

Corporal Houser.

CORPORAL DONALD J. HOUSER, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

Q. State your full name, please?

A. Donald J. Houser.

Q. Your occupation?

A. I am a Corporal with the Pennsylvania State Police stationed at Montoursville.

Q. How long have you been a Corporal in the Pennsylvania State Police?

A. Approximately three years.

Q. How long have you been a State Trooper?

A. Approximately 17 years.

Q. Corporal Houser, in the investigation of this case did you have a particular role as the Property Officer and Custodian?

A. I did.

Q. Explain basically what your role is as Custodian or Property Officer?

A. I was mainly the Receiving Officer, we have a Custodial Officer who is in charge of all of the evidence at the Barracks. In this case it was my duty to receive the evidence, sign it in, and turn it over to a Custodial Officer.

Q. After you go to the Custodial Officer, did you remove the evidence then and transport it to various places like Laboratories and soforth?

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A. Yes.

Q. Now, Officer, did, you did receive quite a numerous collection of items in this case, is that correct?

A. Yes, Sir.

Q. Do you have a report....

(Commonwealth's Exhibit No. 59 marked.).

Q. Now, I show you marked as Commonwealth's Exhibit No. 59, can you describe where you received them?

A. They are corn stalks, they were cut down immediately adjacent and around the body of the victim.

Q. Now.....

By Mr. Ertel:

Mr. Fierro will stipulate these are corn stalks cut at the scene and transported to the Barracks and numbered.

By Mr. Fierro:

And not otherwise, not having anyother evidentiary value.

By The Court:

That is on the record, that will save time.

By Mr. Fierro:

With the stipulation that they have no evidentiary value.

By The Court:

The Court understands.

By Mr. Ertel:

Why the body was not seen from the air.

By Mr. Fierro:

I will stipulate with you so the Jury don't have

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to carry them out, you can't see the body from the air because of the corn stalks.

By Mr. Ertel:

Q. What was the next thing on your list you exhibited?

A. Doctor Miller, upon arriving at the scene, ^{Page 31} we walked back to where the victim's body was lying in the corn field, and upon arriving, the Coroner, Trooper Keppick and I, we went approximately 20 to 30 feet south of the body. At this time we went in an eastward direction into the field and then when we got into the field approximately 20 to 30 feet, we went in a northerly direction. We were doing this for the purpose of to check out to see if there were anyother footprints in the cornfield.

Q. Did you find any?

A. No, Sir.

Q. How did you approach the body then?

A. We approached the body from the head.

Q. Now, after the approach to the body.....

It has been agreed basically the examination of the area that Doctor Miller testified examined the area, except for the distance from the roadway to the body, that particular area which Mr. Fierro would want to cross examine.

By Mr. Fierro:

I want to cross examine on that and one other point as to types of footprints and number, otherwise I stipulate and agree his testimony with regard to that is basically the same

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as Doctor Miller's.

By The Court:

The record so shows.

By Mr. Ertel:

Q. Just to clarify it, did you measure the distance off of the where, whether you call it "lane" or "road", farm road to the body?

A. I did not.

Q. Can you estimate that distance from the cartway where one would see the tire, normal tire marks on the road, on that cartway, do you have an estimate?

A. It would have to be a very rough estimate.

Q. What would that be?

A. Approximately 100 to 125 feet.

Q. No, I think you are going from the macadam surface to the body, where I am talking from the cartway. Looking here at Commonwealth's Exhibit No. 37, which is the cartway of the farm road, if you want to call it that, back to the location of the feet of the body off of the cartway, the actual place where one could think the tires would run, do you have an estimate of that distance?

A. To the feet of the victim?

Q. Yes? If you don't want to estimate it, that is all right?

A. I would rather not estimate.

Q. Can you describe the soil or conditions what was between the body and the roadway? Did you examine that area?

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A. Grassy, weeds.

Q. Did you find the footprints that were cast, were there other footprints that you recall in the area?

A. Upon viewing the body, I went back out to the road to the lane, and at that point, which was my job, to take notes on measurements that Doctor Miller took.

Q. Did you see any footprint as you went back towards the road, to your recollection?

A. No, Sir.

Q. Now, rather than get into the notes, you made measurements where these prints were located, is that correct?

A. Yes.

Q. I think we are going to, by stipulation, go over that. Now, did you also go to the autopsy?

A. I did.

Q. Did you take certain items from the Doctor at the autopsy?

A. I did.

Q. All right, what items did you take from Doctor Catherman?

A. I took all of the victim's clothing. ✓

Q. I show you marked as Commonwealth's Exhibit No. 47, ✓ can you identify that?

A. That is the jacket that was over the body of Jennifer Hill.

Q. Is that the same jacket that you observed at the scene?

(4) Miller took from Catherman

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A. Yes, it is.

Q. Now...

(Commonwealth's Exhibit No. 60 marked.)

Q. I show you marked as Commonwealth's Exhibit No. 60, can you identify that?

A. Yes, this is the bra that Jennifer Hill had on.

(Commonwealth's Exhibit No. 61 marked.)

Q. I show you marked as Commonwealth's Exhibit No. 61, can you identify that?

A. Yes.

Q. What is that?

A. It is a blue and white football jersey with the number "33", it was taken from the body.

Q. I show you marked as Commonwealth's Exhibit No. 46, can you identify that?

A. Yes.

Q. What is it?

A. It is a pair of sneakers with the stockings inside of the sneakers that was taken off of the body.

(Commonwealth's Exhibit No. 62 marked.)

Q. I show you marked as Commonwealth's Exhibit No. 62, and ask you if you can identify that?

A. This is a pair of panties, they are white with a green print on.

Q. Where were they taken from?

A. They were taken from a round the ankle of the victim.

(Commonwealth's Exhibit No. 63 marked.)

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Q. I show you Commonwealth's Exhibit No. 63, can you identify that, please?

A. Yes, these are light blue trousers, it has a white webbed belt that were taken from around the ankles of the victim.

Q. That is where they were when you saw her on the 28th of October, 1973?

A. Yes, Sir.

(Commonwealth's Exhibit No. 64 marked.)

Q. I show you marked as Commonwealth's Exhibit No. 64, can you identify that?

A. Yes, it is a pierced ear ring, gold with a red circle, it was taken from the right ear lobe of the victim by Doctor Catherman.

Q. Did you observe that on the victim at the scene?

A. I did.

(Commonwealth's Exhibit No. 65 marked.)

Q. I show you marked as Commonwealth's Exhibit No. 65, can you identify that, please?

A. Yes, it is blue and white, with a flower print, pajama top that was picked up and turned over to me at the scene. It was approximately two and one-half feet south of the left ankle of the victim.

Q. I show you marked as Commonwealth's Exhibit No. 1 that has been admitted into evidence, can you identify that photograph?

A. Yes, Sir, it is on the right, right of the victim's feet.

Q. And the photographer was left looking at the feet?

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A. Yes.

(Commonwealth's Exhibit No. 66 marked.).

Q. I show you marked as Commonwealth's Exhibit No. 66?

A. It is a Glick Shoe bag, it has been processed for fingerprints, and there is also containers of kernel corn in the bottom.

Q. When you received that, what was it like? Describe the condition at that time?

A. When I received the Glick Shoe bag that was approximately one foot south of the left hand of the victim, it was lying in the field. It was not disturbed, it was picked up by the strings and handled very gently. It was completely full, and at this time the contents were unknown. It was processed at a later date for fingerprints.

Q. You did not open that bag?

A. I did not. It was subsequently opened, in my view, at the State Police Lab. in Harrisburg.

Q. What was in the bag at that time?

A. The contents were removed, the first item on the top was a pajama bottom, light blue in color.

(Commonwealth's Exhibit No. 67 marked.).

Q. I show you marked as Commonwealth's Exhibit No. 67, if you can identify the items there?

A. Yes, this was the contents of the bag, including the corn.

Q. Go ahead and describe the contents?

A. As the items were taken out of the bag, they came

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out in order. The pajama bottom, or light blue in color was the first item, which is this right here.

Q. Part of Commonwealth's Exhibit No. 67, I believe?

A. Yes.

Q. The next?

A. Item 2 that was taken out was blue jeans with red hearts on the knees, and the same material is around the bottom of the legs of the blue jeans.

Q. They were taken out second?

A. Yes.

Q. All right?

A. The third item were a pair of panties, which are orange, white and yellow in color with diamond shaped designs.

Q. Shown in Commonwealth's Exhibit No. 67?

A. Yes.

Q. Is that all?

A. Yes.

Q. How about the corn, where did that come from?

A. The corn was in the bottom of the Glick Shoe bag.

Q. Now, what has been marked as Commonwealth's Exhibit No. 66, and you said was a processed Glick Shoe bag, I show you marked as Commonwealth's Exhibit No. 49 and ask you if that is the same color, type and so on as that Glick Shoe bag?

A. Yes, this is a bag similar to that one.

Q. Now, while at the autopsy or examination of the body at the morgue, did you do other things as far as fingernail scrapings were concerned?

A. Yes, Sir.

Q. What did you do?

A. I took a series of colored photographs or slides.

Q. And some of those have been shown?

A. Yes.

Q. Let's go now to the next thing, what else did you do?

A. As Doctor Catherman was proceeding with the autopsy, he would hand me evidence which was placed in containers and logged.

Q. What evidence did he hand you other than the material, did he give you the fingernail scrapings?

A. Yes, he gave me fingernail scrapings from each finger on both hands.

(Commonwealth Exhibit No. 68 marked.)

Q. Without handing you all of the ten bottles, I will give you a sample bottle, which are Commonwealth's Exhibit No. 68, were they the fingernail scrapings which you received and subsequently transported to the Crime Laboratory?

A. They are.

Q. Would you explain how these fingernail scrapings are taken?

A. Doctor Catherman took these with scalpel and it is on the same procedure as cleaning your nails.

Q. It was dropped into a white tissue?

A. It was wiped onto.

Q. Then you put them in the bottles and transported them

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to the Laboratory?

A. Yes.

Q. What else did you receive from Doctor Catherman?

A. Hair samples.

(Commonwealth's Exhibit No. 69 marked.).

Q. I show you Commonwealth's Exhibit No. 69, can you identify that?

A. This is a hair sample from the head of the victim.

Q. And you, once again, received that at that autopsy and transported that to the Crime Laboratory for analysis?

A. Yes, I did.

Q. What other things did you obtain at the autopsy?

A. Pubic hair samples.

(Commonwealth's Exhibit No. 70 marked.).

Q. I show you marked as Commonwealth's Exhibit No. 70, is that the hair sample you received?

A. This is a container it should be in, yes.

Q. Did you transport that to the Crime Laboratory?

A. I did.

Q. Did you also receive a part of fingernail at that autopsy?

A. I did.

(Commonwealth's Exhibit No. 71 marked.).

Q. I show you marked as Commonwealth's Exhibit No. 71 is that the fingernail you obtained?

A. That is the fingernail sample taken from the right

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middle finger of the victim.

Q. Once again, transported to the Crime Laboratory?

A. Yes.

(Commonwealth's Exhibit No. 72 marked.)

Q. I show you marked as Commonwealth's Exhibit No. 72, and ask you if you obtained that?

A. Yes.

Q. What is that?

A. This is a soil sample that taken, that was taken from near the area of the victim's right thigh, this was taken at the scene.

Q. Was that transported also to the Crime Laboratory?

A. Yes, it was.

Q. When was that obtained?

A. It was obtained on the 28th of October.

(Commonwealth's Exhibit No. 73 marked.)

Q. I show you marked as Commonwealth's Exhibit No. 73, and ask you if you can identify that?

A. This is a mud sample or dirt sample that was taken from under the body of the, underpart body of the victim.

Q. When was that taken, Officer?

A. This was taken off at the autopsy by Doctor Catherman.

Q. Was that also transported to the Crime Laboratory by you?

A. Yes, it was.

(Commonwealth's Exhibit No. 74 marked.)

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Q. I show you marked as Commonwealth's Exhibit No. 74, can you identify that?

A. Yes, these are two weeds or vegetation samples that were taken at the scene, they were taken from the area of where, just west of the body, the feet of the body.

Q. Towards the road, in other words?

A. Yes.

Q. Towards the lane?

A. Yes.

Q. All of these items that have been shown, did you transport them to the Crime Laboratory for analysis by the Crime Specialist?

A. Yes.

(Commonwealth's Exhibit No. 75 marked.)

Q. I show you marked as Commonwealth's Exhibit No. 75, can you identify what that was?

A. It was a hair sample that was found under the victim's body.

(Commonwealth's Exhibit No. 76 marked.)

Q. I show you marked as Commonwealth's Exhibit No. 76, can you identify that, please?

A. Yes, this is a weed or some type of vegetation that was found underneath the body of the victim. At the time it appeared as though it had a possible blood stain on it, that is why this was gathered.

(Commonwealth's Exhibit No. 77 marked.)

Q. I show you Commonwealth's Exhibit No. 77, can you

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Identify that?

A. Yes, this is some soil that was taken from immediately around the last exhibit, the weed, it is soil with possibly contain blood.

(Commonwealth Exhibits Nos. 78 and 79 marked.)

Q. I show you marked as Commonwealth Exhibit No. 78?

A. Yes, this is a weed or some type of vegetation that was taken from the ring on the right ring finger of the victim. It was taken on the 29th at the autopsy.

Q. Was that again the same true, that you transported all of this to the Crime Laboratory?

A. Yes.

Q. I show you marked as Commonwealth's Exhibit No. 79, can you identify that?

A. These are small brown particles removed from the groin area of the victim, they were removed by Doctor Miller and given to me.

Q. Transported to the Crime Laboratory again?

A. Yes.

(Commonwealth's Exhibit No. 80 marked.)

Q. I show you marked as Commonwealth's Exhibit No. 80 and ask you if you can identify that particular object?

A. Yes, it is a dirt sample taken from the left tire impression at the crime scene, it was collected by Corporal Earto and turned over to me.

Q. Did you transport that to the Crime Laboratory for analysis?

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A. I did.

Q. Can you tell us approximately where those tire marks were, or would you rather have Barto give that?

A. I would rather have another Officer that made the measurement tell you.

(Commonwealth's Exhibit No. 81 marked.).

Q. I show you marked as Commonwealth's Exhibit No. 81, can you identify that, please?

A. It is also a dirt sample that was collected by Corporal Barto and turned over to me on the 29th of October

Q. Does that show where it was collected?

A. It does not.

Q. You were the Transporting Officer to the Crime Laboratory, is that correct?

A. Yes. On the rear of the evidence there is a description "Dirt sample taken from Dye-Tex Co.".

Q. Did you take that material to the Crime Lab. for analysis?

A. I did.

(Commonwealth's Exhibits Nos. 82, 83, 84, 85 and 86 marked.).

Q. Officer, I show you marked as Exhibits Nos. 82 through 86, can you identify those, and if you took those to the Crime Laboratory for analysis?

A. I can identify them, but I didn't take them to the Crime Lab., they were taken by Trooper Fama.

Q. What are they?

A. They were hair samples, the first one was Kim

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Lee Hubbard....

By Mr. Fierro:

Just a minute, I object to this, did he take the hair sample from Kim Lee Hubbard.

By Mr. Ertel:

I can go through every Officer, if you like, to identify each.

By Mr. Fierro:

So far with this mass of stuff I have not objected, but here is a man says he took a hair sample from Kim Lee Hubbard.

By Mr. Ertel:

He didn't say that.

By Mr. Fierro:

Then I don't want him to identify it.

By The Court:

The objection will be sustained, unless he was present when it was taken.

A. I was present when it was taken from Kim Lee Hubbard.

By Mr. Fierro:

Then I won't object if you were present.

By Mr. Ertel:

Q. Now, that is Commonwealth's Exhibit?

A. I was present when the hair sample was taken from Ard Stetts, which is No. 82. I was present when it was taken from Kim Lee Hubbard, No. 85.

Q. I show you marked as Commonwealth's Exhibits Nos. 35,

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36 and 37, can you identify those, please?

A. 36 and 37 are aerial photos taken in the area where the body was found.

Q. Did you take those?

A. I did.

Q. No. 35?

A. That is an aerial photo taken of South Williamsport, it includes the Hubbard home at the bottom of the photograph and at the top center of the photograph is the Sylvan Dell area, the tanks, the gas storage tanks.

Q. Did you take that photo?

A. I did.

(Commonwealth's Exhibit No. 87 marked.)

Q. Commonwealth's Exhibit No. 87, Corporal, I don't want to hand these up, would you come down here and identify them?

A. (Witness leaves stand.)

Q. I just marked an item as Commonwealth's Exhibit No. 87, can you identify this, please?

A. This is a left rear tire taken from an Oldsmobile sedan, Kim Lee Hubbard's vehicle, it was taken at the South Williamsport Borough Building at the garage in the back.

Q. Were you present when these were taken?

A. Yes, Sir, an employee from South Williamsport took them off and gave them to me as he was taking them off, his name is Mr. Merrick.

Q. That is Commonwealth's Exhibit No. 87, is that right?

A. Yes.

(Commonwealth's Exhibit No. 88 marked.)

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Q. Can you identify this, please?

A. This is the tire and rim that was taken from the right rear of the same vehicle at the same time.

Q. You mean the right rear tire taken from the right rear of the car?

A. Taken from the right rear of the car.

Q. You were present also?

A. I was.

(Commonwealth's Exhibit No. 89 marked.)

Q. I show you Commonwealth's Exhibit No. 89?

A. It is a right front tire and rim taken from the Oldsmobile sedan at the same time by Mr. Merrick.

Q. You were present?

A. I was.

(Commonwealth's Exhibit No. 90 marked.)

Q. I show you marked as Commonwealth's Exhibit No. 90?

A. It is a black Kelly tire received from Robert Carl Foust at Poole's Service Station. The Receiving Officer was Trooper Gomb and he turned this over to me in person.

Q. Did you deliver all of those tires to the Crime Laboratory at Harrisburg?

A. I did.

Q. Officer, I don't want to belabor the point, but we have in this box in here, Commonwealth's Exhibits Nos. 50 through 55, which were foot casts, were you present when they were made?

A. I was.

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Q. Did you take custody of those?

A. I did at a previous date, the following day.

Q. Who did you get them from?

A. Trooper Keppick.

Q. Did you deliver them to the Laboratory?

A. I did.

(Commonwealth's Exhibit No. 91 marked.).

Q. Officer, I show you marked as Commonwealth's Exhibit No. 91, can you identify this, please?

A. It is a tire, or a cast, that I received from Trooper Keppick.

Q. Did you also transport that to the Crime Laboratory in Harrisburg?

A. I did.

Q. When did you receive that from Trooper Keppick?

A. I believe it was the following day.

Q. When you say "the following day", you mean the 29th?

A. Yes.

(Commonwealth's Exhibit No. 92 marked.).

Q. I show you marked as Commonwealth's Exhibit No. 92, can you identify this, please?

A. It is also a cast that I received from Trooper Keppick at the same time.

Q. And again, did you transport that to the Crime Laboratory?

A. I did.

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(Commonwealth's Exhibit No. 93 marked.)

Q. I show you marked as Commonwealth's Exhibit No. 93, and ask if you can identify that, please?

A. It is also a tire cast that I received from Trooper Keppick.

Q. Did you also deliver this to the Crime Laboratory in Harrisburg?

A. I did.

(Commonwealth's Exhibit No. 94 marked.)

Q. I show you marked as Commonwealth's Exhibit No. 94, and ask if you can identify that?

A. This is also a cast that I received from Trooper Keppick and it was transported to the Crime Lab. at Harrisburg.

Q. All at the same time, did you receive them?

A. Yes, they were transported on the 1st of November,

1973.

Q. Now, Officer Houser, did you have the occasion to be present at the time that the Defendant, Kim Hubbard was interviewed in this case?

A. I only saw Kim twice. The first time was with Chief Smith, I don't recall what date it was, we stopped in front of his home and Kim came across to the vehicle and talked to us a brief time, I don't recall what the conversation was. The second time was on the 3rd of November.

Q. Where was that?

A. I was at the, in the Council Room in the South Williamsport Borough, and Kim came in.

Q. Prior to Kim's arrival on November 3rd, were you a

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person who overheard a conversation with Mrs. Hubbard just prior to that? *IN THE CHAMBERS OF THE DISTRICT ATTORNEY GENERAL'S OFFICE*

A. I was.

Q. What was that conversation and who was involved?

By Mr. Fierro:

Your Honor, I object.

By The Court:

It will be sustained unless the Defendant was present.

By Mr. Ertel:

May we approach Side Bar?

By The Court:

Yes.

(Side Bar consultation not made a part of the record.)

By The Court:

Proceed, Gentlemen, the objection is sustained.

By Mr. Ertel:

Q. Officer, turning now to the conversation when Kim Hubbard came into the South Williamsport Borough Hall Council Chambers, were you present?

A. I was.

Q. Approximately what time was that?

A. It was either afternoon or early evening, I don't recall the time. *About 2 P.M. in the afternoon*

Q. Would you state what occurred there?

By Mr. Fierro:

I object, are you asking what occurred or what was

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the conversation?

By Mr. Ertel:

The same thing.

By Mr. Fierro:

I would like to come to Side Bar on that.

(Side Bar consultation not made a part of the record.)

By The Court:

Members of the Jury, again there is a matter I am required by law to take up with Counsel and rather than have you stay in the box, and rather than do it in the Court Room, the Court is going to recess and do it in its' Chambers. The Defendant is now excused. The Jury is now excused. (Recessed to Chambers at 4:10 P.M., EDST.).

(IN CHAMBERS.).

By The Court:

An offer, Mr. Ertel.

By Mr. Ertel:

He advised the Defendant of his rights. The Defendant then said he wanted to clear up where he was on that day, that he told us a lie before. I am not verbatim, I am paraphrasing, that he had been on the Sylvan Dell Road, he had proceeded down from the Look-Out, now this is the thing you were going to have me eliminate, he had been up there, and I am not certain whether he smoked two "joints" or he was going up there to look for somebody to smoke two "joints". We had better get the report.

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By the Court:

I want that specific.

By Mr. Ertel:

Houser was only there for part of the conversation.

By The Court:

Why didn't you put the man on that was there for the full conversation?

By Mr. Ertel:

I would have, but then I would have to call Houser. There was about two or three independent conversations going on, that is the problem here.

By The Court:

What else do you think he heard?

By Mr. Ertel:

I am not sure if he told him at that time that nobody ever drove his car but him, that they were his boots and nobody ever had those boots but him.

(At this point Mr. Ertel receives report.)

By Mr. Ertel:

Now....

By The Court:

Start over since you have it in front of you and be specific.

By Mr. Ertel:

Well, he advised him of his rights, Officer asked Kim if anyother persons drive his car and he answered "No.", from the time the girl was missing to this day has anyone driven his

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car and the answer was "No.", and then that if his car was seen it was safe to assume he was driving it, and the answer was "Yes", and he also told him that he could leave at any time and didn't have to say, and then the other Officer went into the questioning. Now, I won't go into the other Officer's questioning with this Officer at this time.

By Mr. Fierro:

So far that is not objectionable, but that is not what he said at Side Bar.

By The Court:

That is right. Who is your next witness, is there anything we should face today?

By Mr. Ertel:

I forgot one other thing, he went to Rent-All Center and got a copy of a receipt, Houser did. We can bring in Brungard that Hubbard was there at 1:45 that day.

By Mr. Fierro:

We agree to that, we will produce that.

By The Court:

You will not make him bring up the man from the Rent-All?

By Mr. Fierro:

No, but, of course, I hope his time is the same as our's because my Client did go to his place and get a machine.

By The Court:

You will stipulate to that?

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By Mr. Fierro:

If it matches my receipt, I will stipulate to it.

By The Court:

Show him the receipt when you get it.

By Mr. Ertel:

That is about it.

By Mr. Fierro:

I will stipulate until I can get my receipt tomorrow morning.

By The Court:

Ordinarily if he wouldnot stipulate you would have to get the people from Rent-All.

By Mr. Ertel:

We would have to produce we got it there.

By Mr. Fierro:

If it matches my receipt that we have tomorrow it is fine.

By The Court:

Anything else?

By Mr. Ertel:

The time it takes at a normal pace from the Hubbards' to the Nevels'.

By The Court:

How about that?

By Mr. Fierro:

Who is going to say that?

By Mr. Ertel:

Houser, that he walked it.

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By Mr. Fierro:

Houser is going to say he walked from the Hubbards' to the Nevels, he walked this?

By Mr. Ertel:

Yes.

By Mr. Fierro:

The time it took him?

By Mr. Ertel:

Yes.

By Mr. Fierro:

I object to that, he can say the time it took for him, but what does that mean? I am going to object to it.

By The Court:

You can object any time that you want to.

By Mr. Ertel:

That is all. I will not offer him as to the other conversation.

(Reconvened in Court Room at 4:40 P.M., EDST.).

(Trooper Houser returned to stand.).

By Mr. Ertel:

(Commonwealth's Exhibit No. 95 marked.).

Q. I show you marked as Commonwealth's Exhibit No. 95, can you identify that, please?

A. It is a sweeper bag.

Q. And how did that come into your possession?

A. It was given to me by Corporal Barto.

Q. Did you transport that to the Crime Laboratory?

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A. I did, on the 5th of November.

(Commonwealth's Exhibit Nos. 96 and 97 marked.).

Q. I show you marked as Commonwealth's Exhibit s Nos. 96 and 97, can you identify these, Corporal?

A. There is the evidence tag, one pair of high combat boots.

Q. Did they come into your custody?

A. They did.

Q. From whom?

A. Trooper Fama, they were collected by Sgt. Peterson.

Q. Did you transport those to the Crime Laboratory?

A. I did.

Q. When did you take them there?

A. They were taken by me to the Crime Laboratory, I would have to check with the report and the receipt that I got, I can't give you the exact date at this time.

Q. But you did deliver them to the Crime Laboratory?

A. Yes.

Q. Now....

(Commonwealth's Exhibit No. 98 marked.).

Q. I show you Commonwealth's Exhibit No. 98, and ask if you can identify that?

A. It is a bag of dirt samples, there is two samples within the bag, they were taken by Trooper Gomb, and transported by me to the Crime Laboratory.

Q. Did you receive them from Gomb?

A. I did.

Corporal Houser.

(Commonwealth's Exhibit No. 99 marked.).

Q. I show you marked as Commonwealth's Exhibit No. 99?

A. There is an envelope containing five bags of mud or dirt samples, taken from the wheel wells or inside of the vehicle by Trooper Gomb, given to me and transported to the Crime Lab.

(Commonwealth's Exhibit No. 100 marked.).

Q. Can you identify that, please?

A. Yes, the contents of the envelope are a plastic package of loose, package of loose strands of hair removed from the front seat of the Oldsmobile of Hubbard's.

By Mr. Fierro:

I object to this, I don't want him reading something unless he personally did it.

By The Court:

You should look at it, Officer, don't take it from the tag. In fact, if you want the tags removed, I.....

By Mr. Ertel:

I would object to that, that is our identification.

By The Court:

Hereafter you can do it by number.

By Mr. Fierro:

I object to these things.

By The Court:

You are asking and he is only reading from the tag.

By Mr. Ertel:

Ye received it, but I will bring the person in that

Corporal Houser.

took it.

By The Court:

He is asking whether or not he knows what it is.

May I see Counsel?

(Side Bar consultation not made a part of the record.)

By The Court:

Proceed, Gentlemen.

By Mr. Ertel:

Q. We were on Item 100, I believe, did you receive what is in that package, and would you examine it, and did you transport that to the Laboratory and from whom did you receive it?

A. It is an envelope that I received from Trooper Gomb and transported to the Crime Laboratory.

Q. Was the envelope sealed at the time?

A. Yes.

(Commonwealth's Exhibit No. 101 marked.)

Q. I show you marked as Commonwealth's Exhibit No. 101, and ask you if you can identify that?

A. Yes, this is a copy of the receipt that I received from Lloyd Strouse Insurance Company at 1134 West Fourth Street.

Q. When did you receive that?

A. I received that personally from the Secretary.

By Mr. Pierro:

I have to object, I don't see its relevancy.

By The Court:

Come to Side Bar and state to Counsel and the Court

Corporal Houser.

why it is relevant. What you might do on items like that, you might take them to Mr. Fierro first and explain to him whether or not it is material and we don't have to come to Side Bar.

(Commonwealth's Exhibit No. 102 marked.)

By Mr. Ertel:

Q. I show you marked a combination of two items as 102, can you identify those, please?

A. They are a pair of sneakers and I received them from Trooper Gomb.

Q. Can you tell us when you received them?

A. On the 4th of November.

Q. Did you have the occasion to walk from the Hubbard home to the Nevel home from time to time?

A. I did, the 21st of November, 1973.

Q. And can you tell the Jury did you walk your normal pace as a man of your.....

By Mr. Fierro:

I object to this, it is not relevant, I don't think it is relevant to the Defendant how fast it took him to walk that distance.

By The Court:

What is the purpose?

By Mr. Ertel:

Only to give an estimate of what an average person and give the Jury what a child might do.

By Mr. Fierro:

I object to this, the Jury can't get from that how fast this child may have covered this distance on that day. I

Corporal Houser.

think that is a matter of determination that the Jury can arrive at by itself and through argument.

By The Court:

The Court will permit it, you may answer.

By Mr. Ertel:

Q. How long did it take you?

A. 13 minutes.

Q. Officer, I think before the break we were concerned with the 3rd of November, 1973, at Borough Hall, were you able to determine the time Kim Hubbard was there?

A. Yes, Sir.

Q. What time was it?

A. At 1:58 P.M.

Q. At that time did you talk to Kim Hubbard?

A. I did.

Q. What did you do in relation to Kim Hubbard and the conversation you had with him?

A. I advised him of his Constitutional Rights.

I read him the contents of this card, and Kim signed the card across the face.

By The Court:

Have that marked.

(Commonwealth's Exhibit No. 103 marked for identification.)

By Mr. Ertel:

Q. Commonwealth's Exhibit No. 103, can you identify th

A. Yes, Sir.

Q. What is it?

Corporal Houser.

A. It is a standard form advising the subject of his Constitutional Rights. On the reverse side of the form or card there is two questions.

Q. What are those questions?

A. "Do you understand these rights that I have explained to you? With these rights in mind, do you now wish to talk to us?"

Q. Did you get a response to those?

A. Yes.

Q. Is there a response written on the card?

A. Yes, there is.

Q. What, who wrote it?

A. Kim Hubbard.

Q. What is the response?

A. "Yes."

Q. Did he also sign the card?

A. He signed on the front, "Kim L. Hubbard".

Q. Is the time noted on there?

A. 1:58 .

Q. Who put that there?

A. I did.

Q. After you advised Mr. Hubbard of his rights, what, if any questions, did you ask him?

A. I asked him three questions.

Q. What were those questions and what were the responses?

Corporal Houser.

*Profell
Suspect?*
↓

By Mr. Fierro:

I would like to have the record show that this Officer is reading from a document, he is not testifying from memory.

By The Court:

Officer, you testify from your own recollection first and if you have no independent recollection, then see that Mr. Fierro sees the sheets or you may see them regardless, Mr. Fierro.

By Mr. Fierro:

He just looked at them.

By The Court:

You may see them if you care to.

By Mr. Fierro:

I will if it is appropriate.

By The Court:

Show them to Mr. Fierro. You testify from your own recollection, if you have none you may refresh your recollection. You are entitled to see the entire paper.

By Mr. Fierro:

Why are you folding it?

By Mr. Ertel:

It is an interview with another man, it has nothing to do with this, but if you would like to look at it, you can any time that you like.

By The Court:

You are entitled to see the entire paper.

Corporal Houser.

By Mr. Ertel:

Q. What questions did you ask him?

A. I asked him if anyone other than himself drove his car and he said "No."

Q. What else did you ask him?

A. I asked him then would it be safe to assume on the 19th of October, would it be safe to assume he was driving his car, and he stated "Yes".

Q. Was there anyother question?

A. There was, but I don't recall what it is right at the present time.

Q. Do you have that written on your sheet?

A. Yes.

By The Court:

You may complete looking at that first, Mr.

Fierro.

By Mr. Fierro:

I don't want it shown to him, your Honor.

By The Court:

Q. You have no independent recollection of what the third question was?

A. No, Sir.

Q. Are these your notes?

A. Yes, Sir, these were typed immediately after he left.

Q. You may refresh your recollection, not read from it, just refresh your recollection, otherwise it will be past recollect-

Corporal Houser.

ion recorded if it does not refresh it.

By Mr. Ertel:

Q. What was the third question, if you recall?

A. "Then from the time that the girl was missing to date, has anyone else driven your car?", and the answer was "No."

By Mr. Fierro:

I object, he previously stated that that is not the third question.

By The Court:

No, Sir.

By Mr. Ertel:

That is independent and different question.

By The Court:

By my notes it is different than the first.

By Mr. Ertel:

Q. What happened after you asked him those three questions?

A. I believe Kim left, left the building.

Q. You no longer talked to him at that point?

A. No, Sir.

Q. Cross examination.

CROSS EXAMINATION

By Mr. Fierro:

Q I would like to see that sheet. Now, let's see, you said you asked him three questions and they are on this sheet?

Corporal Houser.

A. Yes, Sir.

Q. One of your answers to a question that you put to him you said was that if his car was driven and seen on October 19th that he would be the person who was driving it, is that the, that is the question you asked him you said and he answered you he said, "Yes, that would be true.", is that correct?

A. Yes.

Q. And you specifically said that one of those questions that you inserted the date, that "If your car was driven on October 19th, you would have been the person who drive it?" correct?

A. Yes.

Q. That is the question you asked him?

A. Yes.

Q. And you said the three questions are on this sheet, didn't you?

A. Yes.

Q. Will you show me on this sheet any question that you asked him about pertaining to October 19th?

A. There is no date as far as the October 19th. The question would be "From the time that the girl was missing..."

Q. Officer, didn't you testify that you asked him a question about if his car was driven on October 19th that he would be the one who drive it, you said that question was on this sheet, didn't you?

A. I did.

Corporal Houser.

Q. And it is not on that sheet, is it?

A. If I said this, I was in error.

Q. You were in error. Please let me have the sheet again. Now, I noticed when you were answering one of these questions you have a notebook opened in front of you, don't you?

A. Yes.

Q. And what you are looking at, does that contain also notes of this particular interview with Kim?

A. No, Sir, it does not.

Q. Okay. Are these the questions that you asked this boy that day?

A. Yes, Sir.

Q. I see that the District Attorney was present, correct, Chief Smith and Captain Ross and Trooper Jones, and I suppose Trooper Gomb, it just says "Gomb", and Corporal Barto and Lieutenant Hynick and Sgt. Peterson?

A. Yes, Sir.

Q. And you, now were all of you people questioning him?

A. No, Sir.

Q. Well, I mean one at a time?

A. No, Sir.

Q. Were you the only person that questioned him?

A. No, Sir.

Q. Well, then others were questioning him?

A. Others were asking questions yes, Sir.

Q. I Mean of Kim Hubbard, they were asking him?

A. Yes.

Remember
 I duplicated
 always
 questions
 at
 Kim's

Corporal Houser.

Q. Were all of these people that I just mentioned, did they all take turns questioning Kim?

A. No, Sir.

Q. Several of them?

A. I would say approximately two.

Q. Approximately two?

A. Yes.

Q. Particularly the District Attorney?

A. Yes, Sir.

Q. Just a few questions, I don't know what number the Exhibit is, but you have an Exhibit that you said contains blue jeans with red hearts?

A. Yes, Sir.

Q. Are you saying that the blue jeans with the red hearts, that that piece of clothing was not on the victim's body when the victim was found?

A. That is correct.

Q. Well, the piece of jeans, dungarees, whatever they may be called, that was found on Jennifer's body, did it have red hearts on the knees?

A. No, Sir.

Q. It did not?

A. No, Sir.

Q. There was apparently between the feet, Jennifer's feet and the edge of this lane, this farm lane, there was approximately a 15 foot spread there, isn't there?

A. I didn't measure it, Sir.

Corporal Houser.

Q. You don't have to?

A. I would not think it would be 15 feet.

Q. What do you think it would be?

X A. Six to eight feet.

Q. Now, in that six to eight feet between the edge of the lane and where Jennifer's feet were, were there any footprints? *see Miller's Testimony*

A. I did not check this area, Sir.

Q. Well, you were there at the body?

A. I was standing out on the road or on the.... *Pat 263*

Q. How close did you get to the body, Corporal?

A. When, at one time the first approach in touching distance.

Q. How close did you get to the feet?

didn't
Moved
A. I assisted in moving the girl's body to the east.

Q. All right, well, then you were close enough, you were within a few feet, 10 feet to the edge of the lane, weren't you?

A. Yes, Sir.

Q. You were standing where the body was lying, because you helped move it, is that correct?

A. That is correct.

Q. Did you find any footprints between the girl's feet and the lane?

A. I did not observe any, Sir.

Q. You mean you didn't look?

Corporal Houser.

A. I didn't approach the body from this general direction.

Q. No matter which way you approached, you mean you didn't look where the girl's feet were?

A. Mr. Fierro....

Q. Just answer the question.

By Mr. Ertel:

I think he can answer the question, and I think that he is entitled to.

By Mr. Fierro:

I know he is entitled to, and I want him to answer the question.

By Mr. Ertel:

Why did you cut him off when he said, "Mr. Fierro"?

By Mr. Fierro:

I know my own name, I would just like to have an answer to the question.

By The Court:

Read the question.

(Official Reporter read question as follows: "Q. No matter which way you approached, you mean you didn't look where the girl's feet were?")

By The Court:

You can answer it "Yes" or "No"?

A. At what time, Mr. Fierro?

He means a which scene

Corporal Houser.

By Mr. Fierro:

Q. You pick the time?

By Mr. Ertel:

I object to the question.

By Mr. Fierro:

I want him to pick the time as to when he looked in the neighborhood of the girl's feet, I don't know what time that was, he said to me, "What time?", now you tell me?

A. At no time did I go from the girl's feet out to the lane, in that direction.

Q. I didn't ask you if you went there?

A. I didn't observe any.

Q. What I am trying to find out, and if you know, or if you can tell me who knows, I want to know whether anybody saw any footprints between the lane and the girl's feet, and you don't know that, do you?

A. No.

By Mr. Ertel:

I would be happy to stipulate that we have an Officer in the Court Room who examined that area.

By Mr. Fierro:

I would like to know what he knows about it too.

By The Court:

This is the witness on the stand.

By Mr. Fierro:

Q. How many times did you talk to Kim Hubbard?

A. My recollection is twice.

Corporal Houser.

Q. Once at Borough Hall?

A. Yes, Sir.

Q. Where was the other place?

A. Just east of Kim's home.

Q. You mean outside on the street?

A. Yes, Sir. Kim was sitting on the front porch of the house and Chief Smith and I drove by.

Q. Were you active in this investigation, that is to say other than what you testified to about collecting materials and transporting them to Harrisburg and the like? I am not interested in that custodial feature of your investigation, did you do anyother investigation, for example like going door to door or trying to find witnesses or things of that nature?

A. Yes, Sir, I did.

Q. Were you one of the Officers who were stopping cars showing a picture of a young man, with dark hair, around age 30, driving a light colored Pontiac, were you one of them?

A. Yes, Sir, I was.

Q. How many days did you do that?

By Mr. Ertel:

I object to this, it is totally irrelevant.

By Mr. Fierro:

Not too much, because we intend to show....

By The Court:

Do you expect to follow it up why it is material?

Alcohol
Suspect

Corporal Houser.

By Mr. Fierro:

We intend to show that the Commonwealth.....

By Mr. Ertel:

I object to this, may we have it at Side Bar?

(Side Bar consultation not made a part of the record.)

By The Court:

Proceed, Mr. Fierro.

Q. Do you recall the question, Sir?

A. No, Sir.

Q. Read the question back?

(Official Reporter read question as follows: "Q. Were you one of the Officers who were stopping cars showing a picture of a young man, with dark hair, around age 30, driving a light colored Pontiac, were you one of them?")

By The Court:

The objection is over ruled, you may answer?

A. Actual checking vehicles, stopping cars on the street, one day.

By Mr. Fierro:

Q. How many days did you do that?

A. Actual stopping, just one day.

Q. I assume that is a working day, like around eight hours?

A. No, Sir, only one time.

Q. What does that mean, "a time"?

A. Approximately an hour and a half.

Q. Did you do it at anyother time or is just that one

Corporal Houser.

day?

A. I didn't.

Q. Somebody else did?

A. Possibly.

Q. Don't you know?

A. No, Sir.

Q. Without mentioning names, do you know whose photograph you were showing?

A. I don't recall the name now, Sir.

Q. But you knew it at the time?

A. Yes, Sir.

Q. And you showed a photograph of a man about aged 30?

A. Yes, Sir.

Q. Dark hair?

A. Yes.

Q. Owned a light Pontiac?

A. Yes.

Q. How many people did you stop and show that photograph to?

A. I probably showed it to maybe 20 or 30 people.

Q. Now, did you stop and show people Kim Lee Hubbard's photograph?

A. No, Sir.

Q. Never?

A. No, Sir, not at that time.

Q. Well, when I say "never", you say "Not at that time.", I don't understand you?

Corporal Houser.

A. I didn't.

Q. You didn't, I am asking you did you ever show Kim Hubbard's photograph?

A. No.

Q. Now, outside of this one photograph of this man, age 30, did you show anyother photograph?

A. I didn't.

Q. Other people did, other Officers did that you know of?

A. I don't know.

Q. Were you one of the Officers in the course of your investigation that tried to find out where Kim Lee Hubbard may have been let's say between the hours of say 4:00 and 500?

A. Yes, Sir.

Q. Did you check the neighborhood?

A. Yes, Sir.

Q. That is where Kim lives?

A. Yes.

Q. Did you check next door to where Kim Lee lives, that would be on the north side of West Central Avenue and towards the east, that would be the Grimes' family, did you check there?

A. I didn't, Sir.

Q. You didn't?

A. No.

Q. What area were you checking?

A. I recall checking one home, which would have been on the northwest corner of the alley.

Q. Just the one home?

Corporal Houser.

A. In that area, yes, Sir, that is it.

Q. And in the course of your investigation, did you che to find out whether or not there were any cars similar to Kim Lee Hubbard's especially in the South Williamsport area? Did you?

A. I didn't, Sir.

Q. You didn't?

A. No.

Q. Do you know, Officer, whether or not there are cars exactly like Kim's, that is color and construction, model number and soforth in that area?

A. Well, I suppose there is.

Q. You suppose there?

A. I would imagine there is quite a few in the area.

Q. But how about some or even another one that is even damaged in a similar fashion?

By Mr. Ertel:

I object.

By Mr. Fierro:

I want to know if he knows through his investigation.

By The Court:

Q. Do you understand the question?

A. Yes, Sir.

Q. You may answer?

A. It would be highly unlikely.

By Mr. Fierro:

Q. It might be highly unlikely, but do you know such

Corporal Houser.

cars exist?

A. I have no actual knowledge.

X Q. You didn't assist, as I understand in the lifting of the various prints, did you?

A. No, Sir.

Q. How many tires did you take down to Harrisburg? You took more than four, didn't you?

A. Yes, Sir.

Q. I only see four here, how many did you take down to Harrisburg?

108 4.12 X A. I took some from a vehicle owned by the State, from the Environmental Resources.

Q. That is because there was some snow tire tracks in the area of the lane, the farm lane that we are talking about?

A. Yes, Sir.

Q. Did you examine that farm lane closely when you were over there, or didn't you?

A. I did not.

Q. That is all.

By The Court:

Mr. Ertel?

RE-DIRECT EXAMINATION

By Mr. Ertel:

Q. Officer, you said you took some other tires down to Harrisburg, would you describe how you took those down there?

A. I went to the Environmental Resources' Office and drove it, the Scout to Harrisburg, and I was there while they

Corporal Houser.

1111
1300
secret to 412.

took them off of the vehicle in the garage and took them in to the Crime Laboratory.

Q. Were those tires put back on then?

A. They were brought back from Harrisburg and put back on the same vehicle at the State Police Garage in Montoursville.

Q. Were you present when that was done?

A. No, Sir, I was not.

Q. Now, Officer, you had a photograph, as Mr. Fierro pointed out, of an individual when you stopped some cars, can you tell us was that prior to the time the body was found?

A. Yes, Sir, it was.

Q. Officer, I hand you what is your report and you stated that there was something incorrect, are they verbatim questions on that report?

By Mr. Fierro:

I object to this.

By Mr. Ertel:

It is obvious, at this point I would introduce this and mark it as past recollection recorded, because he now does not have the absolute correct recollection of that and I would like to put those in for that purpose.

By The Court:

Any objection to the report going in?

By Mr. Fierro:

Yes.

By The Court:

That objection is sustained, but the other objection

Corporal Houser.

is over ruled. The question is are they verbatim questions on that report?

A. Are they questions I asked?

By Mr. Ertel:

Q. Yes?

A. Yes, Sir, the three questions are on here.

Q. Are they as nearly as you asked them at that time?

By Mr. Fierro:

I object to this, he is leading.

By The Court:

Refrain from leading your witness.

By Mr. Ertel:

Q. Would you look at that and refresh your recollection and testify as nearly as possible to what you asked Kim.....

By Mr. Fierro:

I object, we have gone over this.

By The Court:

The objection is over ruled.

By Mr. Ertel:

Q. Let's start with question number one.....

By Mr. Fierro:

Then I will renew my objection, he is going to start all over.

By The Court:

May I see Counsel?

(Side Bar consultation not made a part of the record.)

By The Court:

The objection is over ruled, you may answer, Sir.

A. Well...

By Mr. Ertel:

Q. What was question number one?

By Mr. Pierro:

Your Honor, I object, first he must do it from his memory.

By The Court:

Q. You have no independent recollection specifically?

A. No, Sir.

Q. Now you may refresh your recollection and then give the answer, but not read from the paper.

By Mr. Pierro:

Your Honor, I object. Let the record show that this Officer did refresh his recollection at least twice, once when I showed it to him and once when the District Attorney showed it to him.

By The Court:

The Court understands that, Sir.

By Mr. Ertel:

Q. Number one, would you tell us what question number one was and what the response was?

A. "Has anyone ever driven...", just a minute until I gather myself. If anyother persons drive his car.

Q. What was his answer?

A. "No."

Must proceed out!

Corporal Houser.

Q. What was question number two?

A. "From the time the girl was missing until this date, has anyone driven your car?"

Q. The answer?

A. "No."

Q. What was question number three?

A. "Then if your car was seen, would it be safe to assume that you were driving it?"

Q. His answer?

A. "Yes."

Q. No further questions.

RE-CROSS EXAMINATION

By Mr. Pierro:

Q. Go all over it again, there is nothing in there about October 19th, is there?

A. No, Sir.

Q. But you said at one time there was, didn't you?

A. Yes, Sir.

Q. All right, by the way, I know that you have some other notes there, and you were asked about the time you were showing this photograph around, was that on West Central Avenue that you were showing this photograph of this young man, 30 years old, with a light Pontiac?

A. It was on the same street that Kim lives on.

Q. That is West Central Avenue?

A. Yes.

Q. Now, in your notes, did you keep some sort of log,

some sort of record as to when that was done?

A. No, Sir, I did not.

Q. You didn't do that?

A. No, Sir.

Q. Are you sure that it wasn't done after her body was found?

A. To my recollection, no.

Q. Your recollection of that is as good as your recollection as it was October 19th in that letter, is that right?

By Mr. Ertel:

Objection.

By The Court:

The objection is sustained.

By Mr. Fierro:

Nothing further.

By Mr. Ertel:

Thank you, Officer.

(Excused from witness stand.).

H. LUTHER DIEFFENBACHER, being duly sworn according to law, testified as follows:

By Mr. Fierro:

I would like to have an offer.

(Side Bar consultation not made a part of the record.).

DIRECT EXAMINATION

By Mr. Ertel:

Q. State your full name?

A. H. Luther Dieffenbacher.