sir.

6 Q Okay, then to get this clear, that terminated; you
7 returned to the security, and then at 3:15, what we are talking
8 about, this second search; is that correct?

9 A Well, at the time the search terminated, it was about
10 1:30. While en route, as I mentioned earlier, we did see this
11 person walking with the handbag. That took us approximately
12 fifteen minutes to search that out, and then we went over to
13 the Cal-Neva Club and got the report.

14 Q Now, during the first period when there were the
15 three of you and then later you were joined by Sheriff Purnell,
16 were you searching on your own or were the three of you going
17 down together, or how was that?

18 A We started to be together, and then we split up. And
19 Mr. Anselmo was with Mr. Greenwald during most of that time, and
20 they were searching to the right of the road as you look towards
21 its termination or its end.

22 Q They were looking here?

23 A Yes. And I searched primarily along this area here.
24 Incidentally, may I show you-- I just remembered there was a
25 few houses just about where you are pointing your pen there.

26 Q So there are houses here?

27 A Yes. Let me show you. There's a few residences in
28 this area here, with brush in the back yards and whatnot, that
29 I searched out.

30 Would you like me to show on the map while I'm up here

1 what area I more or less searched?

2 Q No, no, we can indicate that.

3 A All right.

4 Q So you were not with Mr. Anselmo when he was making

5 this search over here or Mr. Greenwald; right?

6 A No. I wasn't immediately with them, no, sir.

7 Q You were over here?

8 A In that general area.

9 Q How were you dressed that night?

10 A Security uniform. It would be dark blue pants, about

11 the same color as what I'm wearing.

12 Q Now, you mentioned that there was a steep-- That's the

13 shoreline-- You said there was a steep grade going from the

14 road upwards where the houses are located?

15 A Fairly steep, yes. It varied at times.

16 Q Did you climb it?

17 A Not all the way up to that house. I came up maybe

18 ten yards or so within that house.

19 Q Now, this was heavily foliaged; right?

20 A Quite heavily, yes, sir.

21 Q Did you go through the brushes, or did you just look

22 around?

23 A Through the brush, I went through it, yes, sir.

24 Q Well, what were you looking for?

25 A I was looking for any evidence of foul play, either

26 a victim or an actor.

27 Q All right, so you started your search where?

28 A You are talking about myself, now?

29 Q Yourself.

30 A Okay. I started-- Can I return?

1 Q No, that's all right. You just tell me.

2 A Okay. I started at the intersection of Somers and
3 Crystal Bay Drive, searching primarily to the left of the road.

4 Q Right. How high did you go up?

5 A I didn't go through the houses there. You just went
6 through a house. I went into the back yards.

7 As soon as I got away from the houses and had searched
8 out the back yards, the best I could under the circumstances, I
9 branched out and started to zigzag and traverse across that
10 hillside.

11 Q So it was more or less a loose-type search?

12 A Well, under the circumstances, that's about the best
13 I could do at that time.

14 Q Did you see Mr. Anselmo and Greenwald conducting
15 their search?

16 A I saw their flashlight a few times over in that area.

17 Q So you don't know exactly what they were doing because
18 you weren't there; is that right?

19 A Not exactly, no, sir.

20 Q All right, then you came back and you rejoined each
21 other, or you rejoined, the three of you?

22 A At that time we already had the Sheriff's deputies
23 out there, and Mr. Greenwald sometime during that time went home.
24 I didn't know exactly when he went home.

25 Q Okay, but you did not join up with Mr. Anselmo for
26 that search when the other Sheriff deputies were there, did you?

27 A No, sir.

28 Q Did you know where Mr. Anselmo was?

29 A I knew he was approximately with Bernie Greenwald.

30 Q You knew he was in this area?

1 A On that particular side of the road. I don't think
2 Bernie Greenwald or Mr. Anselmo went over to the side of the
3 road where I was searching.

4 Q But you don't know that, do you?

5 A I would have seen their flashlight pretty easily, I
6 think.

7 Q Did the sheriffs have flashlights?

8 A Yes, sir.

9 Q You don't know whose flashlight it was? You just
10 saw a flash go up and back down, so you don't know--

11 A Excuse me, sir. When anybody was up in that area, as
12 I recall, they were with me. That was when the deputies showed
13 up, and then I was joined by them, roughly, we are all moving
14 more or less abreast on the hillside.

15 Q How many were there?

16 A It varied from time to time. It might have been two,
17 three, sometimes four to the best of my recollection.

18 Q Did you march three and four abreast up the hill,
19 move over, come down the hill, three or four abreast, go up,
20 or was it still a loose search?

21 A We were more zigzagging, sort of like how you
22 indicated.

23 Q Now, how about the other side of the road, did you
24 see how they were conducting their search?

25 A I went over there once or twice after we finished out
26 checking the area to the left, and they were, I guess-- Well,
27 excuse me. I really don't know how they were conducting their
28 search.

29 Q Thank you.

30 In any event, after the search was concluded, you

1 evidently met with Mr. Anselmo in this area; is that correct?

2 A As the search was concluded, we more or less merged
3 on the approximate point where most of the vehicles were parked.

4 Q Is that this point here?

5 A Yeah, right near the stone wall. Do you want me to
6 point where we--

7 Q No, no, thank you.

8 A Okay.

9 Q Let me ask you this: Were you with Mr. Anselmo when
10 you saw the guy or the guys that you said you saw up here?

11 A Yes, sir.

12 Q Was anybody else there?

13 A No, sir.

14 Q You did see somebody up there; right?

15 A Yes, sir.

16 Q Now, you referred to whomever you saw, him or he, and,
17 also, they. Now, was there one or more than one there?

18 A I don't recall indicating they. It was just one
19 person.

20 Q You said "They run". So it is just one person up
21 there; is that correct?

22 A One person.

23 Q Now, what is the distance from here to the garage
24 where you saw him?

25 A To the best of my estimation, it would be about maybe
26 a hundred yards. On my report, I indicated eighty meters.

27 Q All right, and you noticed a purse and you were
28 concerned?

29 A It looked like a purse from the distance from me.

30 Q One hundred yards' distance that night, were you

1 concerned about a purse snatcher? Is that correct?

2 A Yes.

3 Q So you gave chase?

4 A Well, I looked at it, and the person, whoever it was,
5 as soon as they saw us down there not making any movements
6 towards them, burst out into a run. I was going to walk down
7 there originally, and as soon as they burst out in a run, I
8 thought something might be fishy, so we ran down there; and we
9 had no luck finding this person.

10 Q This was after you were advised that somebody was
11 seen dragging a girl into the area around here; right?

12 A This was after we terminated our search with no
13 success.

14 Q In other words, it was--

15 A Yes, sir, it was after that time, yes.

16 Q Do you know where or in what direction that party ran?

17 A They ran-- Put your point-- or pen on that. Okay.
18 They ran to the right. Move your pen to the right. They were
19 out of sight. Can I come--

20 Q So in other words, they were going to the right in
21 this area over here?

22 A Yes, sir. I don't know where they dodged off at.

23 Q And you didn't follow them around the corner or
24 anything like that, or him around the corner?

25 A We tried to.

26 Q But you couldn't; they got lost?

27 A The person was already gone.

28 Q Did you see, what appeared to you as a purse, exactly
29 what it was?

30 A It was a large handbag, approximately maybe a foot and

1 a half by two feet. It was quite large.

2 Q How close did you get to it?

3 A Oh, as I said, the person was about a hundred yards,
4 and they ran, so we never got much closer than that.

5 Q So you just saw it flapping in the back?

6 A No. The person was-- The person, as we saw him, was
7 facing to the right in the direction that he subsequently ran,
8 and he was carrying it alongside of him, in other words. It
9 was almost the size of your brief case there on the floor.

10 Q He had a brief case in his hand?

11 A I said it was almost the size of the brief case.

12 Q Now, you are remembering this from July 17, 1971;
13 right?

14 A Yes, sir.

15 Q When did you make your report, sir?

16 A That particular one, the short report, the Cal-Neva
17 Club incident report was made up that particular night, and then
18 the large three-page report for the Police Department was made
19 out the following morning.

20 Q So July 17th, you made the report concerning the
21 man with the handbag; is that correct?

22 A Yes, sir.

23 Q At that time--

24 A To the best of my knowledge, anyway.

25 Q Beg your pardon?

26 A To the best of my knowledge.

27 Q And at that time you indicated that you saw a man with
28 a purse or a large handbag?

29 A Yes, sir.

30 Q Could you give us an approximate size of the man that

1 you saw running?

2 A The person, as we saw him, was silhouetted against
3 the illumination inside the parking garage. It would be quite
4 hard, I think, to give an accurate estimate of his size.

5 Q When you were with the Sheriff's deputies, the ones
6 that were with you, as I understand it, actually went into the
7 brush area; is that correct?

8 A Yes, sir.

9 Q Did any protest about going into the brush because
10 they didn't want to get the uniforms dirty?

11 A Not that I can recall, no, sir.

12 Q You never heard anybody say that?

13 A No, sir.

14 Q Concerning the flashlight that you said that you gave
15 and you have, also, wrote it down that you gave, did you in fact
16 hand it to Mr. Anselmo? Was it your flashlight or was it the--

17 A It belonged to the company. It was a six-volt
18 spotlight.

19 Q And you actually handed it to Mr. Anselmo?

20 A Either that or I told him he could take it off the
21 desk. I can't remember.

22 Q There was nobody else present at the time, somebody
23 else that gave it to him?

24 A No. It was with my permission that he took it.

25 Q He took it from you or somebody else?

26 A With my permission. He didn't take it from anybody
27 as I can remember. I don't think there was anybody in the
28 office at that time.

29 Q Now, you started to say what you were thinking at the
30 time, and one of the reasons you were reluctant to part with

1 the flashlight was because to your mind there was no need because
2 the area had been thoroughly investigated; is that correct?

3 A That was more or less the reason, and, also, there
4 was a factor that if there was a person indeed down there, it
5 would be quite hazardous to go down there alone.

6 Q Did you have a gun?

7 A I did, yes, sir.

8 Q So then this comment you made about the area being
9 thoroughly investigated, now, you just told us that you didn't
10 know what they were doing on the right-hand side of that road,
11 didn't you?

12 A That is because the brush was quite thick, and it was
13 quite hard to see exactly what they were doing, sir.

14 Q You weren't over there? That's the main reason, true?

15 A Yes, sir.

16 Q You were doing what you were doing on the left-hand
17 side of the road, and you don't know what was going on on the
18 other side of the road?

19 A Yes.

20 Q Now, when you returned to the area where the body was
21 and when you saw the body, there were animal trails going up
22 the area from the road to the rock; is that correct?

23 A What appeared to be animal trails, small trails.

24 Q In other words, there were trails, footpaths?

25 A Very small trails, sometimes hard to get through.

26 Q But, nevertheless, they looked like trails to you?

27 A Sort of like it. They might have been natural breaks
28 in the brush every now and then. They were pretty inconsistent.

29 Q Approximately how long did you stay there at the site?

30 A Now, you are talking about after the body was found?

1 Q Yes. When you first came upon the body, how long did
2 you stay there and look at it?

3 A Oh, you mean with Mr. Anselmo?

4 Q Yes.

5 A Almost immediately after we got there, as I recall,
6 Mr. Feiten got there, and he was closely followed by Sheriff's
7 deputies. And I might have-- I might have stayed there
8 approximately ten minutes. That's in the immediate vicinity of
9 the rock and the body.

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

11 MR. ROSE: I have no questions of this witness, your
12 Honor.

13 THE COURT: You may step down.

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

15 MR. POLAHA: Yes, we have no objection.

16 THE COURT: You are excused, sir.

17 THE WITNESS: Thank you.

18 MR. ROSE: The State will call as its next witness
19 William Keller.

20 THE COURT: He is not available right now?

21 MR. ROSE: Apparently not, your Honor.

22 THE COURT: Why don't we take our morning recess at
23 this time, and we will be in recess for ten minutes. The jury
24 are instructed to not discuss the case among yourselves or with
25 anyone else, or to form any conclusions concerning the case
26 until it is submitted to you. And you are not to read or listen
27 to any media reports concerning the case. I have been requested
28 by counsel to comment to you briefly on the fact that there
29 have been some reports in the press and on television. They
30 have not been entirely accurate, which is probably unavoidable

1 and due to the fact of condensing a day's trial into a brief
2 news report, they may have that result, so this is all the more
3 reason why you should not read or listen to any information
4 concerning the case in the media.

5 We will be in recess for ten minutes.

6 (Recess.)

7 THE COURT: Will counsel stipulate that the jury is
8 present?

9 MR. ROSE: So stipulated, your Honor.

10 MR. POLAHA: Yes, your Honor.

11 THE COURT: You may proceed, gentlemen.

12 MR. ROSE: My next witness will be William Keller.

13
14 W I L L I A M C H A R L E S K E L L E R
15 called as a witness on behalf of the State,
16 having been previously duly sworn, was examined
17 and testified as follows:

18
19 THE COURT: You are still under oath, sir.

20
21 DIRECT EXAMINATION

22 BY MR. ROSE:

23 Q Please state your full name and address.

24 A William Charles Keller, Number 25, Lockwood Road,
25 Space 6, Sparks, Nevada.

26 Q And could you again tell the jury what your occupation
27 is?

28 A I'm a Deputy Sheriff with the Washoe County Sheriff's
29 Department, Reno, Nevada.

30 Q How long has that been your occupation?

1 A Approximately two years.

2 Q On the morning hours of July 17, 1971, did you have

3 occasion to be in the Lake Tahoe area?

4 A Yes, sir, I did.

5 Q And where was that?

6 A That was at Incline Village, Nevada.

7 Q And could you tell me whether or not you went to the

8 scene where a body was found?

9 A Yes, sir, I did.

10 Q And where was that?

11 A I went to a location located east of the end of

12 Crystal Drive on Crystal Bay hill.

13 Q And what prompted you to be in that area?

14 A I was ordered to come to that area and bring my

15 photography equipment by Captain Jensen.

16 Q Were you on duty?

17 A Yes, I was.

18 Q Was this Washoe County, Nevada?

19 A Yes, sir, it was.

20 Q What time did you arrive at the scene?

21 A At approximately 4:30 a.m. on the morning of

22 July the 17th, '71.

23 Q And was there a body in the area?

24 A Yes, sir, there was.

25 Q Did you go up to that body?

26 A Yes, sir, I did.

27 Q Did you have the opportunity to fully observe that

28 body?

29 A Yes, sir, I did.

30 Q And the surrounding area?

1 A Yes, sir.

2 Q And could you describe that area for me?

3 A The area would be in a very heavy brush area. The
4 body was located next to a large rock, which is somewhat north
5 of the Thatcher residence on the dead-end area of Crystal Drive.

6 Q And at that time did you have occasion to take
7 photographs of that body?

8 A Yes, sir, I did.

9 Q And did you take such photographs?

10 A Yes, sir, I did.

11 Q Mr. Keller, I'm going to show you what has been
12 marked for identification as State's Exhibit G-1 through 12,
13 and would you look at those photographs, please, without showing
14 them to the jury?

15 Did you take those photographs?

16 A Yes, sir, I did.

17 Q Now, with regard to Photograph G-1, what does that
18 depict?

19 A This will be a photograph of the area-- of the area
20 that the body was located at, and it will show heavy brush and
21 a very small portion of the body.

22 Q And Photograph G-2?

23 A This is a photograph of the same body and the same
24 area, taken at a little different angle, showing a small area
25 of the body.

26 Q And G-3?

27 A This will be another photograph of the same area and
28 showing heavy brush, and only revealing a small area of the
29 body.

30 Q And G-4?

1 A This is a photograph of the victim after some of the
2 brush was removed from over the body so a better photograph
3 could be taken of the body.

4 Q Could you tell me how the brush was removed or pushed
5 aside?

6 A Well, Captain Jensen and I-- Captain Jensen was
7 standing and I, and we just took some of the upper part of the
8 branches that was laying over and just folded them back.

9 Q Could you tell me whether or not there was any brush
10 in front of the body?

11 A Brush in front of the body?

12 Q Yes.

13 A Yes, there was.

14 Q And could you briefly describe that for us?

15 A It would be broken limbs from a bush, and it was a
16 very heavy broken limb with a lot of leaves, brush on it, and
17 it was laid over the body to conceal it.

18 Q And the next picture?

19 A This is the same picture.

20 Q I believe that's G-5, is it not?

21 A G-5, right. This is the same picture of the victim
22 taken at a different angle and, again, some of this brush had
23 been removed from the top of the body to take a better
24 photograph of it.

25 Q And the next photograph, G-6?

26 A G-6, this is a photograph of the same body; again,
27 some of the brush has been removed from the top of the body for
28 a better photograph.

29 Q And G-7?

30 A It will be another photograph of the same body, taken

1 at another angle to show a certain area of the body. Again,
2 some of the brush has been removed from the top of the body.

3 Q And G-8?

4 A This is a photograph of the same body, a close-up
5 photograph, showing the back area of the body, the head, and
6 the position she was laying in. Again, some of the brush had
7 been removed to take the photograph.

8 Q And what is that photograph there?

9 A This is G-10.

10 Q What does G-10 depict?

11 A Now, G-10 is a photograph of the body-- of the leg
12 area, and in this photograph, none of the brush had been moved
13 to reveal the body in this one here.

14 Q Now, Mr. Keller, could you tell me whether or not
15 these photographs marked for identification, G-1 through 8
16 and G-10, clearly and accurately reflect what you saw on the
17 early morning hours of July 17, 1971, with regard to the body
18 and its location?

19 A Yes, sir, it does.

20 Q And, of course, these are, or are they not, taken
21 from various angles?

22 A They are taken at different angles, yes.

23 Q Is this or is this not a true representation of what
24 you saw?

25 A Yes, sir. It's a true representation of what I saw.

26 MR. ROSE: Your Honor, at this time we would move for
27 the admittance of these nine photographs.

28 MR. POLAHA: Your Honor, if I may ask a couple of
29 questions on voir dire.

30 THE COURT: You may.

VOIR DIRE EXAMINATION

BY MR. POLAHA:

Q Officer Keller, G-10, does that reflect the entire covering of the body in relation to the brush over it?

A No, not the entire covering. If I remember correctly, Captain Jensen, just before my arrival, had moved one bush that was right down in here so I could get down in there and take a photograph.

Q That bush, where is that bush that was removed?

A That would be back over in here.

Q You don't have any of these pictures which show the coverings bent over--

A Not in any of these photographs, no.

Q So we are just taking your word that the brush was in fact removed; right?

A Yes, sir.

Q That's not reflected in any of these photographs?

A Yes. The bushes that was removed would be out of the picture.

Q If you were looking at the body from another angle, would that be the same--

A If you was looking at it from another angle in that particular location, you wouldn't see this.

Q I know you wouldn't see that about the body, but would the entire body be hidden?

A From another angle?

Q Yes, from any other angle?

A Yes. There is one other angle that you could have been located at that you wouldn't have seen the body.

Q And all the other angles you could have seen the body;

1 is that correct?

2 A I wouldn't say all other angles, no.

3 Q But most other angles?

4 A Most other angles, right.

5 Q What has been marked G-4, obviously branches are
6 pushed away?

7 A Right. They have been removed, so this photograph
8 could be taken of the position, the head, the torso.

9 Q Is there anything showing where those brushes or
10 branches were?

11 A Not in the photograph. They are appearing here,
12 but they would be off just--

13 Q Once again, you can identify the body and you took
14 the picture with this branch in this location, but there is
15 nothing tying it down or anything like that showing on the
16 picture; is that correct?

17 A I don't quite understand what you are--

18 Q What I am trying to get at is: These pictures do not
19 show the extent, if any, of the brush that was removed to allow
20 you to take the photographs; is that correct?

21 A That's right.

22 MR. POLAHA: Your Honor, I have no objection to the
23 introduction of the photographs so long as they are for the
24 purposes, for the limited purposes, of showing the body and the
25 rock. As far as the brush that is represented, I believe this
26 witness has said that it is not reflected to that extent on
27 these photographs, so for the limited purpose of showing the
28 body, I have no objection.

29 THE COURT: They are admitted, Counsel, for what they
30 show, and I think they speak for themselves.

1 MR. POLAHA: Thank you, your Honor.

2 MR. ROSE: Thank you, your Honor.

3 THE COURT: They will be admitted as marked.

4 (State's Exhibits G-1 through
5 G-8, and G-10, previously marked
6 for identification, were admitted
7 into evidence.)

8 DIRECT EXAMINATION

9 (Resumed)

10 BY MR. ROSE:

11 Q Mr. Keller, I would like to refer to the remaining
12 photographs. I am going to show you what is marked for
13 identification as State's Exhibit G-9; could you tell me what
14 that photograph depicts?

15 A This photograph was taken while I was standing on
16 the extension road of Crystal Drive. I was facing in a
17 southerly direction, and it will show the general area of
18 where the body was located at and the Thatcher residence, which
19 is located in the same area.

20 Q Does that clearly and accurately depict what you saw
21 in the early morning hours of July 17, 1971?

22 A Yes, sir, it does.

23 Q I am going to show you State's Exhibit G-11 marked
24 for identification. Could you tell me what that photograph
25 shows?

26 A Yes, sir. This is a photograph showing the manzanita
27 and buckbrush, the area of where the body was found, taken
28 approximately twenty-five feet away. And in this photograph,
29 you will see a person standing there, which is just a short
30 distance from where the body was found.

Q And does that clearly and accurately reflect what you

1 saw on the morning the body was found?

2 A Yes, sir, it does.

3 Q I am going to show you State's Exhibit G-12. Could
4 you describe that photograph for me?

5 A Yes, sir. This is another picture of the general
6 area, showing the Thatcher residence in the background, and
7 the purpose of this photograph is to show the approximate area
8 where the body was found in relation to-- of another item that
9 I had found.

10 Q Does that clearly and accurately show what you have
11 just described as it appeared on the day the body was found?

12 A Yes, sir, it does.

13 MR. ROSE: Your Honor, at this time we would move
14 for admission into evidence Photographs G-9, G-11 and G-12.

15

16 VOIR DIRE EXAMINATION

17 BY MR. POLAHA:

18 Q Officer, what time of the morning did you take these
19 photographs?

20 A I started taking photographs at approximately 4:45
21 a.m. up until about 6:00 to 6:15 a.m. in the morning.

22 Q So then that accounts for the differences in the
23 appearance of the sky?

24 A Yes, sir, it does.

25 Q You said that this clearly and accurately represents
26 distances. Now, how do you get distances out of looking at a
27 flat photograph?

28 A Well, would you say that the house is farther away
29 than this bush?

30 Q Not twenty-five feet farther away, no.

1 A I didn't say twenty-five feet for the house. I said
2 I was approximately twenty-five feet away, approximately
3 twenty-five feet away from the body at the time that I took the
4 photograph to show this general purpose.

5 The purpose of the photograph is to show manzanita,
6 buckbrush or whatever its name may be.

7 Q These are not three-dimensional photographs, are
8 they?

9 A No, they are not three-dimensional photographs, no.

10 Q And what they do in fact show is a silhouette of a
11 man, an arm, and light brush in front; is that correct?

12 A Yes.

13 Q The same as that photograph, no distance is
14 involved; there is no measuring sticks showing distance?

15 A That's right.

16 Q And the same with that photograph?

17 A That's right, sir.

18 Q And you did take the photographs?

19 A Yes, sir, I took those photographs.

20 MR. POLAHA: I have no objection to their
21 introduction, Counsel.

22 THE COURT: They will be admitted as marked.

23 (State's Exhibits G-9, G-11 and
24 G-12, previously marked for
25 identification, were admitted
26 into evidence.)

26 DIRECT EXAMINATION

27 (Resumed)

28 BY MR. ROSE:

29 Q Mr. Keller, while you were on the scene in the early
30 morning hours on July 17, 1971, did you participate in the

1 search for any other items?

2 A Yes, sir, I did.

3 Q And did you find any other items?

4 A Yes, sir, I did find some other items.

5 Q And what did you find?

6 A I found a pair of shoes that appeared to me to be
7 blue suede and would be of the clog style.

8 Q Can you tell me when you found them that morning?

9 A That would be at approximately 6:30, 6:45.

10 Q I'm going to show you what has been marked as
11 State's Exhibit B for identification, and can you tell me
12 whether or not those were the shoes you found?

13 A Yes, sir. These are the shoes that I found.

14 Q And could you tell me where they were in relation to
15 the body?

16 A They were found in some brush that would be located
17 west of the body at approximately sixty feet away.

18 Q And could you tell me in what position they were
19 found?

20 A One was laying in a normal position on its sole, and
21 the other one was laying approximately three and a half, four
22 inches from it and laying on a little angle underneath some
23 brush.

24 Q But were they or were they not close together?

25 A Yes. They were pretty close together. Like I say,
26 about three and a half, four inches away.

27 Q And with your hands, could you show us how they were
28 situated?

29 A Well, like they are sitting here, one shoe was laying
30 flat and the other shoe was laying about three and a half to

1 four inches away from it on a little angle where the top part
2 would be facing towards the other shoe.

3 Q Were they both pointing in the same direction?

4 A Yes, sir. They were both pointing in the same
5 direction.

6 Q What did you then do with the shoes, Mr. Keller?

7 A I took a photograph of those shoes. I then marked
8 the shoes for further identification and secured them as
9 evidence.

10 Q And when you say "secured them as evidence", did you
11 take them anyplace?

12 A I took them to the evidence locker at the Incline
13 Substation, which was at Incline Village, Nevada.

14 Q And when did you do that?

15 A That would be approximately an hour and a half, two
16 hours after I found the shoes when I did return to the station.

17 Q From the time you found the shoes to the time you put
18 them in the evidence locker at the substation, were they
19 constantly in your control and possession?

20 A They were in my possession at all times, yes, sir.

21 Q Mr. Keller, I am going to show you what has been
22 marked State's Exhibit I-1 for identification; could you tell
23 me what that photograph depicts?

24 A Yes, sir. It's a photograph that I took of the
25 location of where I found the shoes.

26 Q Does it show a shoe or the shoes?

27 A It shows one shoe. The other shoe in this photograph
28 is concealed due to some small amount of brush laying over it
29 and pine cone needles.

30 Q Does that clearly and accurately show the shoes as you

1 found them?

2 A Yes, sir, it does.

3 Q On the day or the morning the body was found?

4 A Yes, sir.

5 Q And you took that photograph?

6 A Yes, sir, I took this photograph.

7 MR. ROSE: Your Honor, we will move that this
8 photograph be introduced into evidence.

9 MR. POLAHA: Just a couple of questions, if that many.
10

11 VOIR DIRE EXAMINATION

12 BY MR. POLAHA:

13 Q Where is the other shoe?

14 A The other shoe, you don't see. The other shoe is
15 underneath this debris right there. That photograph was taken
16 with a strobe light. That will call for the shadows that are
17 involved in that picture in that particular spot.

18 Q What time of the morning was this?

19 A The actual time the photograph was taken?

20 Q Yes.

21 A Well, it will be taken about two or three minutes
22 after I found the shoes, so that would be between 6:30, 6:45.

23 Q Now, what this picture shows me is one shoe?

24 A That's correct. You cannot see the other shoe.

25 Q And that's all this picture does show; is that
26 correct?

27 A It shows the one shoe. Like I say, the other shoe is
28 there, but you can only see one.

29 Q You can only see one, so far as this picture shows;
30 there's just one shoe. I have no objection, your Honor.

1 THE COURT: It will be admitted as marked.

2 (State's Exhibit I-1, previously
3 marked for identification, was
4 admitted into evidence.)

5 DIRECT EXAMINATION

6 (Resumed)

7 BY MR. ROSE:

8 Q Mr. Keller, could you show the jury this picture and
9 show them where the other shoe was lying which didn't show up
10 in the photograph?

11 A Well, in this photograph here, you can see the one
12 shoe very clearly. This would be the heel part, the toe part.
13 The other shoe is next to it, and down underneath this brush,
14 and the black area you see there is shadows. If you even took
15 a magnifying glass, you wouldn't be able to see the second
16 shoe.

17 And the second shoe was located right next to the one
18 that you can see.

19 A JUROR: Could you turn it this way just a little
20 bit? Where was the shoe? The light was hitting it, and I
21 couldn't see.

22 THE WITNESS: All right, this is the one shoe, and
23 the other shoe would be right underneath this debris here,
24 leaves and so forth.

25 MR. ROSE: Ladies and gentlemen, we will pass the
26 photographs to you, with the Court's permission, after
27 Mr. Keller is done testifying so you can see all the
28 photographs that we have been talking about.

29 BY MR. ROSE:

30 Q Now, Mr. Keller, a few days after the body was found,
did you have occasion to participate in a search or location for

1 a jacket?

2 A Yes, sir, I did.

3 Q Was that jacket found?

4 A Yes, sir. There was a jacket found.

5 Q I am going to show you what has been marked for
6 identification as State's Exhibit B; is this the jacket that
7 was found?

8 A Yes, sir, it is.

9 Q And could you tell me where this jacket was found?

10 A This jacket was found on the very edge of the
11 shoreline located in an easterly direction from the Thatcher
12 residence, and it was found in water, submerged in water.

13 Q Do you know how deep that water was?

14 A I would say approximately ten to twelve feet.

15 Q What two deputies were retrieving this jacket from the
16 water, if any?

17 A There was two other deputies there, a Sergeant Bill
18 Whitmire, and Deputy Jim Trackwell.

19 Q And who actually went in the water and retrieved it?

20 A Sergeant Whitmire.

21 Q And what were you doing there?

22 A I was there to take photographs.

23 Q Now, could you tell us when this was?

24 A I don't remember the exact day that we were down there.

25 Q Do you have any idea in relation to when the body was
26 found?

27 A Well, it would be, I think, approximately in the middle
28 of the week following the time that the body was found.

29 Q If there is an evidence tag with that jacket, would
30 that have been the same day?

1 A Yes, sir; yes, sir, that would be.

2 Q I am going to show you an evidence receipt, and does
3 that indicate what date that jacket was found?

4 A Yes, sir. Sergeant Whitmire and Jim Trackwell made
5 out this evidence tag, and it is dated--

6 MR. POLAHA: I am going to object, your Honor. It is
7 hearsay as to this witness. He testified he does not remember.
8 The District Attorney asked a leading question: "Will this help
9 you remember?" and now he is testifying. This is in fact the
10 testimony of some other officer.

11 THE COURT: Mr. Rose?

12 MR. ROSE: Your Honor, I think I can clear it up with
13 this question.

14 BY MR. ROSE:

15 Q After looking at that evidence receipt, does that
16 refresh your memory as to when the jacket was found?

17 A Yes, sir, it does.

18 Q When was it found?

19 MR. POLAHA: Your Honor, I'm going to object.
20 Obviously that's the purpose of excluding leading questions,
21 because the question suggests the answer. He said he doesn't
22 know. Now, he has had him read it, and it has been somebody
23 else's work, and obviously he is going to be refreshed, because
24 all he has to do is see a number, so I am going to object.

25 THE COURT: Overruled.

26 BY MR. ROSE:

27 Q What date is that?

28 A July the 20th, '71.

29 Q That would be a Tuesday?

30 A I believe so, yes.

1 MR. POLAHA: Your Honor, excuse me, once again, the
2 District Attorney is leading the witness. I would ask the
3 court to admonish the District Attorney to refrain from leading
4 the witnesses.

5 THE COURT: Because he said it was Tuesday, Counsel?

6 MR. POLAHA: Tuesday, you don't remember--

7 THE COURT: I think I can take judicial notice of
8 what day July 20th falls on last year.

9 MR. POLAHA: All right, your Honor.

10 BY MR. ROSE:

11 Q And at what time was this jacket retrieved?

12 A That would be in the afternoon.

13 Q And you stated you took some photographs at that time?

14 A Yes, sir, I did.

15 Q I am going to show you State's Exhibit I-14, 15 and
16 16, marked for identification, and I would like you to tell me
17 what each of those three pictures show.

18 THE COURT: Which three are those, Counsel?

19 MR. ROSE: I-14, 15 and 16, your Honor.

20 BY MR. ROSE:

21 Q First, Mr. Keller, State's Exhibit I-14.

22 A Now, this is a photograph that I took, showing a water
23 hole in the middle of some rocks and in the bottom of this water
24 hole is where the coat was found.

25 Q And could you tell me where this hole was in relation
26 to the lake?

27 A Well, it would be approximately right on the
28 shoreline of the Lake Tahoe.

29 Q Could you tell me whether or not it is in the general
30 area where the body was found?

1 A In the general area?

2 Q Well, is it in the general area or not?

3 A It is in the general area, yes.

4 Q Now, approximately how far is it from where the body
5 was found?

6 A I'd say this would probably go-- I have to think on
7 that one-- I would say approximately 500 yards.

8 Q I am going to show you what is marked State's Exhibit
9 I-15; what does that picture depict?

10 A This is a photograph of the same area where the coat
11 was found, taken at a different angle.

12 Q Now, in State's Exhibit I-14 and I-15, photographs
13 looking down into the water, can you see any part of the jacket?

14 A You can see a faint outline of the zipper that was on
15 that coat that was found.

16 Q I am going to show you State's Exhibit I-16 for
17 identification; what does that picture show?

18 A This shows Sergeant Bill Whitmire and Deputy Jim
19 Trackwell standing down by the water hole where the coat was
20 found, looking down into the hole.

21 Q Now, does I-14 and I-15 clearly represent the water
22 hole surrounded by rocks on July 20, 1971?

23 A Yes, sir, it does.

24 Q And is that where the jacket was found?

25 A Yes, sir.

26 Q And I-16, does that clearly and accurately reflect
27 that same hole with those two deputies attempting to retrieve
28 it?

29 A Yes, sir, it does.

30 Q And what is this?

1 A This is a piece of wire that Sergeant Whitmire or
2 Bill Trackwell found. I don't know which one. But they used
3 that to retrieve the coat out of the water hole.

4 MR. ROSE: Your Honor, I would move for the
5 introduction of these three photographs.

6
7 VOIR DIRE EXAMINATION

8 BY MR. POLAHA:

9 Q Did anybody identify the object in the water as being
10 a coat before the pictures were taken?

11 A We pretty much all agreed that we had what we was
12 looking for; that it would be a coat, due to the zipper that--

13 Q Nobody picked it up and said, "Hey, it's a coat," and
14 then put it back down and took a picture of it?

15 A No, no.

16 Q How long was that wire? Do you recall?

17 A How long was the piece of wire?

18 Q Yes.

19 A I don't really remember.

20 Q In which photograph is the coat?

21 A In these two photographs, you could see a very faint
22 outline of the zipper of the coat, and in this one here--

23 Q Who processed these films?

24 A Who processed the film?

25 Q Yes.

26 A Jim Waddel, at that time with the photo lab of our
27 department, processed the film.

28 Q Well, this line goes over to the shadow, and there is
29 a scratch on the shadow. See that?

30 A I see the shadow, right.

1 Q Do you see that?
2 A This line here? Would you like to mark it with a
3 pencil?
4 Q No, no, I see it. But I am indicating this line here.
5 It is a continuation of the line you indicated was a zipper, and
6 on the black line there is a scratch of the picture. That's not
7 a scratch?
8 A This is a scratch. That's in the photo.
9 Q Is that not a continuation of what you indicated was
10 a zipper?
11 A No. I don't see it that way.
12 Q And is there a zipper in that picture?
13 A Right. See, if you will see this line here, you will
14 see the line here. Now, remember both these photographs were
15 taken at different angles, but this rock here is this rock here.
16 Q Where is the zipper in that picture?
17 A Right here.
18 Q You have no indication of the length of that wire, do
19 you?
20 A No, I didn't really pay that much attention to the wire
21 because they were looking for something to use to get that coat
22 out of there.
23 Q Well, okay, what do you have, I-14? How big is that
24 rock in the water?
25 A How big?
26 Q Yes.
27 A It's hard to say. It goes down pretty deep.
28 Q Well, this portion sticking out, what's the length
29 from this rock to the water?
30 A Oh, I'd say maybe one foot of the area sticking out,

1 approximately.

2 Q And how deep did it go?

3 A The water?

4 Q Yes.

5 A Like I said, approximately ten to twelve feet.

6 Q Do you know that for a fact? Did you stick a stick

7 down?

8 A No, just approximately. I didn't measure the water;

9 approximately ten to twelve feet.

10 Q All right, how far approximately was the jacket

11 submerged in the water?

12 A To the bottom of this hole, approximately ten to

13 twelve feet.

14 Q Now, that line that you indicated that is a zipper?

15 A Yes.

16 Q If the rock is one foot, by your calculations, how

17 long would that zipper be by the length of that line, in

18 comparison to that rock?

19 A You will get distortion of an object under water, so

20 I cannot say in relation to that rock from that photograph.

21 Q Were you there when the jacket was brought up?

22 A Yes, I was.

23 Q Was it brought up in a flat position?

24 A No. Just wadded up, one big bunch, wet.

25 Q If that had to be a zipper, and you are saying that

26 is a zipper, it would have to be laying flat, wouldn't it?

27 A How can you pull a jacket up approximately from ten

28 or twelve feet of water and have the jacket exactly the way it

29 was at the bottom of the hole?

30 Q How does it get wadded up?

1 A Pull it up, water, weight.

2 MR. POLAHA: I have no objection to its admission,
3 your Honor.

4 THE COURT: It will be admitted as marked.

5 (State's Exhibits I-14, I-15 and
6 I-16, previously marked for
7 identification, were admitted
into evidence.)

8 DIRECT EXAMINATION

9 (Resumed)

10 BY MR. ROSE:

11 Q With the Court's permission, could you step down here
12 and show the jury on I-14 and I-15 in evidence the zipper
13 outline?

14 MR. POLAHA: By the same token, your Honor, I would
15 ask that Mr. Keller suggest the crack in the photograph.

16 THE WITNESS: Pardon?

17 MR. POLAHA: The crack that I talked to you about.

18 THE COURT: Counsel, you may do that on your
19 examination.

20 THE WITNESS: Crack in the photograph?

21 BY MR. ROSE:

22 Q Show them the zipper.

23 A All right. These are photos taken of the water hole
24 that the coat was found in, taken from different angles, this
25 one and this one. And you will note that this rock, the corner
26 of it, is the corner of this rock here. And if you examine this
27 photograph very closely, from this shadow area, you see a very
28 faint white line. And this was a zipper of the coat as we were
29 looking down on it, and this photograph, you will see a very
30 faint white line, and this will be the zipper of the coat as it

1 was found.

2 This very faint white line is the one that we are
3 talking about being the zipper of the coat.

4 This photograph being taken at a different angle, and
5 this would be the zipper of the coat.

6 MR. ROSE: Did everyone see that?

7 A JUROR: I couldn't.

8 THE WITNESS: In these two photographs, you see the
9 corner of the rock. That would be the same corner of this rock
10 in this photograph. They are taken at different angles. The
11 white line that we are talking about is this particular white
12 line right here, being the zipper of the coat submerged in the
13 water. And this one here again.

14 BY MR. ROSE:

15 Q Mr. Keller, on August 24, 1971, did you have occasion
16 to take some evidence from the Incline Substation down to the
17 main Sheriff's office here in the courthouse?

18 A Yes, sir, I did.

19 Q And did it have any relationship with this case?

20 A Yes, sir, it does.

21 Q What evidence did you take down?

22 A All evidence that was secured in this case that was
23 in the evidence locker at the Incline Village Substation, I
24 removed and brought this to the evidence locker here at our
25 department in Reno.

26 Q Did you take this jacket among that evidence which is
27 marked State's Exhibit C on that trip?

28 A Yes, sir, I did.

29 Q And did you take this personal clothing, which is
30 marked State's Exhibit D on that trip?

1 A Yes, sir, I did.

2 Q And did you take the shoes, which are marked State's
3 Exhibit B, on that trip?

4 A Yes, sir, I did.

5 Q And did you take State's Exhibit A, which are an
6 envelope containing keys on that trip?

7 A Yes, sir, I did.

8 Q And to whom did you turn them over to?

9 A I turned them over to Dave Grossman, who at that
10 time was custodian of the evidence locker.

11 Q After the body was found, do you know whether or not
12 any arrangements were made to draw any scale of the road area
13 in the general area where the body was found?

14 A Yes, sir. I contacted the engineering department of
15 Washoe County and made arrangements for a survey crew to come
16 to the Crystal Bay area and make us a diagram of this area.

17 Q And when did they come up there, if they did?

18 A Well, let me see, July the 26th, which I believe was
19 on a Monday, that the survey crew arrived. I took them into
20 the area and showed them what I wanted on this diagram.

21 Q And who is the engineer that you were talking with?

22 A I can't remember his name.

23 Q Would it be Mr.--

24 MR. POLAHA: Objection, your Honor.

25 THE COURT: Sustained.

26 BY MR. ROSE:

27 Q And what did you tell this survey crew as to what you
28 wanted? Did you show them where the location of the car was?

29 A Yes. I showed them where the location of the car was.

30 Q And how about looking for the purse--

1 MR. POLAHA: Objection, your Honor.

2 THE COURT: Sustained.

3 BY MR. ROSE:

4 Q Did you show them where the purse was?

5 MR. POLAHA: Objection, your Honor.

6 MR. ROSE: Where the purse had been found, did he or
7 did he not, your Honor?

8 Oh, fine.

9 THE COURT: Ask him what he showed them.

10 BY MR. ROSE:

11 Q What did you show them on the map that you wanted?

12 A I showed them the general area of our crime scene,
13 and in this general area, I pointed out certain locations that
14 had been premarked to show where certain items were found at
15 in relation to Crystal Drive, to where the body was located and
16 so forth.

17 Q What items?

18 A Pardon?

19 Q What items?

20 A I pointed out to them the location of where the body
21 was found, the location of where the shoes were found, and then
22 through Deputy Hanson, who found the purse--

23 MR. POLAHA: Objection. This would be hearsay as to
24 you, Mr. Keller. I object on that basis, your Honor.

25 THE COURT: I will allow the question with the
26 understanding that he has shown the engineer something. Now,
27 whether it is correct or not is another question.

28 MR. POLAHA: All right, your Honor. Thank you.

29 THE WITNESS: I showed the engineer the location of
30 where the purse was found. I received this information from

1 Deputy Hanson, and he marked the spot so I could show the
2 engineer.

3 Being present when the coat was found, I showed the
4 engineer of the survey crew that location, and through the
5 information that was pointed out to-- or the scene of the area
6 of the parking lot, Sergeant Neve pointed out to me where the
7 vehicle was parked at, and I in turn pointed that out to the
8 engineer.

9 BY MR. ROSE:

10 Q Referring to State's Exhibit H, without showing it to
11 the jury at this time, could you tell me whether or not there is
12 an indication where the car was parked?

13 A An indication of where the car was parked?

14 Q Yes.

15 A Yes. This would be in this area here.

16 Q And is that where you told the survey crew to place
17 it?

18 A Yes, sir, I did.

19 Q Is there an indication where the shoes were located?

20 A Yes, sir, there is. Now, wait a minute. What's he
21 using for the-- This is for the shoes or the body?

22 Q It doesn't show.

23 A Oh, okay. This would show the location then of where
24 the shoes were at.

25 Q And how about the clothes and the purse that you
26 mentioned?

27 A This would be the area of where the clothes and purse
28 were found.

29 Q And how about the coat?

30 A And this designates where the coat was found.

1 MR. ROSE: Thank you, Officer Keller. I have no
2 further questions, your Honor.

3 MR. POLAHA: Just a few, Officer Keller.
4

5 CROSS-EXAMINATION

6 BY MR. POLAHA:

7 Q This search by you was conducted in the early morning
8 hours of July 17th; is that correct?

9 A Of that area?

10 Q Yes.

11 A What searching I did, yes.

12 Q All right. And you found the shoes, the coat--

13 A I found the shoes on that morning. The coat was
14 found at a later day.

15 Q All right, what did you find personally?

16 A Personally by myself, the shoes.

17 Q Just the shoes. Okay, but you were in on the finding
18 of the coat a couple days later; is that correct?

19 A That's right, sir.

20 Q And that's all as to the items on that particular
21 chart?

22 A That's right, sir.

23 Q That you have personal knowledge as to the location?

24 A That's right, sir.

25 Q Were you shown the locations of the finding of the
26 purse, for instance, and the body and the car in the parking
27 lot? Were you shown that, or was it explained to you?

28 A No. It was shown to me, because when the engineers
29 arrived, the location of the purse, I had Ed Hanson pinpoint it
30 where he found it.

1 Q So if and when the chart comes before us again, it's
2 your testimony that the other guys were there with you at the
3 time the engineers got the information to reproduce the map?

4 A That's right. Ed Hanson to me and the engineer.

5 Q Ed Hanson and the engineer were there present at the
6 same time?

7 A I don't remember if the engineer was exactly there or
8 not. He was in the area. I had Ed Hanson point out to where
9 the purse was found. He marked it.

10 Q At that time?

11 A At that time, so I could show the engineer. Now, if
12 he was standing next to me, I think he was. I can't remember.
13 I think he was.

14 Q When did Ed Hanson show you this is where he found the
15 purse?

16 A Well, we went up there in the morning. It would
17 probably be about in the-- right around noontime or maybe right
18 after lunch. The exact time, I can't remember.

19 Q On Saturday, July 17th?

20 A No, no, no. No, this would be the day that we went
21 out there for me to point out to the engineers what we wanted.

22 Q When was that, sir?

23 A That would go to July-- If I remember correctly, it
24 would be a Monday, July the 26th.

25 Q Did you notice whether or not the area where they
26 found the purse had been marked before Hanson got up there?

27 A If he had marked it in some way, this I have no
28 personal knowledge of.

29 Q But you didn't see any stake in the ground and say,
30 "Hey, I found the purse here," and jotted it down or something?

1 A No.

2 Q But you and Mr. Hanson put the spot there or a spike
3 or something there; is that correct?

4 A Mr. Hanson did. He found the purse. I went on his
5 word. He said, "This is where I found it at."

6 Q But prior to going up there--

7 A I had no reason to doubt him.

8 Q Well, no, I am saying to your knowledge, prior to
9 going there, you didn't see any stakes saying, "Ed Hanson,
10 July 17, 6:00 o'clock," or something, sticking in the ground?

11 A No. I didn't see anything like that, no.

12 Q He just said, "This is about the area where I found
13 it," something like that?

14 A No. He put his hand on the spot where he said the
15 purse was actually laying. What he used to designate that
16 spot--

17 Q You have no knowledge?

18 A I have no knowledge.

19 Q How about the car?

20 A Pardon?

21 Q How about the car, the location?

22 A As to how I got knowledge of where the car was?

23 Q Yes.

24 A Sergeant Neve pointed out to me in the parking lot
25 two holes in the ground. He explained to me that these holes
26 in the ground were made by the car in question, and he pointed
27 out this location to me, which I in turn pointed out to the
28 engineer.

29 Q Okay, Mr. Keller, are you sure about the two holes in
30 the ground?

1 A Well, they are there. I have photographs of them.

2 Q How about three holes in the ground?

3 A Three holes?

4 Q Three holes.

5 A Well, there may have been several other holes there.

6 The holes that I am talking about are-- the way I understood
7 it-- made from the tires.

8 Q Did Sergeant Neve say that he discovered the car
9 there or he found the car or he in turn was told that the car
10 was there?

11 A He didn't designate that.

12 Q He did not designate it?

13 A He did not state that.

14 MR. POLAHA: Thank you, Mr. Keller. I have no further
15 questions.

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

17 THE COURT: You may step down, sir. We are going to
18 take our noon recess at this time, ladies and gentlemen. You
19 are instructed that you are not to discuss the case among
20 yourselves or with anyone else, or to form any conclusions
21 concerning the case until it is submitted to you. And you are
22 not to listen to or read any accounts concerning this trial in
23 any of the news media.

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

25 (Noon recess.)
26
27
28
29
30

1 RENO, NEVADA FRIDAY, APRIL 14, 1972 2:30 P.M.

2 --oOo--

3
4 THE COURT: Will counsel stipulate that the jury is
5 present?

6 MR. ROSE: So stipulated, your Honor.

7 MR. POLAHA: So stipulated, your Honor.

8 THE COURT: You may proceed, if you are ready,
9 gentlemen.

10 MR. ROSE: Yes, your Honor. We would like the jury
11 to view the pictures that go into evidence, and it is really at
12 the Court's pleasure when this can be done. I don't know what
13 your preference would be, your Honor.

14 THE COURT: One time is as good as another, Counsel.
15 I think we have to do it while we are in session, and you may
16 do it whenever you like.

17 MR. ROSE: I will be putting additional pictures in
18 today. Why don't we wait until the end, your Honor, and then
19 take a period of time and they can look at them all, if that
20 suits the Court's pleasure.

21 THE COURT: If nobody has any objection to that
22 procedure, we will do it that way.

23 MR. POLAHA: Excuse me. I wasn't listening.

24 MR. ROSE: All at one time when I have the rest of the
25 pictures in today, I will let them look at all of the pictures
26 received in evidence thus far.

27 MR. POLAHA: That's up to you. That's all right with
28 me.

29 MR. ROSE: Thank you. Mr. Taylor, would you step up
30 here, raise your right hand, and be sworn.

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

J O H N B . T A Y L O R

**called as a witness on behalf of the State,
being first duly sworn, was examined and
testified as follows:**

DIRECT EXAMINATION

BY MR. ROSE:

Q Please state your name and address.

A John B. Taylor, 550 Wells Avenue.

Q What is your employment?

**A I work as an engineer aid with the Washoe County
Engineering Department.**

Q How long have you held that position?

A Oh, roughly four or five years.

**Q Could you tell us very briefly what your educational
background is?**

A For this particular job?

Q Yes.

**A I went to a school in Las Vegas six months for design
work, and then I have been with the County on the job, I'd say
three years.**

**Q Were you requested by the Sheriff's office in the
summer of 1971 to review a portion of the terrain up there and
make a map of it?**

A Yes.

Q Could you tell us when that was?

A That was July 26th.

**Q And did you go up there alone or with other
individuals?**

A No. I went with a survey crew, who took readings on

1 their instruments, and I reduced notes.

2 Q Do you know how long that survey crew was operating at
3 Lake Tahoe?

4 A We were there approximately a week.

5 Q And what was that survey crew doing for that week?

6 A We were taking positions of rocks, buildings,
7 different items that pertained to the job.

8 Q And were you directed as to what was to be on this map?

9 A Yes.

10 Q And what was your direction?

11 A My directions was to locate one building, locate a
12 rock, locate the position of different clothing items.

13 Q And who was directing you to do this?

14 A This was Deputy Keller from the Washoe County Sheriff's
15 Department.

16 Q And I'm going to show you what has been marked State's
17 Exhibit H for identification, and without showing it to the
18 jury, are you familiar with this exhibit?

19 A Yes. That's my drawing there.

20 Q And could you tell me how you came to prepare this
21 document, what you had to do after this survey?

22 A Well, we took field notes, locating bench mark, which
23 is the data they use. They ran a base line from this point.
24 They ran a line all the way down to the area involved. I took
25 the notes which they had prepared, and went through a
26 mathematical situation and reduced to notes for different points
27 of things like rocks, trees, buildings, things of this nature.

28 Q Could you tell us what your formal training would be
29 with regard to educational background, and I am talking about
30 years in high school or college.

1 A Yes. I have finished high school. I have been in
2 college. I didn't complete college.

3 Q Have you taken any mathematical courses?

4 A Yes, at the University of Nevada.

5 Q And could you tell us generally what those courses
6 were?

7 A That was the-- I think the last one was algebra. I
8 don't recall the number.

9 Q Fine. Did you yourself prepare this map?

10 A Yes. This is a copy of the map I prepared.

11 Q And, now, on this, could you show me what you have
12 specifically designated?

13 A I have designated a scale and a north arrow, pointing
14 north, the Stateline Road, which lies here, Crystal Drive
15 crossing Somers Drive, a parking lot in this area of the
16 Cal-Neva Club, a location of a car, a location of a tree, a
17 spot indicated to me that there were shoes at that time there.
18 Trees in this area here, two rocks, the location of clothing
19 and purse at this point, a house, and then a cliff down to the
20 lake, a coat at this spot here, and the lake itself.

21 Q Now, did anyone show you the location that the car
22 was to be put?

23 A Yes.

24 Q And who was that?

25 A That was Deputy Keller.

26 Q Did anyone show you the location of the shoes?

27 A Yes.

28 Q And who was that?

29 A Deputy Keller.

30 Q Did anyone show you the location of the clothes and

1 purse?

2 A Yes.

3 Q And who was that?

4 A Deputy Keller.

5 Q And did anyone show you the location of the coat?

6 A Yes, Deputy Keller.

7 Q The remaining items on the map, were they shown to
8 you?

9 A This was picked up in surveying, regular topography.

10 Q Now, this is a flat look. Does it show any
11 topography?

12 A This would show sort of a perspective here by the
13 shading, which would indicate a cliff.

14 Q Now, could you tell us what scale was used in making
15 this drawing?

16 A This drawing is one inch equals forty feet.

17 Q And does this accurately reflect what is shown on this
18 map to scale to the best of your knowledge?

19 A Yes.

20 Q Based upon that scale?

21 A Yes.

22 Q And based upon the scale, does it accurately reflect
23 the terrain shown from a top view?

24 A From a plane view, yes.

25 MR. ROSE: Your Honor, at this time we would ask for
26 admission of State's Exhibit H into evidence.

27 MR. POLAHA: Your Honor, I will object to the
28 admission at this time inasmuch as this witness-- Well, I would
29 like to voir dire on his qualifications for one. But this
30 witness testified that everything that he indicated as to the

1 items or some of the items in evidence, excluding the house and
2 the tree and the lake and all that, were told to him. The
3 location was pinpointed by Keller.

4 Now, Keller, when on the stand, said that he was
5 personally involved in finding the shoes and the coat, and then
6 Hanson told him about the other things, so there we are getting
7 hearsay within hearsay, and that's included in this chart, so
8 for this reason, until we have Mr. Hanson, I would object to the
9 admission at this time.

10 THE COURT: As to that particular objection, I am
11 going to overrule it. I will allow the exhibit in for the
12 limited purpose of showing that this gentleman made the map and
13 he put some marks on it where someone told him to. Whether
14 those are accurate or not, it's still an open question, except
15 those identified earlier by Mr. Keller from his personal
16 experience.

17 Mr. Keller did testify from this document that he
18 personally located at least, what, two things, I think; I don't
19 recall which ones.

20 MR. POLAHA: Yes, the shoes and the coat.

21 THE COURT: At least for those two markings, there is
22 some testimony supporting them. The others are subject to
23 testimony. So if you want to ask some questions on voir dire--

24 MR. POLAHA: On voir dire.

25
26 VOIR DIRE EXAMINATION

27 BY MR. POLAHA:

28 Q Mr. Keller, you are with the engineering department;
29 is that true?

30 A Yes.

1 Q How long were you with them?

2 A I went there in July of '70. Prior to that, I worked
3 with the Parks and Recreation in the Engineering Department,
4 doing engineering work.

5 Q Specifically what was your duty as an engineer?

6 A Data, preparing maps, meeting the public at the desk
7 for information regarding County property, City or personal
8 property.

9 Q And your employment, your duties of preparing maps,
10 what exactly did this entail?

11 A It entails a reduction of data, plotting, maybe
12 putting it on paper or linen with pencil or ink.

13 Q Was this taken from the survey crew data?

14 A Yes.

15 Q Then they give it to you, such as property lines?

16 A Yes.

17 Q Did you have any drafting experience?

18 A Yes.

19 Q And how much of that, sir?

20 A I had six months in 1965.

21 Q And where was that?

22 A That was in Las Vegas.

23 Q Was this on the job?

24 A No. This was at a school there.

25 Q Did you complete the course?

26 A Yes.

27 Q What school was that?

28 A That was held at-- It was prepared by, oh, gee, the
29 Nevada State Employment for fellows getting out of the service,
30 things like this, of this nature.

1 Q Did you do any of this while in the service?

2 A No.

3 Q Now, would you give me some indication of what
4 material you used to get this to scale?

5 A Well, I took the data that I had reduced, and with
6 some engineering equipment, I had worked out a scale to fit a
7 certain piece of paper, and this is what I came up with.

8 Q In other words, with your crew walking or--

9 A Well, there is a point here that has a bench mark
10 which is used in surveying to locate a specific point, and from
11 that point, they ran a base line and turned an angle and worked
12 their way down to this point here.

13 Q So as far as the data used to cover what this chart
14 purports to cover; it's your testimony that they marked off all
15 that, and this is in fact a measurement reduced to the chart
16 size?

17 A Yes, right.

18 Q As to these little crosses on that, I notice that one
19 inch equals forty feet, and the crosses are approximately a half
20 an inch. Now, which portion of that cross is the--

21 A Okay. This is not to scale for the simple reason you
22 can't see that to scale--

23 Q So that's the approximate area?

24 A The center of that point is the area, the location.

25 Q Here, I notice that that one is off, so we are roughly
26 approximately the center, and this is an approximate point
27 there?

28 A Yes.

29 Q Now, I do notice these lines over here. Now, that
30 indicates what to you, sir?

1 A That is a cliff. That's just shading to indicate a
2 sharp drop down to the lake.

3 Q A sharp drop?

4 A Yes.

5 Q This chart does not purport to explain the degree of
6 drop?

7 A No. This is just a plane view which is seen from
8 above.

9 Q And because there are no other lines over here, that
10 does not mean to indicate that there isn't any elevation
11 variations in the other area?

12 A No. The only thing we were interested in was the road.
13 This was pointed out, what to pick up; the edges of the pavement
14 extend beyond that on the drive.

15 Q These are the trees?

16 A Those are trees.

17 Q The only trees in that area?

18 A Those are trees that are involved in some fashion.
19 I don't have any idea why. I was told just to plot the center
20 of those trees in the approximate circumference there, or
21 diameter.

22 Q This is within the one-inch-equals-forty-foot scale?

23 A The point here. This is just a symbol to indicate a
24 tree.

25 Q The house, is that drawn to scale?

26 A This is drawn to scale.

27 Q It was roughly forty feet?

28 A Right, each point of the house is located by surveying.

29 Q Now, I imagine that's a rock?

30 A Those are rocks there.

1 Q Is that drawn to scale?
2 A Yes. Each point of this rock was located.
3 Q So then to make it clear, the roads, the intersections,
4 are drawn to scale?
5 A Right, yes.
6 Q The parking lot is drawn to scale?
7 A Yes.
8 Q The trees, the points indicate the trunk of the tree?
9 A The center of the tree, yes.
10 Q But the leafage or the branches is not indicated here
11 to scale?
12 A It's within five or six feet, I would say.
13 Q But it's not to scale?
14 A The center of the location is to scale.
15 Q The center is, the perimeter is not. The boulders are,
16 I take it?
17 A Yes.
18 Q The house is?
19 A Yes.
20 Q And almost everything else is, I take it?
21 A Yes.
22 MR. POLAHA: Okay, thank you. I have no further
23 questions. Excuse me a minute. I have nothing further, your
24 Honor. I have no objection to the introduction.
25 THE COURT: It will be admitted in evidence as marked.
26 (State's Exhibit H, previously
27 marked for identification, was
admitted into evidence.)
28 MR. ROSE: Your Honor, I would like to put it up on
29 the blackboard, or the cork board, with the Court's permission.
30 THE COURT: You may.

1 MR. ROSE: I don't know if that is taxing your eyesight
2 or not. I think it may be.

3
4 DIRECT EXAMINATION

5 (Resumed)

6 BY MR. ROSE:

7 Q Mr. Taylor, could you just come down here and show me
8 where those specific items are that you have mentioned in your
9 testimony?

10 A All right. This is Stateline Road. This is north,
11 pointing up. The scale is one inch equals forty feet. We have
12 a tree located here in the southwest corner of this parking lot.
13 There is a car located at this point here. Crystal Drive goes
14 east, crosses Somers Drive to a point, and you have three large
15 trees located here; shoes were located here, two trees here,
16 two rocks. This is the house, clothes and purse were found
17 here, the coat there. This is a sharp cliff down to Lake Tahoe.

18 Q Mr. Taylor, could you show us where the Cal-Neva would
19 be?

20 A The Cal-Neva is located, in relation to this, in this
21 position about right here, I'd say, right about down in here.

22 Q You did not put that in?

23 A No.

24 MR. ROSE: Thank you, Mr. Taylor. I have no further
25 questions.

26
27 CROSS-EXAMINATION

28 BY MR. POLAHA:

29 Q Mr. Taylor, would you remain at the map, please? I
30 just have a couple of questions.

1 The Cal-Neva, you said, is down here; right?
2 A It's in the southwest direction, yes, yes.
3 Q All right, you didn't indicate any lights here, did
4 you, in that parking lot?
5 A There is one light on this tree, and it shines out
6 into the parking lot.
7 Q That's the only light?
8 A I can't say that. I don't know.
9 Q But you do have the knowledge of that one there?
10 A Yes.
11 Q How about the Crystal Bay garage, where is that?
12 A I have no idea.
13 Q You are not familiar with that area up there?
14 A No.
15 Q And you were directed just to get what you have there?
16 A I was directed to reduce it-- draw a map.
17 Q You were at the area, though, weren't you?
18 A Yes.
19 MR. POLAHA: Okay, I have no further questions.
20 MR. ROSE: I have no questions. May this witness be
21 excused, your Honor.
22 THE COURT: You are excused, sir.
23 MR. ROSE: Our second witness this afternoon would be
24 Sergeant Douglas Neve.
25
26
27
28
29
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

D O U G L A S N E V E

called as a witness on behalf of the State,
being first duly sworn, was examined
and testified as follows:

DIRECT EXAMINATION

BY MR. ROSE:

Q Please state your full name and address.

A Sergeant Douglas Neve, Incline Village, Nevada.

Q And what is your occupation?

A I'm a patrol sergeant with Washoe County.

Q And that would be the Sheriff's office?

A Sheriff's Department.

Q How long have you been with that department?

A About eight and a half years.

Q Are you permanently assigned to Incline or Reno?

A The Incline area.

Q How long have you been assigned up there?

A A year ago March 19th.

**Q Directing your attention to the early morning hours
of November 17th, were you called concerning the finding of a
body?**

A No.

**THE COURT: Counsel, that's a point of confusion.
You have used November.**

MR. ROSE: I used November, your Honor?

THE COURT: Yes.

**MR. ROSE: I really don't know where that came from
either, your Honor.**

1 BY MR. ROSE:

2 Q July 17th, I'm sorry, of last year?

3 A Yes.

4 Q And when was that?

5 A July 17th, 1971.

6 Q Yes, at what time?

7 A At approximately-- The first call was 0115 a.m.

8 Q And what did you then do when you received that phone
9 call?

10 A Responded to the area of the Cal-Neva Club.

11 Q And precisely to what area did you go around the
12 Cal-Neva Club?

13 A Over in the area of Somers and Crystal Drive.

14 Q And what did you then do?

15 A Then talked to security officers from the Cal-Neva and
16 to a complainant that had complained about an accident that took
17 place prior to my arrival.

18 Q Do you see the complainant in the court today?

19 A Yes, I do.

20 Q And could you identify him for us?

21 A The complainant is Michael Anselmo.

22 Q And where is he located at the counsel table?

23 A The far right.

24 MR. ROSE: May the record show, your Honor, that the
25 defendant has been identified as the complainant?

26 THE COURT: The record will so show.

27 BY MR. ROSE:

28 Q Could you tell us what then transpired?

29 A The complainant testified to me and other officers and
30 security personnel in the area that prior to my arrival, he had

1 heard what he thought was a woman screaming and had seen a man
2 and a lady up on Somers Drive. The man was forcibly dragging or
3 taking the lady towards Somers Drive and to the dead end of
4 Crystal, near the wooded area.

5 Q After receiving that information, what did you do?

6 A We started a search of the immediate area.

7 Q And could you tell me or describe to me generally what
8 that area was?

9 A Well, it was a small dirt road, three or four small
10 cabins, summer cabins, one large two- or three-story frame house,
11 lots of large pine trees, and manzanita brush, very thick.

12 Q Could you tell us approximately or exactly what time
13 that search began?

14 A Probably five minutes after I arrived at the scene,
15 which would probably have been about, oh, 1:10 a.m., 1:15;
16 1:10, right in that area.

17 Q Do you know who participated in the search?

18 A Deputy Trackwell, two reserve officers, three or four
19 security officers from the Crystal Bay Cal-Neva, myself, and
20 there was a couple of bystanders in the area from the homes in
21 that area or from the casinos, that had come out.

22 Q Now, could you come down to this map and show us the
23 area that was searched at this time?

24 A From this intersection of Somers down Crystal in this
25 immediate area.

26 Q Do you know where the body was eventually found?

27 A Well, it was right in this area right here, near a
28 large rock, between this home and this dirt road down here on
29 the curve.

30 Q Now, this search you have just described, was that

1 general area searched?

2 A Yes.

3 Q Okay, you may take the stand now.

4 Was anything uncovered during that search?

5 A No, couldn't find anything.

6 Q Did you terminate the search?

7 A Yes. And left one officer in the immediate area
8 driving the dirt roads after I left the area.

9 Q Thereafter, did you return to the area previously
10 searched?

11 A Yes, approximately forty-five to an hour later.

12 Q And why is that?

13 A Received another complaint from the complainant
14 through the security officer and to my deputy that I had
15 working in the area.

16 Q And when you returned to the scene, could you tell us
17 what then transpired?

18 A On returning to the scene, I drove my vehicle down
19 and parked behind a Placer County unit on the bend in the road
20 going down the hill on Crystal Drive. There was quite a few
21 people around standing in the roadway. The complainant was
22 standing out there next to the Placer County unit.

23 I got out of the vehicle and walked over, and one of
24 the officers pointed to the complainant and says that he had
25 found a corpse.

26 And I asked the complainant what he had found and
27 where, and he immediately took me to the area.

28 Q And did you see the body?

29 A Yes, I did.

30 Q Do you recall approximately what time that would have

1 been that Saturday morning?

2 A Between, oh, 3:45 and 3:50.

3 Q And when you saw the body, were you able to identify
4 it?

5 A Tentatively. We had a missing person's report on
6 a girl from the Cal-Neva, and I did, prior to this, work with
7 this particular girl on the floor at the Cal-Neva.

8 And I did tentatively identify the back of her head,
9 hair, as being one and the same.

10 Q When was the last time that you had seen Trudy Hiler
11 alive?

12 A It would have been on a-- possibly four to five nights
13 earlier, evenings earlier, possibly a Monday or a Tuesday.

14 Q Thereafter were you ever able to make a positive
15 identification of the body?

16 A Yes. Myself, Judge Beemer, Captain Jensen,
17 Lieutenant Butner, Mr. Wallace Dill, after the scene, had been
18 taking care of pictures and measurements and so on. We put
19 her into a bag that the judge had, and we took her on out to
20 the road, on the side of the road out there at the dirt on
21 Crystal Drive, and the judge opened the bag back up and turned
22 her over and moved her head back and forth, and I made positive
23 identification.

24 Q Sergeant Neve, I am going to show you State's
25 Exhibits I-8, I-7, I-6, and I-4 marked for identification, and
26 I want you to look at those shots and tell me, without showing
27 them to the jury, whether you can identify the person in the
28 photographs?

29 A Yes, I can identify the person.

30 Q And who is that person?

1 A The person is Trudy Hiler.

2 THE COURT: What numbers are those, again?

3 MR. POLAHA: Four, six, seven and eight, your Honor.

4 BY MR. ROSE:

5 Q Did you know where Trudy Hiler's car was located the
6 night she was missing?

7 A Yes.

8 Q And how did you know that?

9 A Well, from the report in the station after it was
10 towed, the vehicle in question that was towed to the substation
11 by Woody's Chevron, I was taken back up to the area, and we
12 looked the immediate area over in the parking lot where the
13 vehicle was sitting.

14 Q And did you convey this information to Deputy Keller?

15 A Yes.

16 Q And were there any marks to indicate where the car
17 had been?

18 A Yes. There were marks in the hardpan dirt in the
19 parking lot.

20 Q And can you describe those marks to me?

21 A There were two scooped-out small areas where there
22 had been spinning of wheel-- wheels, two wheels.

23 MR. POLAHA: Your Honor, that's a conclusion of this
24 witness. He just testified he saw the car there and everything
25 else was told to him.

26 THE COURT: Sustained as to what caused the holes.

27 THE WITNESS: There were two holes, one on each side,
28 approximately six feet apart, or as near as I could tell, the
29 wheelbase of the vehicle. A car, passenger-car type, and in
30 the middle, a little bit forward from these two dug-out spots,

1 was another dug-out spot in the dirt, three dug-out spots out
2 there.

3 BY MR. ROSE:

4 Q Now, after the body of Trudy Hiler was found on
5 July 17th, was a further search of the area made?

6 A Yes.

7 Q Do you know whether any shoes were found in the area?

8 A Yes. There was a pair of shoes found.

9 Q Do you know whether or not a purse was found in the
10 area?

11 A Yes. There was a purse found.

12 MR. ROSE: Thank you, Sergeant Neve. I have no
13 further questions of this witness, your Honor.

14

15 CROSS-EXAMINATION

16 BY MR. POLAHA:

17 Q Sergeant, to begin with, how sure are you of your
18 testimony that you just testified?

19 A How sure am I?

20 Q Yes. Is this to the best of your recollection?

21 A It's to the best of my recollection, yes. I was
22 there quite some time ago now.

23 Q You were there at the time; is that correct?

24 A Yes. I was there at the time.

25 Q Okay. Now, you stated in your testimony before the
26 Grand Jury that you arrived on the scene approximately 12:35
27 to 12:45; do you recall making that statement, sir?

28 A No, I don't.

29 Q Well, do you recall being in front of the Grand Jury,
30 Wednesday, July 28th, 1971?

1 A Yes.

2 Q Which was what, eleven days after the event? Is that
3 correct?

4 A Right.

5 Q Now, we are sometime more than eleven days after the
6 event.

7 A Right.

8 Q You were asked the question by, I believe Mr. Rose,
9 "Could you tell me approximately what time you arrived on the
10 scene?" And you said, "The first time we arrived at
11 approximately 12:35 to 12:45."

12 Now, we heard testimony in here that the first time
13 anybody got an indication that somebody was missing was 1:10.
14 Now, were you wrong there or are you wrong? I see two different
15 dates, an hour or an hour and a half apart.

16 A 1:15, I believe, was the time that the report should
17 show that we first went-- that I first went.

18 Q So you were wrong in the Grand Jury?

19 A I must have been wrong prior to that, fifteen minutes
20 or half an hour.

21 Q Did you read a report prior to coming in court today?

22 A No. I haven't read the report.

23 Q Did you read a report prior to testifying before the
24 Grand Jury?

25 A Yes, possibly three days before I went to the Grand
26 Jury, I did go over the rough copy of my report.

27 Q So possibly, since you testified eleven days after the
28 event, your report may have been in error?

29 A No, not my-- that particular report orally up here in
30 front of the Grand Jury might have been a half hour difference,

1 yes. I did not have the notes with me, sir.

2 Q We, also, heard testimony that there were three
3 carloads of Sheriff's deputies conducting this search. Now,
4 you testified there were four, I believe, two auxiliary,
5 Deputy Trackwell, and yourself. Was there any more than that?

6 A The Placer County unit was there.

7 Q How many sheriffs from there?

8 A Two, I believe, from there.

9 Q Six. And four cars or three cars?

10 A There was three vehicles, sir.

11 Q So two from Washoe County, and the Placer County unit?

12 A Yes.

13 Q How many security officers?

14 A To the best of my recollection, there was possibly
15 three security officers.

16 Q Now, going back to that time, the testimony in the
17 Grand Jury was approximately 12:35 to 12:45 you arrived, and I
18 believe the question here was what time you were summoned, and
19 you said 1:15. What time did you get there, about?

20 A Well, if I can recall, I was in the area of Crystal
21 Bay, the area of Crystal Drive, the club area, on State Route 28,
22 and possibly it took me between two to five minutes to drive
23 over to Somers Drive.

24 Q And what time would that be, Sergeant?

25 A Approximately 1:10, 1:15, I believe.

26 Q What caused you to go there?

27 A The dispatcher from the Incline office called us on
28 the radio and asked us to meet with the security officer in
29 that particular area.

30 Q Are you sure of the time, Sergeant?

1 A I don't have the records with me. I couldn't be sure
2 of the time.

3 Q So it's approximately 1:15?

4 A Approximately, right.

5 Q How about the factor of your conversation with the
6 defendant at the scene, how sure are you of what was said then?
7 Now, you said he was standing on Somers Drive and saw a man
8 grab a girl; he heard a scream and saw a man grab a girl?

9 A That's what the complainant stated.

10 Q In the Grand Jury, you did not state that. You said
11 the suspect was in the area and he stated that he had seen an
12 unknown man grab a woman from behind and put his hand over her
13 mouth.

14 A Right.

15 Q Now, unless she can scream through the hand, there is
16 a little discrepancy there. Now, where is the discrepancy?

17 A I wasn't there. This is what he told me that he
18 heard. Now, I didn't hear this.

19 Q Yes. I'm saying that you did not mention this, the
20 scream, at the Grand Jury, but you are mentioning it now, so I
21 am wondering if you are reading the report in the interim? Are
22 you getting together with somebody?

23 A No.

24 Q You are remembering back to the event and remembering
25 that he did say "scream"?

26 A Yes. That's how his attention was called to the
27 person up on the road, he stated.

28 Q Were you there and saw his attention diverted?

29 A No. This is what he told me. No.

30 Q But you did not say this in the Grand Jury. That's

1 what I'm wondering.

2 A I might not have been asked this particular question.

3 Q Well, the question was: "Could you very briefly tell

4 us what then transpired?" And then you went on.

5 A Yes, briefly I did.

6 Q We are getting the benefit of a full explanation at

7 this time, though.

8 A Right, as best as I can remember, this is exactly my

9 recollection of what the complainant told me.

10 Q You said that the body was found where this X was?

11 A I believe where the X was on that map would be about

12 right.

13 Q Were you in the group that searched that area,

14 Sergeant?

15 A Yes, I was.

16 Q Did the search that you conducted-- Were you with

17 Mr. Anselmo?

18 A Yes, I was.

19 Q All right. Did you go into the brush, or did you

20 stay on the road?

21 A I went into the brush.

22 Q How many went into the brush?

23 A I believe everybody that was in the immediate area

24 went into the brush. We'd turn around and see lights just

25 popping up all over the brush.

26 Q So you did make it into the off-the-road area?

27 A Oh, yes.

28 Q At that time did you start at the road and go up, or

29 did you go around to the house area?

30 A We went around to the house area, around the front of

1 the house. We didn't know if anybody was in the home at the
2 time.

3 We walked down both sides of it, but we did not go
4 completely down behind the house back to the road. We walked
5 back out and then searched the area back towards the house from
6 down below.

7 Q Now, you said both sides of the house and in front of
8 the house?

9 A Yes.

10 Q Now, there are four sides, and where is the front of
11 the house?

12 A The front of the house would be the open-- towards
13 the lake.

14 Q Here?

15 A Yes.

16 Q Then you searched all around it?

17 A No. We searched both sides and the side towards the
18 house, from on top near the house, there's an incline going
19 down towards the black X there.

20 Q There is a drop in elevation here?

21 A Yes. And we did not go around the immediate back of
22 the house at that particular first search. I did not. Now, I
23 wasn't with all the rest of the deputies and the security
24 officers, so I couldn't say if anybody else walked immediately
25 behind the house.

26 Q And I take it behind the house is the area where the
27 X is from the house--

28 A Yes.

29 Q So you don't know if anybody went there?

30 A Not immediately behind the house. This is a small

1 dirt path behind the house, before you get into the very thick
2 brush where you have to work yourself through physically.

3 Q The question was: Was this area where the body was
4 found searched, and you said "Yes".

5 A I walked up to the particular rock to where later we
6 found the body. I was standing there the first time, and I
7 didn't see anything.

8 Q You say that you pulled up to the bend in the road on
9 Crystal Drive. There are two bends, as I see, one there and
10 one there.

11 A Well, the first bend.

12 Q Here?

13 A Right.

14 Q And you parked your vehicle there?

15 A Yes. Are you pertaining to the second time?

16 Q Yes. You left; this search was terminated, and you
17 said forty-five minutes to an hour later you came back?

18 A That's correct, the second time.

19 Q Could you give us the approximate area that that
20 search involved?

21 A The approximate area the search involved?

22 Q Yes, the general area, the outer limits.

23 A Both sides of Crystal Drive up to the house, the
24 front of the house, in that area, and back down to the second
25 bend in the road, down to where there were stairs going steeply
26 down to other homes.

27 Q Well, is there another bend down here someplace?

28 A No. That's dead end down to the end of the road down
29 there, and it goes straight down off to the lake almost, the
30 end of the road.

1 Q Well, you said you searched down to the second bend
2 in the road?

3 A Yes.

4 Q Here is one bend, two bends.

5 A Right. The second bend in the road, down there,
6 comes to a--

7 Q Here?

8 A Right. Down at the bottom there where your finger
9 is comes to a dead end.

10 Q Down here?

11 A Back further than that a little. Right-- Oh, a little
12 bit further down, right in that area right there is a large
13 turnout where you can turn around.

14 Q Are you saying that this chart is inaccurate as to
15 that road?

16 A No. If that's the turnout place right there, it's
17 dead end. It doesn't go any further.

18 Q So I guess it would indicate right there?

19 A Yes. It's cut off right there, and it just goes
20 straight down off to the lakeside, and there is one home, a
21 cottage, and another home. But they are pretty well straight
22 down. If you don't walk the walkways down, you'd have an awful
23 hard time getting up and down.

24 Q How about this area up here?

25 A That area there was searched, right. That's all heavy
26 manzanita.

27 Q Were there any dogs? Did you ever see any dogs in
28 this area?

29 A The first time I believe Jack Horton's black dog was
30 out barking in the front yard. He lives on the corner of Somers

1 and Crystal, right in that area right there. There was a black
2 dog, and I believe it belonged to Jack Horton.

3 Q Were you told about one of the security guards having
4 seen a man who looked like he was carrying a purse, and when
5 they went to approach, he ran?

6 A At the time there, no. Later on, I was informed that
7 one--

8 Q Excuse me?

9 A At this time, no, I wasn't, no.

10 Q Later on, how much later on? Well, the same day?

11 A Oh, no, months later, maybe.

12 Q A month later?

13 A Yes, a month or months later.

14 Q You mean Mr. Rose, Randall Rose, didn't come up to you
15 and say, "I saw some guy above--"

16 A No, not to me, no, no.

17 Q And he never did tell you evidently? Was it Reynold
18 Rose who told you that?

19 A I couldn't say who told me it. But I had heard prior
20 to today, but much later than when that took place.

21 Q You were asked a question when shown the photographs
22 whether or not that was Trudy Hiler, and you identified the
23 person reflected in the photograph as being Trudy Hiler?

24 A Yes, I did.

25 Q Now, you based your knowledge and identification of
26 her as growing out of your, what, working with her a couple days
27 before that?

28 A Yes. I worked two days security officer at the
29 Cal-Neva.

30 Q Did you know if she had any sisters or anything?

1 A No, I couldn't say. I didn't know her that well,
2 just knew her from the club. I never talked to her about her
3 family, just on the job.

4 Q Was your identification based in part that she did
5 look like the girl you worked with, and there was a missing
6 report out for Trudy Hiler?

7 A Right.

8 Q And this girl resembled her?

9 A Right. It did resemble her.

10 Q Did you call the family and ask if she was there, or
11 you were satisfied, were you not, at this time?

12 A I was satisfied that that was Trudy. I stood next
13 to her many times.

14 Q Did you have the personal belongings at that time,
15 the purse?

16 A No, not when identification was made, no.

17 Q You, also, talked about Trudy Hiler's car. To your
18 mind was that in fact her car? Do you know if she had a car?

19 A I don't know whether she had a car or not. I believe
20 she borrowed cars.

21 Q You don't know that, though, do you?

22 A No, through the people that she was living with.

23 Q You never did then see the car that was either hers
24 or borrowed by her?

25 A I seen it parked in the Sheriff's Substation.

26 Q But as far as that map and any of those little
27 marks on the map indicating cars, you can't say that that was
28 where the car was found?

29 A No. I never went there when the car was there in my
30 presence, no.

1 Q The parking lot itself, are you familiar with that?
2 A Fairly familiar. I've patrolled through it.
3 Q This is on the Nevada State side, I take it?
4 A Right.
5 Q California is right here?
6 A Right.
7 Q What is the texture of the surface in that parking
8 lot? Is it ground, sand, macadam?
9 A It's hard-packed dirt.
10 Q It's just dirt?
11 A Hard-packed dirt, yes. It might have had, oh, years
12 ago, maybe some oil dumped on it, but the dirt has come back
13 over it, just regular oil to keep the dust down or something.
14 But it's pretty hard packed.
15 Q All right. Is this a consistent type of surface
16 throughout the parking lot, or is that the general makeup,
17 hard dirt?
18 A General, because the parking lot, prior to this
19 incident, I think, was just opened up maybe three to four months
20 prior to this incident.
21 Q Three to four months. Let's see, that would have
22 been what, March or April?
23 A Yes. During the heavy season that they opened it back
24 up again.
25 Q Did it snow anytime in March, April, May, June up
26 there?
27 A Yes, in '71, it did snow in March and April. I
28 believe a few snows in April.
29 Q Did you know what the general use of that was before
30 they made it a parking lot?

1 A It used to be sand and gravel and cement, I believe,
2 and they had a little batch plant up there where they mixed
3 cement, concrete, or something.

4 Q So the sand and the gravel were stored there or
5 dumped there?

6 A Yes, in that there front area towards Stateline Road
7 there.

8 Q Do you know the name of the company?

9 A No, I don't, no.

10 Q This will be my last question. Where on that map or
11 chart would the Crystal Bay garage be?

12 A Would the Crystal Bay garage be?

13 Q You know the area, sir?

14 A Yes. The Crystal Bay garage sits right here, right
15 in this area right here.

16 MR. POLAHA: Do you mind if I mark that?

17 MR. ROSE: No.

18 THE COURT: Let me caution you, if anyone intends to
19 use this as an exhibit to go to the jury room, no one but
20 witnesses will be allowed to mark it, no attorneys. Don't
21 write on it.

22 MR. POLAHA: All right, your Honor. I was going to
23 hand it to the sergeant.

24 BY MR. POLAHA:

25 Q Sergeant, would you put that approximately where you
26 think the center of the garage is so we can go on either side?

27 A The center of Crystal Bay garage.

28 MR. POLAHA: Thank you, Sergeant. You may resume the
29 stand.

30 MR. ROSE: If they are going to take this in,

1 obviously the thumbtack is going to be lost.

2 THE COURT: I would like to lay the rules down for
3 you now in case we have this come in. I won't allow the other
4 side to mark the other's exhibits without permission. I won't
5 allow anyone to mark them except witnesses, if you want that to
6 go to the jury room, and if you want to allow this mark on that
7 exhibit, I would suggest that you allow him to put a pencil
8 mark on it.

9 MR. ROSE: I was going to suggest that.

10 MR. POLAHA: Would you take that off and put a little
11 X there with a pen? Thank you, Sergeant. I don't have any
12 further questions.

13

14 REDIRECT EXAMINATION

15 BY MR. ROSE:

16 Q Just a few, Sergeant. Could you show us the general
17 direction of the Cal-Neva Club?

18 A The Cal-Neva Club would be up back over here.

19 Q What is that avenue above?

20 A Stateline Road.

21 Q Does that run into the Cal-Neva Club?

22 A Right. It comes right up to the front of it.

23 Q You can take the stand now, Sergeant.

24 I just have a few other questions. With regard to
25 the identification of Trudy Hiler, when you first saw the body,
26 did it have any clothing on it?

27 A No.

28 Q Did it have any marks or abrasions on its skin?

29 A When I first saw the body?

30 Q Or shortly thereafter, that you noticed.

1 A Thereafter, when Judge Beemer turned it over in the
2 bag, there was marks on it.

3 Q Could you describe briefly those marks?

4 A Oh, there was blood on the face. There was small
5 wound marks in the neck and chest area, and the arms had small
6 branch marks and the legs had small marks. I don't know what
7 kind, but either from the brush or the bushes or whatever that
8 there was marks.

9 MR. ROSE: Thank you, Sergeant. I have no further
10 questions, your Honor.

11
12 RECROSS EXAMINATION

13 BY MR. POLAHA:

14 Q To your remark about the branch marks, could you see
15 bits of branches there, or is that just a conclusion or opinion
16 on your part?

17 A Well, when we took her out and put her in that bag
18 and brought her on out to the road and unzipped the bag and
19 turned her over, there was still bits of branches and debris and
20 leaves.

21 MR. POLAHA: All right, thank you.

22 MR. ROSE: I have no further questions, your Honor.
23 May this witness be excused?

24 MR. POLAHA: Yes, your Honor, we have no objection.

25 THE COURT: You are excused, sir.

26 MR. ROSE: The State's next witness will be
27 Ed Hanson.

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

E D H A N S O N

called as a witness on behalf of the State,
being first duly sworn, was examined and
testified as follows:

DIRECT EXAMINATION

BY MR. ROSE:

Q Please state your full name and address.

A Ed Hanson, 800 Campbell Road, Incline Village, Nevada.

Q And what is your occupation, Officer?

A Deputy Sheriff, Washoe County.

Q How long has that been your occupation?

A Since the 12th of February of this year.

**Q On July 17th of 1971, in the early morning hours,
did you have occasion to be in the area near to the Cal-Neva
Club at Lake Tahoe?**

A Approximately at 10:00 o'clock, yes.

Q Ten o'clock, that would be ten a.m.?

A Ten a.m.

Q And why were you there?

**A I was called in by Lieutenant Butner for a search of
the area.**

Q Were you a deputy at that time?

A I was a reserve deputy.

**Q And could you just generally tell the jury what a
reserve deputy is?**

**A Well, a reserve deputy has full police powers when on
duty. He performs all acts as if he was a full-time deputy, but
receives no pay for this time.**

Q And when you got to the scene at approximately 10:00 a.m.

1 what did you then do?

2 A Went to the area where the vehicle was parked in the
3 parking lot and started a search with Lieutenant Butner and
4 another reserve deputy. I don't recall who it was, in that
5 parking lot area to the first set of buildings.

6 Q And did you continue this search for any length of
7 time?

8 A We worked this area until approximately 1:00 o'clock,
9 1:00 in the afternoon. Then the Reno group of people arrived.

10 We went back to the area of the parking lot where the
11 car was parked and pulled a massive search in the general
12 direction of the lake.

13 Q And during that search, did you find anything?

14 A At 4:00 o'clock in the evening, I found a purse in a
15 manzanita tree or bush.

16 Q And can you describe the purse as you found it?

17 A It was a brown leather purse sitting or resting on a
18 limb. Out of the purse was an article of clothing, which looked
19 to be like a white blouse.

20 Q Deputy Hanson, I am going to show you State's
21 Exhibit I-2 and I-3 for identification; could you describe
22 what is in State's Exhibit I-2?

23 A I-2 is a brown leather bag or purse with the article
24 of clothing protruding from it.

25 Q Could you tell us whether or not that is in the
26 position as you found it?

27 A Yes, it is.

28 Q Does that clearly and accurately reflect the purse
29 with the white piece of clothing hanging out of it as you
30 found it?

1 A Yes, it is.

2 Q And I will show you State's Exhibit I-3; could you
3 describe that photograph for us?

4 A That is the same purse with the piece of clothing
5 protruding out of the purse.

6 Q Does that clearly and accurately reflect where you
7 found the purse as described?

8 A Yes, sir, it does.

9 Q Was the purse in any way removed or the blouse in
10 any way removed prior to taking these photographs?

11 A No.

12 Q Do you know who took the photographs?

13 A Mr. O'dell of the Sheriff's office, Identification
14 Bureau.

15 Q Were you there when these photographs were taken?

16 A I was.

17 Q And how long after you found them were these
18 photographs taken?

19 A Approximately thirty minutes.

20 Q Then after these photographs were taken, would you
21 tell me what was done with the purse and the blouse sticking
22 out and the purse contents?

23 A After the purse was photographed, it was removed from
24 the tree by Officer O'dell, placed into a plastic bag.
25 Mr. O'dell turned the plastic bag over to Lieutenant Butner.

26 MR. ROSE: Your Honor, at this time we would move
27 for the introduction of those two photographs, I-2 and I-3.

28 MR. POLAHA: Let me look at them, your Honor.
29
30

1 VOIR DIRE EXAMINATION

2 BY MR. POLAHA:

3 Q Officer, as I understand your testimony concerning
4 these two photographs and the items they portray, you came upon
5 them yourself; is that correct?

6 A Yes.

7 Q And then you went back and summoned somebody for the
8 photographs, or how did that work?

9 A No. I stayed in the area and called for Sergeant Neve.

10 Q And then when did Keller come up?

11 A Keller arrived with-- I believe he came with O'dell
12 or by himself. I don't know. But both arrived at approximately
13 the same time.

14 Q And then they took the photos. Nothing was moved,
15 though, prior to that?

16 A No, nothing was moved.

17 MR. POLAHA: I have no further questions and would
18 not object to their admission, your Honor.

19 THE COURT: They will be admitted as marked.

20 (State's Exhibits I-2 and I-3,
21 previously marked for
22 identification, were admitted
into evidence.)

23 DIRECT EXAMINATION

24 (Resumed)

25 BY MR. ROSE:

26 Q Thereafter, did you see the purse and the blouse at
27 a later time that day?

28 A Yes.

29 Q And where was that?

30 A In the Sheriff's office, in the captain's office. The

1 articles were removed and inventoried.

2 Q And that would be the entire contents of the purse?

3 A The entire contents of the purse.

4 Q And then what was done with the purse and all these
5 contents?

6 A After they were inventoried, I placed everything back
7 into a plastic bag and tagged the bag and placed it into an
8 evidence locker.

9 Q Where is that evidence locker?

10 A In the Sheriff's office adjacent to the captain's
11 office.

12 Q What station is that at?

13 A At Incline.

14 Q I am going to show you, Officer, what is marked
15 State's Exhibit D for identification and ask you to describe it
16 for me. Are you familiar with this exhibit?

17 A Yes. That is the purse that was in the clump of
18 trees.

19 Q Is that the purse you found?

20 A This is the purse I found.

21 Q And could you look inside and tell me whether those
22 are the contents that were in the purse?

23 A Yes. This is the white blouse that was protruding
24 out of the purse in the area described. These articles were
25 within the purse itself, a slip, a pair of shorts or hot pants,
26 whatever you call them, bra, panties, and black stockings, and
27 the bra.

28 Q Are they the same articles that you found on 4:00 p.m.
29 on July 17, 1971?

30 A Yes, they are.

1 Q And thereafter you took them to the substation?

2 A Yes.

3 Q I would like you to look inside the purse at its
4 contents. To the best of your recollection, could you tell me
5 whether or not the contents of that purse are the same as when
6 you saw the purse the day you found it?

7 A Right. Various pieces of paper, a part of a letter,
8 Blue Chip Stamps, a compact of some form.

9 Q I don't think it will be necessary to--

10 A Okay, there should be keys, brush, lipstick,
11 bankbook, and a checkbook, and a letter from the Philippines.

12 THE COURT: Gentlemen, I think it is about time for
13 a recess. We will be in recess for ten minutes.

14 The jury is instructed not to discuss the case among
15 yourselves or with anyone else or to form any conclusions
16 concerning the case until it is submitted to you, or to read
17 or listen to any news media reports concerning the case.

18 (Recess.)

19 THE COURT: Will counsel stipulate the presence of
20 the jury?

21 MR. ROSE: So stipulated, your Honor.

22 MR. POLAHA: So stipulated, your Honor.

23 THE COURT: You may proceed, if you are ready,
24 gentlemen.

25 BY MR. ROSE:

26 Q Mr. Hanson, you testified about inventorying, with
27 other officers, the contents of the purse?

28 A Yes.

29 Q Okay. And thereafter, what was done with the purse?

30 A All small articles were placed back in the purse. The

1 clothing was put with the purse in a plastic bag, both being
2 sealed, the bag and the purse.

3 Q I want to direct your attention to the map up here.

4 MR. POLAHA: Your Honor, excuse me. I am going to
5 object to this type of questioning for what Mr. Rose wants to
6 get out of this witness. It's in the nature of a leading
7 question. What he is going to ask, obviously, is would you go
8 to the map and show us where it was found. It is already
9 pointed on the map. The map is there, and it has a big thing
10 "clothes and purse".

11 A better thing would be to ask him what area can you
12 identify, if you can show us on the chart, and then go over to
13 the area, so it's a leading question. I object to the form of
14 the question.

15 THE COURT: Well, I think I will sustain it to the
16 extent of saying, if that is your purpose, Mr. Rose--

17 MR. ROSE: I didn't finish my question.

18 THE COURT: If that is your purpose, it would probably
19 be better to ask him some foundation questions about where it
20 was found before we get to the map. If that is not your purpose,
21 I apologize.

22 MR. POLAHA: So do I.

23 MR. ROSE: Seldom does one get an apology from the
24 bench, and I appreciate it. I think it was my purpose, and the
25 apology wasn't needed.

26 BY MR. ROSE:

27 Q Could you describe to us where you found the purse?

28 A An area northeast of the area where the victim was
29 found.

30 Q Was there a road in that area?

1 A Yes, there was.

2 Q Now, could you tell us whether you found the purse on
3 the same side of the road?

4 A No. It was on the north side of the road from where
5 the victim was.

6 Q Now, I would like to direct your attention to this
7 map, and could you go over there and show where the purse and
8 the clothes sticking out of it were found?

9 A This extension of Crystal Drive. The purse was found
10 up on the hill, oh, several feet higher than the road, in a
11 manzanita tree.

12 Q Does that X clearly and accurately indicate where the
13 clothes and the purse were found?

14 A It does.

15 MR. ROSE: Thank you, Mr. Hanson. Would you please
16 take the stand? Your Honor, I have no further questions of
17 this witness.

18

19 CROSS-EXAMINATION

20 BY MR. GRELLMAN:

21 Q Mr. Hanson, you indicated that on the morning of
22 July 17th at approximately 10:00 a.m., that you were in the area
23 on a search; is that correct?

24 A Yes.

25 Q And where did your search proceed from? Where did you
26 initially begin it?

27 A Starting on the map where it is indicated by the car,
28 which is the parking lot of the employees' section of the
29 Crystal Bay Club.

30 Q Did you see any car in that area at that time yourself,

1 or were you told that a car had been there?

2 A No. I was told there was a car that was there.

3 Q It had been there; correct?

4 A Right.

5 Q But the car wasn't there at that time?

6 A The car was already removed.

7 Q And at that time how many people worked in the party
8 participating in this search?

9 A There was three of us in the morning.

10 Q Did others join you in the afternoon?

11 A At 1:00 o'clock.

12 Q How many people joined you at that time?

13 A I believe it was fifteen people showed up from Reno.

14 Q And at that time did you conduct a more extensive
15 search?

16 A Yes.

17 Q And could you kind of describe the nature of the
18 search at that time?

19 A We went back to the area where the car is indicated
20 in the parking lot, worked our way in an easterly direction
21 towards the lake on the north side of Crystal Drive, went down
22 to the area where it says approximate-- approximately in the
23 area where it says "shoes".

24 I didn't even know they were in that area at the time.
25 Then we returned back to the area of the car, went to the
26 southerly side of Crystal Peak, and worked out way to the lake.

27 Then going back to the area of Crystal Drive, worked
28 our way in a northerly direction up to the area where it is
29 marked "clothes and purse".

30 Q Now, the area on the map that indicates "clothes and

1 purse", is that above or below the road?

2 A It's above the road.

3 Q And what is the elevation up there? How high above

4 the road would you say that was?

5 A Sixty to eighty feet.

6 Q Is that up to the purse from the road?

7 A I'm speaking of elevation from the road.

8 Q So in other words, if the purse was at sixty or

9 eighty feet above the level of the road, straight up--

10 A No, no. The area from the road to the purse, the

11 distance would be, oh, approximately a hundred feet in a

12 horizontal plane, but the elevation was about eighty foot

13 higher than the road.

14 Q All right, I see.

15 Now, on this map right here, does this marking on the

16 map that says the "clothes and purse", if that particular

17 wording wasn't up there, "clothes and purse", and the X was

18 there, would that still be the same place?

19 A That would be the approximate area I would indicate.

20 Q But you can't indicate of your own knowledge that is

21 exactly the same place according to this map, can you?

22 A No.

23 Q Are you familiar with this map at all?

24 A Never seen it until now.

25 Q If I were to tell you that this map has a scale of

26 one inch to forty feet, would that help you locate where the

27 purse was?

28 A Approximately, yes.

29 Q Then you can only say that is approximately?

30 A Approximate area, yes.

1 Q Now, in regards to the purse after you found it, you
2 turned the purse over to Mr. O'dell; is that correct?

3 A I notified Sergeant Neve of the purse. He in turn
4 went to the police car, radioed for the Reno I.D. people.
5 Mr. O'dell showed up, took the photographs, picked up the purse
6 after the photographs were taken, put it in a plastic bag,
7 and then gave it to Lieutenant Butner.

8 Q Mr. O'dell was the one who in fact took the
9 photographs; is that correct?

10 A Correct.

11 Q Did you see the purse again after Mr. Butner had it?

12 A Yes. Mr. Butner, myself, I believe Lieutenant Rigner,
13 went to the Sheriff's office where they removed it, the purse,
14 from the plastic bag, removed the articles, and took an
15 inventory.

16 Q Now, when the District Attorney showed you State's
17 Exhibit D, the purse and the contents in there, was there
18 anything in that purse that is not in the sack at this time?

19 A Not to my knowledge.

20 Q And then after that, who had possession of the purse
21 after you were finished inventorying it?

22 A We put it in the evidence locker, which is under lock
23 and key.

24 Q And when was the next time you have ever seen this
25 purse?

26 A That's the last time I saw it.

27 MR. GRELLMAN: I have no further questions. Thank you.

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

29 THE COURT: You may step down.

30 MR. ROSE: The State's next witness will be

1 George O'dell.

3 G E O R G E O ' D E L L

4 called as a witness on behalf of the State,
5 being first duly sworn, was examined and
6 testified as follows:

8 DIRECT EXAMINATION

9 BY MR. ROSE:

10 Q Please state your full name and address.

11 A George O'dell, 501 Balantine, Reno.

12 Q And what is your occupation?

13 A Unemployed right at the moment.

14 Q Were you ever connected with the Sheriff's office?

15 A Yes, for ten years.

16 Q And in July of 1972, were you so employed?

17 A Yes, I was.

18 Q And what was your function or position at that time?

19 A I was in the Identification Bureau.

20 Q For the jury's benefit, could you generally describe
21 what an Identification Bureau does in the Sheriff's office?

22 A Well, we kept all the records and cases for work
23 cards, et cetera. We went out and processed crime scenes and
24 took photos.

25 Q In the afternoon of July 17, 1971, did you find
26 yourself in the Cal-Neva area?

27 A Yes, I was.

28 Q Is that in Washoe County, Nevada?

29 A Yes, sir.

30 Q And how did you come to be there?

1 A I was called by the Sheriff to go up there, that they
2 had a search on for evidence, and I was to stand by to
3 photograph such evidence.

4 Q And did you in fact photograph any evidence?

5 A Yes, I did.

6 Q What did you photograph?

7 A The victim's purse.

8 Q When did you photograph that purse?

9 A It was sometime in the afternoon between 4:00 and
10 4:30.

11 Q After you took these photographs, what was done with
12 the purse?

13 A I took the purse out of the bushes. I put it in a
14 plastic bag and turned it over to Lieutenant Butner.

15 Q Were there any contents in the purse?

16 A There were some items in there, yes. I don't know
17 what they were. I didn't open it.

18 Q Was there any clothing sticking out from the purse?

19 A Yes.

20 Q What was done with that?

21 A That was just left as it was when I turned it over
22 to Lieutenant Butner.

23 Q Could you tell me whether or not that clothing was put
24 into the bag?

25 A Well, everything-- The clothing, as such as I know it,
26 was in the purse at the time that I stuck it into the plastic
27 bag.

28 Q Mr. O'dell, I am going to show you State's Exhibit
29 I-2 and I-3 for identification. They are in evidence. Are
30 those the two photographs you took?

1 A Yes, sir, it is.

2 Q And when you took those photographs, was there any
3 article of clothing sticking out of the purse?

4 A Just as it is in the photograph.

5 Q I am going to show you what has been marked State's
6 Exhibit D for identification, and do you see the purse?

7 A Yes, sir, I do.

8 Q And is it contained in that exhibit?

9 A Yes.

10 Q Okay. After these photographs, could you again tell
11 me what you did?

12 A After I took the photographs, I left and came back to
13 Reno.

14 Q And after you put the purse in the bag, to whom did
15 you give it?

16 A Lieutenant Butner.

17 Q Have you ever seen that purse since then?

18 A No, I haven't.

19 Q Other than just this time?

20 A Just this time.

21 Q During July 17, 1971, were you requested to go to or
22 did you go to Reno, Nevada to photograph a body?

23 A Washoe Medical Center, yes.

24 Q Could you tell us when you did this?

25 A It was somewhere around 7:00 to 7:30 in the morning
26 that I got called, and I think it was around 8:00 o'clock when
27 I photographed it. I'm not sure of the time.

28 MR. ROSE: With the Court's indulgence for one minute,
29 your Honor?
30

1 BY MR. ROSE:

2 Q I am going to show you State's Exhibit I-4 in
3 identification; could you tell me whether or not that is a
4 portion of the body which you photographed?

5 A Yes, it is.

6 Q And does that clearly and accurately show you what
7 portion of the body?

8 A The way I seen it that morning, yes.

9 Q I am going to show you State's Exhibit I-5 for
10 identification; does that clearly and accurately show that
11 portion of the body depicted?

12 A Yes, it does.

13 Q And I am going to show you State's Exhibit I-6 for
14 identification; does that clearly and accurately show that
15 portion of the body photographed?

16 A Yes, it does.

17 Q I am going to show you State's Exhibit I-7 for
18 identification; could you tell me whether that clearly and
19 accurately reflects that portion of the body shown?

20 A Yes, sir, it does.

21 Q And I am going to show you State's Exhibit I-8 for
22 identification; does that clearly and accurately reflect that
23 portion of the body shown?

24 A Yes, the way I seen it that morning, yes.

25 Q And I am going to show you State's Exhibit I-9 for
26 identification; does that clearly and accurately show the body
27 as photographed that day?

28 A Yes, it does.

29 Q And I am going to show you State's Exhibit I-10 for
30 identification; does that clearly and accurately show the body

1 as photographed that day?

2 A Yes.

3 Q And I am going to show you State's Exhibit I-11; does
4 that again clearly and accurately reflect a portion of the
5 body shown?

6 A As I seen it, yes.

7 Q And I am going to show you State's Exhibit I-12 for
8 identification; does that clearly and accurately show that
9 portion of the body shown?

10 A Yes, it does.

11 Q I am going to show you State's Exhibit I-13 for
12 identification; does that clearly and accurately show that
13 portion of the body in the photograph?

14 A Yes.

15 Q Was anyone present when you took these pictures?

16 A Yes. I can't remember who the doctor was now, but
17 there were a couple of deputies there, myself, and the two
18 people that were employed with the hospital to perform the
19 autopsy.

20 Q Are these all pictures of the same body?

21 A Yes, sir.

22 MR. ROSE: Your Honor, at this time I would move for
23 the introduction of State's Exhibit I-4 through I-13.

24 MR. POLAHA: Your Honor, I am going to object without
25 voir diring this witness to the introduction of those photographs
26 at this time because of, one, they are irrelevant at this time,
27 and, two, they are immaterial to this witness's testimony.

28 We have testimony that there was a death, that
29 certain members of the Sheriff's Department went there; they
30 found a body. We have the identification of Sergeant Neve that

1 the body was in fact that belonging to Trudy Hiler.

2 This witness offered nothing but that he took a
3 picture of a purse which was introduced into evidence. He said
4 he went to the hospital where he took photographs, and I am not
5 objecting to that. I am sure he did.

6 There was a doctor present who was there for the
7 purposes of an autopsy, and who was listed as one of the
8 witnesses that Mr. Rose will call. Now, there is no purpose
9 whatsoever for the introduction of those photographs at this
10 time, no purpose to be served.

11 It is not relevant to this man's testimony except
12 for the fact that he did take the picture. They are not going
13 to show cause of death, because there is no testimony going to
14 the cause of death. The only thing they could have right now
15 is the prejudicial effect to the jury unless the District
16 Attorney on an offer of proof can relate to some tie-in at
17 a subsequent time, but for the present time, I am objecting
18 that they are irrelevant and immaterial at this time.

19 THE COURT: Do you want to be heard, Mr. Rose?

20 MR. ROSE: Well, your Honor, I think--

21 THE COURT: If it should be necessary to excuse the
22 jury, I will do that, if you want to make an offer of proof.

23 MR. ROSE: Fine, your Honor. I would be willing to.
24 We would like to wait and introduce them Monday, and rather
25 than inconvenience the jury, I have additional witnesses out
26 that are rather quick. I could simply offer them at a later
27 date after that foundation, but I do feel they will be in
28 evidence later.

29 THE COURT: I will reserve ruling. I won't admit
30 them at this time.

1 MR. ROSE: Subject to that ruling, I have no
2 additional questions of the witness.

3
4 CROSS-EXAMINATION

5 BY MR. POLAHA:

6 Q In my notes, I may be mistaken; did you bring the purse
7 to Reno?

8 A No, I did not.

9 Q You took the photographs to Reno?

10 A That's all.

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

12 THE COURT: You may step down, sir.

13 MR. ROSE: Our next witness, your Honor, will be
14 Warren Butner.

15
16 W A R R E N B U T N E R

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 Warren Butner, 344 H Street in Sparks, Nevada.

25 Q What is your occupation?

26 A Lieutenant with the Washoe County Sheriff's Department.

27 Q How long has that been your occupation?

28 A I've been with the Sheriff's Department a little over
29 a year.

30 Q Prior to that, were you with a law enforcement agency?

1 A Sparks Police Department.

2 Q On July 17, 1971, did you have occasion to be in the

3 Cal-Neva Lodge area?

4 A Yes, I did.

5 Q What were you doing there?

6 A Searching for property from a victim that we located.

7 Q Could you tell me what time you arrived in that area?

8 A Well, I was in and out of the area all day, on several

9 different occasions. The last time I was in the area was

10 approximately 4:00 p.m.

11 Q Were any items found in that area?

12 A Yes. At approximately 4:00 p.m., a woman's purse and

13 some miscellaneous items of clothing were located in the area.

14 Q And did you go to that area and view that purse?

15 A I did.

16 Q Could you tell us what then transpired?

17 A Yes. George O'dell, who was the photographer for the

18 Sheriff's Department, took pictures of the items, and he placed

19 all the items in a large plastic container to be held as

20 evidence.

21 And at this time I transported that plastic container

22 and the items to the substation.

23 Q Who did you receive that evidence from?

24 A I received it from George O'dell.

25 Q And could you specifically say what evidence that was?

26 A It was a lady's purse and some miscellaneous items in

27 the purse and, also, some clothing.

28 Q I am going to show you what has been marked for

29 an exhibit as State's Exhibit D; have you ever seen that before?

30 A Yes, I have.

1 Q And when was that?

2 A This was at approximately 4:00 p.m. on July 17, 1971.

3 Q And is that the purse you are referring to?

4 A Yes, this is the purse.

5 Q And at the time it was found, did you review its

6 contents?

7 A At the station. Chief Benham and I reviewed the

8 contents when I brought it into the station.

9 Q Do you know whether or not the purse and all its

10 contents were put into the bag by O'dell?

11 A Yes, they were.

12 Q Now, could you look at what is in that bag and tell me

13 whether or not everything is there that you saw at the

14 substation?

15 A I would say to the best of my recollection, these are

16 the items that were in the purse at that time.

17 Q Okay.

18 Now, with regard to the clothing, could you please

19 describe the clothing there and whether they were, also, in the

20 purse when it was inventoried on July 17, 1971?

21 A This is a woman's white blouse which was in the purse,

22 and a woman's slip and a skirt, some undergarments, and some

23 black panty hose or stockings. These items were in the purse

24 at that time.

25 Q When you say "undergarments", would you describe them

26 for us?

27 A Yes, a pair of yellow underwear and a white brassiere.

28 Q Now, were these items itemized at the substation?

29 A Chief Benham itemized all the items here, yes.

30 Q And then what did you do with all those items that are

1 contained in Exhibit D?

2 A I kept these items under my control until Reserve
3 Deputy Hanson returned to the station, and at that time I
4 turned them over to him to be labeled and placed into the
5 evidence locker.

6 Q Do you know whether or not he did that?

7 A Yes, he did.

8 MR. ROSE: Thank you, Officer Butner. I have no
9 further questions.

10 MR. POLAHA: With the Court's indulgence for one
11 second, your Honor. Your Honor, I do not have any questions
12 at this time for Lieutenant Butner, but I would ask the Court
13 to advise Lieutenant Butner to be available, because we may be
14 calling you as our witness.

15 THE COURT: You may step down, sir. Will you please
16 keep yourself available.

17 THE WITNESS: All right, sir.

18 MR. ROSE: Our next witness, your Honor, will be
19 David Grossman.

20
21 D A V I D G R O S S M A N

22 called as a witness on behalf of the State,
23 being first duly sworn, was examined and
24 testified as follows:

25
26 DIRECT EXAMINATION

27 BY MR. ROSE:

28 Q Please state your full name and address.

29 A David W. Grossman, Reno, Washoe County, Nevada.

30 Q And have you ever been employed by the Washoe County

1 Sheriff's Office?

2 A Yes.

3 Q And when was that?

4 A Prior to March the 17th of 1971, from June 15, 1964.

5 Q On July 17th of 1971, were you connected with the
6 Sheriff's Office?

7 A Yes.

8 Q On August 24th of 1971, you were, also, so connected,
9 were you not?

10 A Yes.

11 Q On August 24, 1971, did you have occasion to receive
12 any evidence in the State versus Anselmo case?

13 A Yes.

14 Q And where did you receive it?

15 A In the Sheriff's Department, Office of Records
16 Identification.

17 Q How did you come to receive this evidence?

18 A They were brought in by Deputy Keller to me.

19 Q And what was your position or function with the
20 Sheriff's Office at that time?

21 A I was acting commander of records and identification
22 and custodian of evidence.

23 Q I am going to show you what has been marked in
24 evidence as State's Exhibit D; did you receive this evidence at
25 that time?

26 A Yes.

27 Q I am going to show you what has been marked in
28 evidence as State's Exhibit C and B; did you receive--

29 MR. POLAHA: Excuse me, Counselor. Are you saying
30 "marked for identification" or "marked in evidence", meaning

1 it's in evidence?

2 MR. ROSE: No, for identification.

3 MR. POLAHA: For identification.

4 THE COURT: They are not in evidence yet, Counsel.

5 MR. POLAHA: They are not.

6 BY MR. ROSE:

7 Q Exhibit C for identification?

8 A Yes.

9 Q Exhibit B for identification, and somewhere around
10 here we have an A, State's Exhibit A for identification.

11 A Yes. This was all a part of the package that was
12 delivered to me.

13 Q And when you got this evidence, what did you do with
14 it?

15 A I placed it in our evidence-holding room, Room 6 of
16 the basement of the Sheriff's Department.

17 Q And with regard to State's Exhibit A, how long did
18 that remain at the evidence locker in the basement?

19 A Until it was removed. I don't know when it was
20 removed.

21 Q Did you turn that over to any other individual?

22 A Yes.

23 Q Who was that?

24 A A William Keller, Deputy.

25 Q And could you tell me when you turned that over to him?

26 A It was prior to the 27th of March, 1971.

27 Q And why did you turn it over to him?

28 A I resigned from the Department.

29 Q When you say "prior", do you know exactly what day it
30 was?

1 A It may have been the 14th, 15th, or 16th of March.

2 Q And with regard to State's Exhibit B, marked for
3 identification, how long did that stay in your custody?

4 A For the same length of time I stated for the other
5 items.

6 Q And State's Exhibit C for identification?

7 A These two items on request--

8 Q Pardon me. When you say "these two", you mean C and
9 D?

10 A Yes, these two. On request from the Detective
11 Division, they were forwarded to the Federal Bureau of
12 Investigation laboratory for examination.

13 Q When were they sent away?

14 A On September the 8th of '71.

15 Q When were they returned?

16 A They were returned the first week in October of 1971.

17 Q And when they were returned, what did you then do
18 with them?

19 A I placed them back into Room 6 of the basement of the
20 Washoe County Sheriff's Department.

21 Q And did they remain there until you turned them over
22 to Mr. Keller?

23 A Yes.

24 MR. ROSE: Thank you, Mr. Grossman. I have no further
25 questions.

26

27 CROSS-EXAMINATION

28 BY MR. POLAHA:

29 Q Just a few, Mr. Grossman.

30 First of all, may I see what you are using as notes?

1 Is that what that is? When did you make this, Mr. Grossman?
2 A About two hours ago.
3 Q Two hours ago after you talked to Mr. Keller?
4 A After I talked to Mr. Keller?
5 Q Yes.
6 A No. I believe I had most of this written before I
7 talked to Mr. Keller.
8 Q Did you talk to anybody about the March 27th date?
9 A Yes.
10 Q Who was that?
11 A Mr. Rose.
12 Q When?
13 A Today.
14 Q Did you have a discussion with me in the hallway
15 concerning your termination?
16 A Yes. I mentioned it to you.
17 Q Okay.
18 Did you give me a date as to when you left the
19 Sheriff's Department?
20 A I don't recall.
21 Q Do you recall mentioning anything about St. Patrick's
22 Day, sir?
23 A Yes.
24 Q Was there anything particular about St. Patrick's Day?
25 A I don't think I gave you the date. I think I said
26 that I left the office on that date.
27 Q St. Patrick's Day?
28 A Yes.
29 Q March 17th, I believe?
30 A Yes.

1 Q Did you go back to the office at any time?
2 A For other purposes, yes, other than this case.
3 Q Okay.
4 But were you in an official capacity after March 17th?
5 A No.
6 Q Mr. Grossman, so it's your testimony that prior to
7 your termination of your duties as a Sheriff's deputy, which
8 was March 17, 1972, you were in fact in charge of the evidence
9 room?
10 A Yes.
11 Q And that it must have been before March 17th that you
12 turned over the evidence; is that your testimony?
13 A Yes.
14 Q Mr. Keller testified that March 27th was the date
15 that the evidence in the evidence room was transferred to him
16 by you. Now, both of you cannot be correct. Now, are you sure
17 on your March 17 termination date?
18 A Yes.
19 Q Okay.
20 Mr. Grossman, as custodian of the evidence in that
21 evidence room, was this inventoried as the items came in for the
22 particular cases?
23 A I don't understand.
24 Q Well, did you inventory, such as you testified that
25 you got some items of evidence, A, B, C and D, I believe, from
26 Lieutenant Butner, I believe it was, from the--
27 A I don't know who-- from where they came from
28 originally. I know that I received them only from Deputy Keller.
29 Q Excuse me, Deputy Keller.
30 Did you inventory them at that time?

1 A Yes.

2 Q Do you keep these inventories as part of the official
3 records of the Sheriff's Department?

4 A We had a receipt made; that is, a receipt was made at
5 the time the items were taken into custody, and my inventory
6 consisted of a letter of transmittal to the Federal Bureau of
7 Investigation laboratory for these items. This was my inventory.

8 Q Now, if I understand correctly, all the items that you
9 were shown were not sent to Washington, D.C., were they, or
10 were they?

11 A No, they were not.

12 Q They weren't?

13 A No.

14 Q So of those items that you received, only some you
15 sent to the FBI, and only those were inventoried; is that
16 correct?

17 A I received all the items that are here now, but not
18 all of these items were forwarded to the lab.

19 Q Well, then, as to the inventorying of these items, did
20 you inventory all the items that you received from Deputy Keller?

21 A No.

22 Q Just those that were sent to the FBI; is that correct?

23 A Pardon me?

24 Q Just those that were sent to the FBI?

25 A Yes. No, just those that I received. Let me rephrase
26 myself or correct myself here.

27 I did inventory them in the form of an evidence
28 receipt at the time I received them.

29 Q Now, we are talking about those items from Deputy
30 Keller.

1 A Right. All the items that I received from him.
2 Q And where is that receipt?
3 A The receipts, I don't know where they are now.
4 Q But that was the extent of any inventory that you may
5 have made pertaining to this evidence?
6 A Yes.
7 Q Who, during your tenure as custodian, had access to
8 the evidence room?
9 A No one. I had the only key.
10 Q You had the only key?
11 A Yes.
12 Q Now, how do you know that?
13 A This was the understanding that I understood from the
14 person who I received the responsibility from.
15 Q Well, then, you don't really know; somebody said,
16 "This is the only key" and they gave it to you; is that correct?
17 A This is what my understanding was, sir.
18 MR. POLAHA: Thank you, Mr. Grossman. I have no
19 further questions.

20
21 REDIRECT EXAMINATION

22 BY MR. ROSE:

23 Q Yes, Mr. Grossman, when you left the employment of the
24 Sheriff's office, Items A, B, C and D, to the best of your
25 knowledge, where were they located?
26 A In Room 6. They, also-- They were partly in Room 6
27 and partly in Room 4. We were in the process of changing
28 evidence-holding rooms.
29 Q Are they both evidence-holding rooms?
30 A Yes, they were at the time.

1 Q And when you left, did you turn care, custody and
2 control of these two rooms over to any individual?

3 A Yes.

4 Q And to what individual was that?

5 A Deputy William Keller.

6 Q And did you give him every item?

7 A Not every item. We both carried the items from one
8 room to the other, and on completion of transferring from one
9 room to the other, where everything was in one place, I turned
10 the keys over to him so that he remained in custody. He had
11 the custody of all these items.

12 Q So this evidence was in one of those two rooms which
13 you have designated as evidence lockers?

14 A Right.

15 Q When you left?

16 A Yes, sir.

17 MR. ROSE: I have no further questions of this
18 witness, your Honor.

19

20 RE CROSS-EXAMINATION

21 BY MR. POLAHA:

22 Q Just a few, Mr. Grossman.

23 I take it that you were the only one that had access
24 to the evidence room up to a certain time, and that time was
25 when you were moving the items of evidence from Room 4 to Room 6
26 because you had assistance; is that correct?

27 A Right.

28 Q Now, at that time you were custodian?

29 A Right.

30 Q Okay, so is this the only time that somebody else had

1 entry to your knowledge to that room?

2 A That's right.

3 Q And that person was Deputy Keller, as I understand it?

4 A Yes.

5 Q All right, after which time you transferred the key?

6 A Yes.

7 Q Was this a complete change from four to six or six to
8 four, or whatever it was?

9 A Yes.

10 Q By that, I mean did every item of evidence go from
11 one room to the other room?

12 A Yes.

13 Q And during this transfer from room to room, you did
14 not take an inventory of what you were transferring?

15 A No, I didn't.

16 Q In other words, there was a box there with items; you
17 just picked up the box and put it over there?

18 A Yes.

19 Q And you did not have an inventory, I take it, when you
20 took over the evidence room?

21 A No.

22 Q And none when you left?

23 A Right.

24 MR. POLAHA: Thank you. I have no further questions,
25 Mr. Grossman.

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

27 THE COURT: You may step down, sir. Do you have any
28 more witnesses this afternoon, Mr. Rose, that can be heard
29 briefly?

30 MR. ROSE: No, your Honor. I think the next witness

1 will be rather lengthy.

2 THE COURT: In that case, Ladies and Gentlemen, we
3 are going to adjourn until 10:00 a.m. on Monday morning. You
4 are instructed not to discuss the case among yourselves or with
5 anyone else or to form any conclusions concerning the case until
6 it is submitted to you.

7 You are, also, instructed not to read or listen to
8 any accounts in the news media on the case in any way.

9 (Whereupon the proceedings were adjourned until
10 Monday, April 17, 1972, at 10:00 a.m.)

11 --oOo--
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30