

Susan Shellman.

And Now, to-wit, Tuesday, February 26, 1974, beginning at 9:35 A.M., EDST, the trial in the above-captioned matter was continued before the Honorable Charles F. Greevy, President Judge, and a Jury, in Court Room No. 1, at the Lycoming County Court House, Williamsport, Penna., at which time and place the Defendant was present with his Counsel and the following proceedings were had:

By The Court:

Proceed, Mr. Ertel.

SUSAN SHELLMAN, being duly sworn according to law, testified as follows:

By Mr. Pierro:

Offer.

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

DIRECT EXAMINATION

By Mr. Ertel:

Q. State your full name, please?

A. Susan Shellman.

Q. Where do you live?

A. 809 Main Street, South Williamsport.

Q. Do you know the Defendant, Kim Hubbard?

A. Yes.

Q. Do you know Colleen Whitenight?

A. Yes.

Q. Do you know if Colleen Whitenight is the girlfriend of Kim Hubbard?

Susan Shellman.

Q. Did you have occasion to receive some letters from Colleen Whitenight to keep for her?

A. Yes.

Q. Can you tell us exactly or approximately when that was?

A. I don't remember exactly when she gave them to me, all I know she gave them to me after, shortly after she received them.

Q. Well, can you give us an approximation, whether it was months or weeks?

A. At least a month, probably over a month.

Q. I show you marked as Commonwealth's Exhibit No. 116, and ask you if you can identify that?

A. Yes.

Q. What is it?

A. It is a letter that Colleen gave me to hold for her and it is a letter from Kim.

Q. Cross examination.

By Mr. Fierro:

No questions.

By Mr. Ertel:

May I ask one more question?

By The Court:

Yes.

By Mr. Ertel:

Q. Was this after Kim was arrested?

A. Yes, it was.

Doris Shellman.

72

(Excused from witness stand.).

(Off-the-record discussion.).

By Mr. Fierro:

This is Commonwealth's Exhibit No. 114, which is admitted.

By The Court:

What is the date and time on that? Mr. Fierro had or has no objection to Exhibit No. 114, that is the receipt, and that is admitted.

(Commonwealth's Exhibit No. 114 admitted into evidence.).

DORIS A. SHELLMAN, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

(Commonwealth's Exhibit No. 117 marked for identification.).

Q. State your full name?

A. Doris Shellman.

Q. How old are you?

A. 48.

Q. Where do you live?

A. 809 Main Street, South Williamsport.

Q. The girl who just testified, Susan Shellman, is she your daughter?

A. Yes.

Q. Did you have the occasion to discover some items in her purse, specifically letters?

A. Yes.

Q. When did you do that to the best of your recollection?

Doris Shellman.

72

(Excused from witness stand.).

(Off-the-record discussion.).

By Mr. Fierro:

This is Commonwealth's Exhibit No. 114, which is admitted.

By The Court:

What is the date and time on that? Mr. Fierro had or has no objection to Exhibit No. 114, that is the receipt, and that is admitted.

(Commonwealth's Exhibit No. 114 admitted into evidence.).

DORIS A. SHELLMAN, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

(Commonwealth's Exhibit No. 117 marked for identification.).

Q. State your full name?

A. Doris Shellman.

Q. How old are you?

A. 48.

Q. Where do you live?

A. 809 Main Street, South Williamsport.

Q. The girl who just testified, Susan Shellman, is she your daughter?

A. Yes.

Q. Did you have the occasion to discover some items in her purse, specifically letters?

A. Yes.

Q. When did you do that to the best of your recollection?

When did you do that to the best of your recollection?

Doris Shellman.

A. I am not sure, but it was about two weeks ago, maybe a little longer.

Q. Would you describe how that came about?

A. I was in her room cleaning, making the bed and straightening up and I was looking for some Kleenex and I am not in the habit of getting in her pocketbook, but it was there, and I was looking for Kleenex and I saw those letters.

Q. What did you do?

A. I was concerned and I took them out and looked at them.

Q. I show you marked as Commonwealth's Exhibit No. 116, can you identify that?

A. Yes, that is one of them.

Q. I show you marked as Commonwealth's Exhibit No. 117, which is an Exhibit of three items?

A. Yes, Sir, that is the other one.

Q. You saw both of those?

A. Yes.

Q. You extracted them from the purse?

A. Yes.

Q. Cross examination.

By Mr. Pierro:

No questions.

(Excused from witness stand.).

CARL E. FENSTERMACHER, being duly sworn according to law, testified as follows:

Doris Shellman.

A. I am not sure, but it was about two weeks ago, maybe a little longer.

Q. Would you describe how that came about?

A. I was in her room cleaning, making the bed and straightening up and I was looking for some Kleenex and I am not in the habit of getting in her pocketbook, but it was there, and I was looking for Kleenex and I saw those letters.

Q. What did you do?

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A. Yes, Sir, that is the other one.

Q. You saw both of those?

A. Yes.

Q. You extracted them from the purse?

A. Yes.

Q. Cross examination.

By Mr. Pierro:

No questions.

(Excused from witness stand.).

CARL E. FENSTERMACHER, being duly sworn according to law, testified as follows:

Carl Fenstermacher.

DIRECT EXAMINATION

By Mr. Ertel:

Q. State your full name, please?

A. Carl Eugene Fenstermacher.

Q. Your occupation?

A. Office Manager for Stroehmann's.

(Commonwealth's Exhibit No. 118 marked for identification.).

Q. I show you what has been marked as Commonwealth's Exhibit No. 118 and ask you can you identify that?

A. Yes, that is an application, Kim applied to our Plant.

Q. That is his handwriting on the application?

A. That, I do not know, but if he filled it out, it would be his.

Q. Cross examination.

CROSS EXAMINATION

By Mr. Fierro:

Q. Mr. Fenstermacher, do you have records with you showing when Kim Hubbard went to work for your Company?

A. Yes.

Q. Do you have them with you?

A. Right here, Sir.

Q. Will you please tell the Jury when Kim Hubbard want to work for your Company?

A. The 24th.....

By Mr. Ertel:

I object, this is not relevant, the Application is the

Carl Fenstermacher.

only thing I called him, if he wants to call him in his case, that is different.

By Mr. Fierro:

He is still a Commonwealth witness.

By The Court:

The objection is over ruled.

A. October 24th.

By Mr. Fierro:

Q. Was that the first time that Kim Hubbard went to work for your Company, according to your records?

A. Yes.

Q. Do you know what time he went to work?

A. 4:00 in the afternoon.

Q. Do you know what Plant he went to work in?

A. At the Plant on Lycoming Creek Road.

Q. Do you know who his boss or Supervisor is, whatever they may be called, who was his boss on that shift?

A. It would have been Terry Andrews.

Q. Did you say that you are the Manager?

A. Office Manager.

Q. Of this particular Division?

A. That is correct.

Q. Do you know whether or not your Company has any policy concerning the issuance of equipment?

By Mr. Ertel:

Objection.

Carl Fenstermacher. - George Johns.

By The Court:

The objection is sustained.

By Mr. Fierro:

Q. Do you have any records as to when equipment may have been issued?

A. No, Sir.

By Mr. Ertel:

Objection.

By The Court:

It was answered, I will permit it to stand.

By Mr. Fierro:

No further questions.

(Excused from witness stand.).

GEORGE JOHNS, being duly sworn according to law, testified as follows:

(Commonwealth's Exhibit No. 119 marked for identification.

DIRECT EXAMINATION

By Mr. Ertel:

Q. State your full name?

A. George Johns.

Q. Your occupation?

A. Assistant Principal at the South Williamsport High School.

Q. Mr. Johns, do you know Kim Hubbard?

A. Yes, I do.

Q. Was he a student at the South Williamsport High School?

A. Yes, he was.

Q. That is all, I have no further questions.

By Mr. Pierro:

Thank you, Mrs. Hubbard, you may step down.

May she be excused?

By Mr. Ertel:

She may be excused.

By Mr. Pierro:

You may be excused. Your Honor, may we come to Side Bar?

(Excused from witness stand.).

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

By The Court:

The Defendant is excused for 15 minutes. The Jury is excused. Court is recessed.

(Recessed at 4:15 P.M. and reconvened at 4:55 P.M.).

CARL FENSTEMACHER, previously sworn, recalled to the witness stand and testified as follows:

DIRECT EXAMINATION

By Mr. Pierro:

Q. We had your name before, please repeat it for the record?

A. Carl Fenstermacher.

Q. What is your occupation?

A. Office Manager.

Q. Of what?

A. Strohmann Brothers Company, the Roll Plant.

Q. Where is that located?

Carl Fenstermacher.

A. 3375 Lycoming Creek Road.

Q. You were subpoenaed to bring certain records concerning Kim Hubbard, weren't you?

A. Yes, that is correct.

Q. Did you bring those records?

A. Right here.

Q. Are they the official copies, official records of the company?

A. These are notarized copies of the originals.

Q. Are they and were they under your supervision as Plant Manager?

A. That is correct.

Q. Do they show when Kim Hubbard went to work at Stroehmann's?

A. They do so.

Q. Will you tell us by looking at the record, unless you have a memory of it, would you please tell us when Kim Hubbard went to work at Stroehmann Brothers?

A. At 4:00 P.M. on October 24th.

Q. Of what year?

A. 1973.

Q. Now, Mr. Fenstermacher, as the Plant Manager, do you know whether certain equipment is issued to employees?

A. Yes.

Q. Do you know what employment Kim was given on October 24th?

A. He was to work as a Baker's Helper in our Sweet

Rolls Department.

Q. In that Department, as, do you know as Plant Manager whether equipment is issued to those employees?

A. It is issued to all employees.

Q. To all?

A. To all.

Q. Let's just talk about Kim, of course he was one of the employees, now what equipment on October 24th of last year was issued to Kim Hubbard or any new employee that went to work at your Plant?

A. Normally, when a person is put to work he is given a helmet and a uniform and that is it.

Q. When you say "a uniform", what does that mean?

A. Pants and shirt, or dress in the case of a woman.

Q. Now, I am going to show you marked for identification as Commonwealth's Exhibit No. 115, and I want you to look at it, if you wish you may remove it from the bag, unless you don't need to, that is up to you?

A. That is the brand.

Q. That was, that is what brand?

A. The brand we issue at our Plant.

Q. You have just said this is the brand, that Commonwealth's Exhibit No. 115, that is the brand helmet that is issued at your Plant?

A. That is correct.

Q. Is that correct?

A. That is correct.

Carl Fenstermacher.

Q. Cross...I am sorry, do you know whether or not this equipment is issued when the man goes to work or before he goes to work?

A. I cannot definitely say, it could be either time. Normal practice is when a man goes to work.

Q. Okay, cross examination.

CROSS EXAMINATION

By Mr. Ertel:

Q. Mr. Fenstermacher, I believe we do have one part of your record that is not there, is that correct?

A. Yes, the Employment Application.

Q. Do you know when he applied to Stroehmann's?

A. I believe the Application was dated 10-10-73.

Q. You don't know, of course, who interviewed him or when this was made out do you, or did you do it?

A. I may have, I couldn't truthfully say at this point.

Q. You don't know?

A. No, we get too many people in, I don't recall.

Q. Incidentally, do you know what time he quit your Plant?

A. His last day of work you mean?

Q. Yes?

A. No, not without looking in the file.

Q. Would you look?

A. I would guess the Wednesday after he started, the following Wednesday.

Carl Fenstermacher.

Q. Will you check?

A. Sure.

Q. Please?

That would have been October 30th at half-past

Q. That was his last day?

A. Yes.

Q. Is it your normal policy when a man quits to have
him r his uniform and helmet?

A. He did not quit as such, that was his last day of
work.

Q. He just never came back?

A. Yes.

Q. You don't know if he surrendered his helmet and
uniform

A. To my knowledge, he did not.

Q. But you didn't receive it?

A. I did not receive it.

Q. Do you know if anybody else could have received it?

A. Very possible.

Q. Now, this helmet, do you have serial numbers on them?

A. No.

Q. So there is no way to know that particular helmet
came from your particular establishment?

A. Just by the brand name.

Q. Do you know how many helmets with that brand name are
distributed in this area?

Carl Fenstermacher.

A. In our Plant probably 200 a year.

Q. Do you get them all back?

A. Not necessarily.

Q. How about other establishments in the area, does anyother establishment have them?

A. I know the other two Stroehmann Plants have the same brand.

Q. You don't have the records from the other Stroehmann Plants, do you?

A. No.

Q. You don't know if he worked there at them, do you?

A. No, I do not.

Q. Did he give any previous employment on Commonwealth's Exhibit No. 118 which you had with your files?

A. I don't believe, no, there is nothing marked on.

Q. Nothing at all?

A. The U.S. Army is the only thing that was shown there.

Q. I have no further questions.

By Mr. Pierro:

I don't either. May he be excused?

By Mr. Ertel:

(Excused from witness stand.).

Carl Fenstermacher. - George Johns.

By The Court:

The objection is sustained.

By Mr. Fierro:

Q. Do you have any records as to when equipment may have been issued?

A. No, Sir.

By Mr. Ertel:

Objection.

By The Court:

It was answered, I will permit it to stand.

By Mr. Fierro:

No further questions.

(Excused from witness stand.).

GEORGE JOHNS, being duly sworn according to law, testified as follows:

(Commonwealth's Exhibit No. 119 marked for identification.

DIRECT EXAMINATION

By Mr. Ertel:

Q. State your full name?

A. George Johns.

Q. Your occupation?

A. Assistant Principal at the South Williamsport High School.

Q. Mr. Johns, do you know Kim Hubbard?

A. Yes, I do.

Q. Was he a student at the South Williamsport High School?

A. Yes, he was.

George Johns.

Q. I show you marked as Commonwealth's Exhibit No. 119, can you identify those?

A. They are excuses that were given to me as Attendance Officer, for Kim's absence.

Q. Was Kim authorized to write his own excuses?

A. Yes, he was.

Q. Are they signed by Kim?

A. Yes.

Q. Now, there is some writing on one of them, is there not, that is not Kim's?

A. Yes, at the top the dates are mine.

Q. Cross examination.

By The Court:

Mr. Fierro.

CROSS EXAMINATION

By Mr. Fierro:

Q. You are here to identify Kim's handwriting, in other words, that you are familiar with it, are you?

A. No, I am testifying that these were given to me for excuses.

Q. You are not familiar with his handwriting then, are you?

A. No.

Q. No further questions.

(Excused from witness stand.).

By Mr. Ertel:

We offer into evidence Commonwealth's Exhibits Nos. 116 through 119.

By The Court:

Any objection?

By Mr. Fierro:

Yes.

By The Court:

The Court will reserve its' ruling at this time.

JOHN S. GENCAVAGE, being duly sworn according to law,
testified as follows:

DIRECT EXAMINATION

y Mr. Ertel:

Q. Would you state your full name?

A. John S. Gencavage.

Q. What is your occupation?

A. I am questioned Document Examiner at the State
Police Crime Laboratory in Harrisburg, Penna.

Q. How long have you been a Document Examiner?

A. Approximately ten years.

Q. During that period of time, how many documents
have you examined?

A. Thousands.

Q. Do you examine those documents to determine the
handwriting and whose handwriting they are?

A. Yes, Sir, that is part of my work.

Q. (To The Court.). I offer this man as an
expert as being a Document Examiner as to handwriting.

By The Court:

Any objection?

By Mr. Fierro:

Yes.

By The Court:

The Court will reserve its' ruling at this time.

JOHN S. GENCAVAGE, being duly sworn according to law,
testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

Q. Would you state your full name?

A. John S. Gencavage.

Q. What is your occupation?

A. I am questioned Document Examiner at the State
Police Crime Laboratory in Harrisburg, Penna.

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A. Approximately ten years.

Q. During that period of time, how many documents
have you examined?

A. Thousands.

Q. Do you examine those documents to determine the
handwriting and whose handwriting they are?

A. Yes, Sir, that is part of my work.

Q. (To The Court.). I offer this man as an
expert as being a Document Examiner as to handwriting.

John Gencavage.

By Mr. Fierro:

Your Honor, we are willing to stipulate as to whatever Kim Hubbard wrote, but the District Attorney don't want the stipulation, he wants this man to testify about it and waste time.

By Mr. Ertel:

I object to the speech.

By Mr. Fierro:

We are willing to stipulate.

By The Court:

Are you willing to stipulate that Exhibits Nos. 116, 117, 118 and 119.....

By Mr. Fierro:

All that I saw is one, I can show my Client the rest of them and we are willing to stipulate if he wrote them, he wrote them. We don't need this testimony.

By The Court:

Any objection?

By Mr. Ertel:

I have no objection if he stipulates he wrote the letter.

By The Court:

Would you show them to him?

By Mr. Fierro:

He was not willing to stipulate.

By The Court:

Show him all four.

John Gencavage.

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:

Do you have any objections to this Gentleman's qualifications, Mr. Fierro?

By Mr. Fierro:

No.

By The Court:

You may proceed, Mr. Ertel.

By Mr. Ertel:

The stipulation is not on record.

Q. Mr. Gencavage, did you have the opportunity to examine Exhibit No. 116, 117, 118 and 119?

A. Yes, Sir, I did.

Q. Did you make a comparison of their handwriting?

A. Yes, I did.

Q. Did you determine whether or not they were written by the same person?

A. Yes, Sir, in my opinion they were.

Q. Can you show us why they are?

A. Yes, Sir, I am prepared to make a demonstration.

By Mr. Ertel:

We don't so dispute that, your Honor, his qualification or how he arrived at that conclusion.

John Gencavage.

By The Court:

The statement is on the record. Proceed, Sir.

A. I have the photographic composite which I prepared for the various handwritings involved in this case, if I may step down?

Q. Yes, Sir.

A. (Witness leaves stand.). This is a large photograph of various excerpts of the handwriting involved. The handwriting under the caption "Questioned" is part of the handwriting from Commonwealth's Exhibit No. 116. The handwriting under the caption "Standards" is specimen handwriting submitted to me as being specimen handwriting of Kim Lee Hubbard and is listed as Commonwealth's Exhibit No. 118 and 119. This is merely an enlarged photograph of various characteristics of the handwriting in question and in order that I might demonstrate the various characteristics which indicate and help me arrive at the conclusion that it was written by Mr. Kim L. Hubbard. If we just go quickly over the form, the manner in which the "K" is made, the stroke down, swinging the harpoon affect into the upper case "K", the approach stroke into the "i", the "m", the terminal stroke in the "m". If you compare this with the standard, you will see a variation which is called a natural variation in handwriting. If a person writes their signature ten times, they will vary ten times, at no time will you be able to superimpose one signature upon the other. People have natural variations in handwriting, that is what I am speaking about, so you will see that superficial difference in the upper line of the Standards, but if you compare with the "Kim" on the

John Gencavage.

second line, you will see the variations going back into the identical characteristics. Just quickly again, the manner in which the "H" is made, the free stroke movement, the same thing here, if you look at the very small approach, stroke, terminal stroke of "a" and going into the "r". But you will see identical characteristics in the questioned "Hubbard" and the standard "Hubbard", the similarity of the "s", the manner in which the word "to" is made, you will see the same thing here. The movements in the "o", the way it is terminated, the approach stroke of the "a" along with the approach going into the "n", see the same thing here. The "a" somewhat sets above the base line, and you must draw an imaginary base line, the approach stroke into "n", the stop of the pen after the "n". In the word "night" you see the same thing, the approach stroke in the "n" into the word "noise", but this is microscopic, you see see the stop after the termination of the "n". To get down into the word "things", you will see the small "t", the proportion of the "th" combination and you see it again in the standards. You will see the movement in the "g", you will see the same thing if you look at the movement in terminating "s" in the word "things". It goes up and down, there is a very swooping motion. You will see the same thing here, and part of the terminal stroke on the questioned "s", it is interlineated with the base line. It is difficult to see, but it is present. Now, we go into the handwriting, if we just look at the "K" the similarity in the "K", the "ing" combination, you will see the same thing, approach stroke, the downward approach stroke, the downward approach stroke of the printed "n", downward, up and slightly off on an

angle, terminating. You will see the same thing here touching the "g". You will see the manner in which the printed "e" is made, almost like an uppercase "e", very minute, terminating in the center of the "e". You will see the same thing here. Again the "Hubbard" uppercase, the "l", the manner in which it is made, the movement, you will see the same thing in the Standard "l". After taking all of these things into consideration, it is my opinion that the person that wrote these Standards also wrote the Questioned handwriting.

By Mr. Ertel:

Q. Now, will you take Commonwealth's Exhibit No. 116 and point out where you got the words in Commonwealth's Exhibit No. 116?

A. The name "Kim Hubbard" came off of the envelope. The word "to" was the sixth line from the top, it is the beginning of the, the beginning of the sentence on that line starts with a numeral "3", "You come to....". That is the word "to", where I got that and the word "and" I got from the 10th line down. That line begins with "home". The word "night" was on the last line of the front page.

Q. In other words, Mr. Gencavage, you found them throughout the letter?

A. Yes, I took various sections of the questioned writing and also the same is true of the standards.

Q. Thank you, take the stand. Cross examination.

A. (Witness returned to stand.)

John Gencavage.

By The Court:

Mr. Fierro?

By Mr. Fierro:

I have no questions.

By The Court:

That is all, Sir.

(Excused from witness stand.).

By Mr. Ertel:

Then we offer Nos. 116 through 119.

By Mr. Fierro:

I have to look at them.

By The Court:

Show them to Mr. Fierro before I rule.

By Mr. Fierro:

We agree they should be admitted into evidence.

(Commonwealth's Exhibits Nos. 116, 117, 118 and 119 admitted into evidence.).

By The Court:

They are admitted without objection.

By Mr. Ertel:

I would like to take the opportunity at this time to read No. 116 to the Jury.

By The Court:

Any objection?

By Mr. Fierro:

Yes, I don't think he should read it at this time.

By The Court: Come to Side Bar, please.)

John Gencavage.

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

(Mr. John Gencavage returned to witness stand.).

By Mr. Ertel:

Q. Will you read the letter which is Commonwealth's Exhibit No. 116 to the Jury, please?

A. The letter begins "Hi Colleen. Theses are the things you should know and if I am wrong about anything write and tell about it because we got to know it. 1. You called me at 4:30.....", there is a lead into a parenthesis or what appears to be..." (Why, because you looked at the clock and you was closing early that day....", there is no closing of parenthesis. "2. You called me at 7:00. Why, because you looked at the clock and you were not ready to come down yet.". Again, the "Why" began with an open parenthesis and no closed. "3. You come to my house at 7:20 7:25.". Another opening parenthesis and "Why, because you look at the clock when you got to my house.", no closing parenthesis. "4. You stayed at my house and were with me until about 12:45. Thats when you went home and I follow you home and when you got home and when home, and you called me about 1:05 to see if I got home Ok.", and then "rember..." rember, r e m b e r, "That while you were at my house we went parking two times 1. by the railroad tracks 2. Up on the mountain. After we went parking the 1st time, we stop at the hum Dinger and I talked to Ard S. and we got two cokes then we went home. Rember that we saw a movie before you got home that night.", and there is an arrow pointing to the right of the

John Gencavage.

page at the bottom. Beginning of the second page, the rear side of this page, "rember", that is r e m b e r, "...this and things will turn out OK. Colleen you know, I mean, I hope you know that I didn't kill anyone. I hope you believe me, because I will kill myself before I will go to Jail for something that I didn't even do. Love you always Kim. P.S. Here is one of your cassette tapes. Tape something to me like you were talking to me. They don't listen to the tapes, so talk to me. I love you Thank you for everything."

Q. Thank you, Officer, no questions.

By Mr. Fierro:

No questions.

(Excused from witness stand.).

By Mr. Ertel:

The Commonwealth rests.

By The Court:

Side Bar.

(AT SIDE BAR.).

By Mr. Fierro:

First, the Defendant demurs to the evidence on the grounds that there is not sufficient testimony in this matter to convict him beyond a reasonable doubt, that the testimony produced by the Commonwealth so far is vague, conjectural, and including the circumstantial evidence which is the only evidence that the Defense believes that the Commonwealth produced even is insufficient to support a verdict.

By The Court: Refused.

By Mr. Fierro:

Secondly, that the entire testimony produced by the Commonwealth does not establish First Degree Murder it so being the law, if believed that Murder has been established, but no Murder in the First Degree has been established and when Murder is established is merely Second Degree, and the Commonwealth must go beyond that to prove First Degree Murder, which in this case does not under all standards set by law.

By The Court:

Refused.

(END OF SIDE BAR.).

By The Court:

Proceed, Mr. Fierro.

(Mr. Fierro opened to Jury.).

By The Court:

We will take a recess before you call your first witness. The Defendant is excused. The Jury is excused. Court is recessed.

(Recessed at 10:35 A.M.).

(Reconvened at 10:55 A.M.).

By The Court:

Proceed, Mr. Fierro.

By Mr. Fierro:

Joseph Mendez.

Joseph Mendez.

JOSEPH A. MENDEZ, being duly sworn according to law,
testified as follows:

DIRECT EXAMINATION

By Mr. Pierro:

Q. What is your name?

A. Joseph A. Mendez.

Q. Where do you work?

A. Bethlehem Steel.

Q. Where do you live?

A. 1659 Hepburn Street.

Q. Are you married?

A. Yes, Sir.

Q. Joseph, last October 19th do you know whether
you had any appointment with anybody?

A. Yes, Sir, I had an appointment with Doctor Wengert
who is a Chiropractor on Market Street, I don't know the exact
address, but it is just before you turn off onto the Turnpike.

Q. What time was your appointment?

A. My appointment was for 4:00 in the afternoon.

Q. Did you keep that appointment?

A. Yes, Sir, the appointment was not for me, it was
for my wife.

Q. Well, did you drive your wife to that appointment?

A. Yes, I did.

Q. Were you driving or her?

A. I was driving.

Q. Was the appointment kept, let's put it that way?

Joseph Mendez.

A. Yes, Sir.

Q. Do you know if it was kept on time?

A. I am almost certain, I have never been late for an appointment to Doctor Wengert's office.

Q. Do you know what time you left your house or whatever to go there?

A. We left the house about 15 minutes before 4:00.

Q. Where did you say you left?

A. 1659 Hepburn Street, that is above Grampian Boulevard on Hepburn Street.

Q. Doctor Wengert, you have already testified where his office was at that time. Now, Joseph, will you tell this Jury as you were driving, what you saw at the corner of Market Street and West Central Avenue? That is, at that time on that day?

A. Well, as we pulled up to the corner the light was red and we stopped, and I happened to be glancing off to my righthand side and there was a young girl approaching the corner, and the only thing that I can recall is that she had the number "33" on the front of her jersey, and just as she got to the corner why the light changed and we went on to our appointment, and that is about all I can tell you about it.

Q. But you are sure of the number?

A. Absolutely, that number is the one I wore when I played football and it just stuck in my mind.

Q. Do you remember the color of the numbers?

A. The numbers were white and the shirt was blue.

Q. This is what you saw?

Joseph Mendez.

A. That is it.

Q. You are sure of that time, the day and what you saw?

A. Yes, Sir.

Q. Cross examination.

By The Court:

Mr. Ertel?

CROSS EXAMINATION

By Mr. Ertel:

Q. Mr. Mendez, you were interviewed by the State Police on the 5th of November, 1973, were you not, Sir?

A. Yes, Sir.

Q. Do you recall the Trooper who interviewed you?

A. No, Sir, I couldn't tell you his name.

Q. Would you describe him, please?

A. I would say he was about six feet tall and dark hair.

Had a suit on with a tie.

Q. Can you tell me the color of the suit?

A. He had a dark suit.

By Mr. Fierro:

We object to this.

By The Court:

Are you trying to ascertain who it was or do you know who it was?

By Mr. Ertel:

I know who it was.

By The Court:

The objection is sustained.

Joseph Mendez.

By Mr. Ertel:

Q. Was there anybody with him, do you recall?

A. When he came to my house, no, Sir.

Q. At that point, were you ever shown a picture of Jennifer Hill?

A. No, not up to that point, no.

Q. After that, were you shown a picture of Jennifer Hill?

A. He showed me a picture.

Q. You could not identify that, is that right?

A. Not by face, no, Sir.

Q. You said you did not, you could not identify it?

A. Right.

Q. And your comment was that the girl had shorter hair than the one in the photograph?

A. What I thought.

Q. And isn't it also true, Mr. Mendez, that that is all you knew concerning this, that you could not identify Jennifer Hill at that point?

A. No, I never said I could identify Jennifer Hill.

Q. Did your wife see this girl?

A. No, she didn't.

Q. Incidentally, Central Avenue and Market Street, what time approximately were you there?

A. It would have had to be between ten of four and 4:00, I couldn't exactly, I didn't look at my watch.

Q. She was only on the corner and you went through, is that right?

Joseph Mendez. - Paul Bubb.

A. That is right, the light was red, she got to the corner to wait until the light changed in her favor, and then the light changed against her and I went through and she had to stand there, I guess.

Q. She was standing on the corner when you left?

A. Yes, Sir.

Q. Incidentally, was she carrying anything?

A. I couldn't even begin to tell you, Sir.

Q. In fact, you didn't remember that at the time if she was carrying anything when the Police Officer talked to you?

A. No, I am telling you what I saw, just those two numbers, they stood out because of the previous fact that I stated. Other than that, I don't remember anything. You don't usually stare at people waiting for a light.

Q. You didn't see a Glick bag in her hand?

A. No, Sir.

Q. No further questions.

By Mr. Pierro:

That is all, thank you.

(Excused from witness stand.).

PAUL BUBB, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Pierro:

Q. State your name?

A. Paul Bubb.

Q. Where do you live?

Joseph Mendez. - Paul Bubb.

A. That is right, the light was red, she got to the corner to wait until the light changed in her favor, and then the light changed against her and I went through and she had to stand there, I guess.

Q. She was standing on the corner when you left?

A. Yes, Sir.

Q. Incidentally, was she carrying anything?

A. I couldn't even begin to tell you, Sir.

Q. In fact, you didn't remember that at the time if she was carrying anything when the Police Officer talked to you?

A. No, I am telling you what I saw, just those two numbers, they stood out because of the previous fact that I stated. Other than that, I don't remember anything. You don't usually stare at people waiting for a light.

Q. You didn't see a Glick bag in her hand?

A. No, Sir.

Q. No further questions.

By Mr. Pierro:

That is all, thank you.

(Excused from witness stand.).

PAUL BUBB, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Pierro:

Q. State your name?

A. Paul Bubb.

Q. Where do you live?

Paul Bubb.

A. 2207 West Mountain Avenue, South Williamsport.

Q. How old are you?

A. 17.

Q. Do you know Kim Hubbard?

A. Yes.

Q. Do you know Kim Hubbard's car?

A. Yes.

Q. Did you know what it looked like around October 19th?

A. Yes.

Q. Can you describe it to the Jury?

A. Well, what do you mean?

Q. What kind of car, what color?

A. It was '67 Oldsmobile, Cutlass, green, had
a smashed up fender.

Q. Which fender was smashed up?

A. The left front.

Q. Paul, did you see Kim on October 19th?

A. I don't think so, no.

Q. Did you see Mike Grimes on October 19th?

A. Yes.

Q. By the way, was there anyone with you on that
afternoon?

A. Yes.

Q. Who?

A. Keith Sampsell and Jeff Sampsell.

Q. Were you riding or walking?

A. We was riding in my car.

Q. In whose car?

A. Mine.

Q. Were the Sampells with you?

A. Yes.

Q. Do you know what time you saw Mike Grimes? Now, we are talking about October 19th?

A. Yes.

Q. What time did you see him?

A. Five of four.

Q. Five minutes to four?

A. Yes.

Q. What was he doing?

A. He was working on his car.

Q. Are you sure of that?

A. Yes.

Q. You are sure of the time?

A. Right.

Q. Did you stop and talk to Mike Grimes?

By Mr. Ertel:

I object, this is leading at this time.

By The Court:

Refrain from leading.

By Mr. Fierro:

Q. What did you do concerning Mike Grimes?

A. Stopped and "beeped" and said "Hi" and then took off.

Q. Did you recognize him?

Paul Bubb.

A. Yes.

Q. Paul, I am going to show you what has been marked for identification as Commonwealth's Exhibit No. 115, as we can all see this is a white helmet, isn't it?

A. Yes.

Q. Paul, did you ever see this helmet in Kim Hubbard's car?

By Mr. Ertel:

I object it is leading, and second, he never established he saw the car before the incident, he just said.....

By Mr. Fierro:

Q. Did you know Kim Hubbard's car before October 19th?

A. Yes.

Q. Did you know it since?

A. Yes.

By The Court:

The objection is over ruled.

By Mr. Fierro:

Q. Look at this helmet known as Exhibit No. 115, did you ever see it in Kim Hubbard's car?

A. No.

Q. Or on the ledge?

A. No.

Q. Or anywhere?

By Mr. Ertel:

I object, this is constant repetitive leading.

By The Court:

Refrain from leading.

Paul Bubb.

By Mr. Pierro:

Q. Did you see it any time before or after October 19th?

A. No.

Q. Cross examination.

By The Court:

Mr. Ertel?

CROSS EXAMINATION

By Mr. Ertel:

Q. Mr. Bubb, were you interviewed by the State Police?

A. Yes.

Q. Where were you interviewed by them?

A. At the Williamsport Community College.

Q. At that time did you or do you know who interviewed you?

A. I don't know his name.

Q. By the man next to me?

A. Yes.

Q. Did you tell him you were not sure you seen, if you seen the accused, I am sorry, you thought you saw the cousin of the accused, Michael Grimes on the 19th?

A. Right.

Q. You thought you saw him?

A. I am positive.

Q. You are positive now?

A. Yes.

Q. Did you talk with somebody who made you positive?

A. Yes.

Paul Bubb.

Q. Who made you positive?

A. The boys that were with me that afternoon.

Q. Who?

A. Keith and Jeff Sampsell.

Q. They told you that you saw him?

A. They didn't tell me, I knew I seen him.

Q. Did you tell the Police Officer you were not sure, but you thought you saw him around 15:30, which would be 3:30 in the afternoon?

A. That is what I told him then.

Q. What made you change your story?

A. I got talking it over with the boys that were with me and I talked to my sister about what time I got home that afternoon.

Q. You were talking to the Sampsell boys, again?

A. Yes.

Q. They told you it was five minutes to four?

A. Yes.

Q. Was the Grimes boy underneath his car?

A. Yes.

Q. He was underneath, working on the underside of the car?

A. Yes.

Q. You are sure of that?

A. Yes.

Q. Did you talk to Michael Grimes?

A. Just said "Hi" to him.

Paul Bubb.

Q. Did he crawl out from under the car?

A. No.

Q. Well, have you talked to Mike Grimes since this time?

A. Yes.

Q. Did he tell you he was underneath the car since that time?

A. Well, we didn't talk about that.

Q. Did you talk about it?

A. Yes.

Q. Did you talk to anybody else about the fact he was underneath the car, since then?

A. Just the Sampells.

Q. That has been since you talked to the Police Officer, is that right?

A. We might have discussed it since then, yes.

Q. No further questions.

By The Court:

Mr. Fierro.

RE-DIRECT EXAMINATION

By Mr. Fierro:

Q. You say you also talked to your sister?

A. Yes.

Q. Concerning the time?

A. Yes.

Q. That is all. You may step down.

(Excused from witness stand.).

Jeffrey Sampsell.

By Mr. Fierro:

May he be excused?

By Mr. Ertel:

I don't need him.

By The Court:

You may be excused.

JEFFREY SAMPSELL, being duly sworn according to law,
testified as follows:

DIRECT EXAMINATION

By Mr. Fierro:

Q. State your name and where you live?

A. Jeffrey Sampsell, I live at 2210 West Mountain
Avenue.

Q. Jeff, how old are you?

A. 16.

Q. Jeffrey, do you remember last October 19th?

A. Yes, I do.

Q. We all know that school was out that day, wasn't it?

A. Yes.

Q. Do you know Paul Bubbs?

A. Yes, I do.

Q. What, were you doing anything with him that afternoon?

A. Yes.

Q. What?

A. I was riding around with him.

Q. With anybody else?

A. Yes, Keith Sampsell.

Jeffrey Sampsell.

By Mr. Pierro:

May he be excused?

By Mr. Ertel:

I don't need him.

By The Court:

You may be excused.

JEFFREY SAMPSELL, being duly sworn according to law,
testified as follows:

DIRECT EXAMINATION

By Mr. Pierro:

Q. State your name and where you live?

A. Jeffrey Sampsell, I live at 2210 West Mountain
Avenue.

Q. Jeff, how old are you?

A. 16.

Q. Jeffrey, do you remember last October 19th?

A. Yes, I do.

Q. We all know that school was out that day, wasn't it?

A. Yes.

Q. Do you know Paul Bubbs?

A. Yes, I do.

Q. What, were you doing anything with him that afternoon?

A. Yes.

Q. What?

A. I was riding around with him.

Q. With anybody else?

A. Yes, Keith Sampsell.

Jeffrey Sampsell.

Q. Is Keith your brother?

A. Yes, he is.

Q. Can you tell us particularly with West Central Avenue, were you on that street that afternoon?

A. Yes, I was.

Q. Do you know about what time?

A. Around five of four.

Q. Around five of four?

A. Yes.

Q. Did you see anybody you knew?

A. Yes.

Q. Who?

A. Mike Grimes.

Q. What was Mike doing?

A. He was working on his car.

Q. You are sure of this?

A. Yes, I am.

Q. You are sure of the time?

A. Yes.

Q. Cross examination.

CROSS EXAMINATION

By Mr. Ertel:

Q. Is your brother here, Jeff?

A. Yes, he is.

Q. Did you ever tell your brother that you didn't recall seeing anything on October 19th as far as Mike Grimes?

A. No.

Jeffrey Sampsell.

Q. You didn't tell him that?

A. No.

Q. Where was Mike Grimes at the time you saw him?

A. He was under the car.

Q. Under the car?

A. Yes.

Q. Did he tell you what he was working on?

A. Yes.

Q. What?

A. The alternator, I mean the starter.

Q. He was working on the starter?

A. Yes.

Q. You are sure of that?

A. Yes.

Q. You talked to him about working on the starter?

A. Yes, we did.

Q. You had quite a conversation what was wrong, did he tell you what was wrong with the starter?

A. No, he didn't.

Q. You are sure of that time?

A. Yes, Sir.

Q. How are you sure of the time?

A. I, because I remember we had to go home at four and it was five of four.

Q. Did you see Mike's face?

A. Yes.

Q. Did he crawl out from under the car and stand up

Jeffrey Sampsell.

talk to you?

A. He said, "Hiya", and he talked to us a little bit.

Q. You mean he got out from under the car and stood up and talked to you?

A. Yes.

Q. You talked to him face to face?

A. No, we didn't, he was across the street.

Q. Across the street?

A. Yes.

Q. Well, did you see his face?

A. Yes, we did.

Q. What side of the street were you on?

A. We were on the right side, he was on the left side.

Q. You were going east?

A. Yes.

Q. Were you going towards Market Street?

A. Yes, we were.

Q. And he stood up and talked to you for a few minutes?

A. Just for a second.

Q. Did you see anyother car there at that time?

A. No, we didn't.

Q. Who were you with?

A. I was with Paul Bubb and Keith Sampsell.

Q. Now, Jeff, have you talked this over with Paul Bubb since the time Paul was interviewed by the Police Officer?

A. Yes, I did.

Q. What did you talk about?

Jeffrey Sampsell.

Q. Did you talk to anybody else?

A. No, I didn't.

Q. You didn't talk to Mrs. Hubbard?

A. No, we didn't.

Q. Or Mr. Hubbard?

A. No.

Q. Kim Hubbard?

A. No.

Q. You didn't talk to anybody else?

A. No.

Q. No one?

A. No.

Q. All right, no further questions.

RE-DIRECT EXAMINATION

By Mr. Pierro:

Q. Did you say you saw no other car there at that time?

A. Not familiar with me, but I noticed some cars, but I didn't, you know, recognize any. They were there, but I didn't know whose they were.

Q. All right, that is all.

By Mr. Ertel:

No questions.

(Excused from witness stand.).

By Mr. Pierro:

May he be excused?

By Mr. Ertel:

Yes.

Jeffrey Sampsell. - Keith Sampsell.

758.

By Mr. Fiorro:

You may be excused, that means you don't wait around, but please send your brother in.

KEITH SAMPSELL, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Fiorro:

Q. What is your name?

A. Keith Sampsell.

Q. Where do you live, Keith?

A. 2215 West Mountain Avenue.

Q. Now, how old are you?

A. 17.

Q. Do you know Kim Hubbard?

A. Yes.

Q. Did you know Paul Bubb?

A. Yes.

Q. You recall that last October 19th, don't you?

A. Yes.

Q. Primarily that is because school was out and that is when Jennifer disappeared?

A. Yes.

Q. Do you know what you were doing that afternoon?

A. Yes.

Q. Do you know who you were with that afternoon?

A. Yes, I was mostly with Paul Bubb.

Q. How about your brother?

Jeffrey Sampsell. - Keith Sampsell.

758.

By Mr. Fiorro:

You may be excused, that means you don't wait around, but please send your brother in.

KEITH SAMPSELL, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Fiorro:

Q. What is your name?

A. Keith Sampsell.

Q. Where do you live, Keith?

A. 2215 West Mountain Avenue.

Q. Now, how old are you?

A. 17.

Q. Do you know Kim Hubbard?

A. Yes.

Q. Did you know Paul Bubb?

A. Yes.

Q. You recall that last October 19th, don't you?

A. Yes.

Q. Primarily that is because school was out and that is when Jennifer disappeared?

A. Yes.

Q. Do you know what you were doing that afternoon?

A. Yes.

Q. Do you know who you were with that afternoon?

A. Yes, I was mostly with Paul Bubb.

Q. How about your brother?

Keith Sampsell.

A. I was with him too.

Q. Concerning West Central Avenue, were you on that street?

A. Yes.

Q. Riding or walking?

A. Riding.

Q. Whose car?

A. Paul Bubb's car.

Q. Who was driving?

A. Paul Bubb.

Q. What time were you on West Central Avenue, do you know?

A. I would say it was around five of four.

Q. You would say it was five of four?

A. Yes.

Q. Did you see anybody that you knew?

A. Yes.

Q. Who?

A. Mike Grimes.

Q. What?

A. Michael Grimes.

Q. Did you talk to him?

A. Well, I didn't talk to him.

Q. Who did?

A. Paul did.

Q. But did you see Michael Grimes?

A. Yes.

Keith Sampsell.

Q. What was he doing?

A. He was underneath his car.

Q. What conversation did you hear pass between Paul and Michael?

A. He just said "Hello", and he just said "Hello", and we left.

Q. Where did you go from there?

A. Back up to Paul's house.

Q. Cross examination.

By The Court:

Mr. Ertel?

CROSS EXAMINATION

By Mr. Ertel:

Q. How long were you at Paul's house?

A. When do you mean?

Q. When you went back up there?

A. I would say maybe 15 or 20 minutes.

Q. What did you do at Paul's house?

A. I was just talking to him, I couldn't say what I was talking about.

Q. What time did you have to be home that day?

A. Oh, I was supposed to go to work that day around, well I was supposed to be at work at 4:00, but I never went in until later.

Q. So you stayed at Paul Bubb's house for 20 minutes you say, approximately?

A. Yes. I think so.

Keith Sampsell.

Q. Then where did you go?

A. Then I went to work that day.

Q. How did you get to work?

A. I drove my car.

Q. Where do you work?

A. Rishel's.

Q. Did, do you punch a time clock there?

A. Yes.

Q. Now, do you remember talking to Officer Barto?

A. Yes.

Q. He asked you about October 19th, didn't he?

A. Right.

Q. You told him you don't remember seeing either
Kim Hubbard or Mike Grimes on that day?

A. I said I was not sure.

Q. Did you say you didn't remember seeing Mike
Grimes working on his car?

A. I said I didn't at that time, I didn't remember,
but I put more thought into it, because I was not that concerned.

Q. That was on the 13th of February you talked to him?

A. Who?

Q. Officer Barto?

A. Yes.

Q. Incidentally, when you talked to Mike Grimes what did
he tell you what was he working on?

A. He was working on the starter on his car.

Keith Sampsell.

A. No, he did not tell me that.

Q. He didn't tell you that?

A. No.

Q. Did he tell anybody else?

A. He told me this a couple of days after.

Q. He told you a couple days later?

A. Yes, you know, like we talked later on.

Q. Well, did you say what you did is saw him on the 19th and a couple of days later after the 19th you say he told you he was working on a starter?

A. Yes, it could have been later, I am not sure.

Q. You recall him telling you that?

A. Yes, I knew it was a starter though.

Q. Did you tell Officer Barto that?

A. No, that is how I remembered.

Q. That is before you talked to Officer Barto, wasn't it?

A. Right....no, wait a minute, what are you saying?

Q. When did he tell you he was working on a starter?

A. I don't remember when he told me that.

Q. Was it a few days after October 19th?

A. It could have been.

Q. Was it a week after?

A. I am not sure.

Q. Was it within a month?

A. Probably.

Q. Well, you had talked to him before you talked to

Keith Sampsell.

Officer Barto then, had you not?

A. Yes.

Q. You didn't tell Officer Barto you had this conversation, so you knew he was working on a starter on the 19th?

A. I didn't remember at that time.

Q. Who reminded you of this?

A. Paul did.

Q. He came and told you?

A. Yes, he told me. You know, you would not have remembered it, it is just something, he works, you know, like everybody works on their car, you know.

Q. Well, Officer Barto gave you an opportunity to think, did he not, when he talked to you?

A. Oh, yes, but see like that day I was working on a car, I was in a rush, I didn't have hardly any time.

Q. Incidentally, what did you converse about there at the time when you saw him on the street?

A. You mean the 19th?

Q. Yes?

A. We didn't, I just said, you know, Paul said "Hello", and that was it.

Q. Did Mike Grimes get out from underneath the car?

A. No.

Q. He stayed under the car?

A. Yes.

Q. He never got up and talked to you?

A. No.

Keith Sampsell. - Robert Fries.

Q. How do you know it was Mike Grimes?

A. Because he turned and looked and said "Hello".

Q. Was he underneath the car?

A. Yes.

Q. Could you see his face?

A. Yes.

Q. Was he underneath the car or underneath the hood?

A. Underneath the car.

Q. Underneath the car?

A. Yes, laying towards the outside.

Q. No further questions.

By Mr. Fierro:

That is all, step down. May he be excused?

By Mr. Ertel:

Yes.

(Excused from witness stand.).

ROBERT O. FRIES, being duly sworn according to law,
testified as follows:

DIRECT EXAMINATION

By Mr. Fierro:

Q. What is your name?

A. Robert Otto Fries, II.

Q. Bob, do you know Kim Hubbard?

A. Yes.

Q. How old are you?

A. 17.

Q. Where do you live?

Keith Sampsell. - Robert Fries.

Q. How do you know it was Mike Grimes?

A. Because he turned and looked and said "Hello".

Q. Was he underneath the car?

A. Yes.

Q. Could you see his face?

A. Yes.

Q. Was he underneath the car or underneath the hood?

A. Underneath the car.

Q. Underneath the car?

A. Yes, laying towards the outside.

Q. No further questions.

By Mr. Fierro:

That is all, step down. May he be excused?

By Mr. Ertel:

Yes.

(Excused from witness stand.).

ROBERT O. FRIES, being duly sworn according to law,
testified as follows:

DIRECT EXAMINATION

By Mr. Fierro:

Q. What is your name?

A. Robert Otto Fries, II.

Q. Bob, do you know Kim Hubbard?

A. Yes.

Q. How old are you?

A. 17.

Q. Where do you live?

Robert Pries.

A. 2020 West Southern Avenue, South Williamsport.

Q. Bob, you recall last October 19th?

A. Yes.

Q. Were you in school that day?

A. No.

Q. Was school out?

A. Yes.

Q. Bob, did you see Kim Hubbard on October 19th?

A. Yes, I did.

Q. Where?

A. Hum-Dinger.

Q. Tell this Jury, this Jury heard a lot of times about the Hum-Dinger, was it is and where it is located?

A. It is located on Southern Avenue and it is a Drive-In Restaurant.

Q. You say you saw Kim at the Hum-Dinger that day?

A. Yes.

Q. What time?

A. From 4:00 until around quarter after four.

Q. Until around a quarter after four?

A. Yes.

Q. What did you do at quarter after four?

A. I was sitting out behind the Hum-Dinger in a car, listening to a stereo.

Q. What time did you leave the Hum-Dinger?

A. About quarter after...well, I was home at twenty after four, so however long it takes me to get from the Hum-Dinger

Robert Fries.

to my house.

Q. How long does it take you?

A. About three minutes.

Q. Is that driving or walking?

A. Driving.

Q. What time do you think that it was that you left the Hum-Dinger?

A. About quarter after four.

Q. What time did you get home?

A. Twenty after.

Q. How do you know you got home twenty after four?

A. Because I was going to go riding after I got home, and I wanted to see what time it was so to see how much time it was I could go up and ride.

Q. When you left the Hum-Dinger, where was Kim?

A. Standing on the ledge on the side of the building.

Q. When you left, was Kim still there?

A. Yes.

Q. Do you know Kim Hubbard's car?

A. Yes.

Q. Did you know it before October 19th?

A. Yes.

Q. Can you tell the Jury what kind of car and color?

A. It was an Oldsmobile Cutlass, and like, I don't know, like a shade of green, I couldn't tell you exactly what color it was, but it was like a greenish color.

Q. Was there anything visible that was wrong?

A. No... well. it had a smashed in fender and a bumper

Robert Fries.

that was kind of offset.

Q. Which fender?

A. The left front.

Q. Bob, I am going to show you marked for identification purposes as Exhibit No. 115, take a look at it, we know it is a helmet, did you ever see this helmet in Kim Hubbard's car at any time?

A. No, not that I can remember.

Q. Cross examination.

By The Court:

Mr. Ertel?

CROSS EXAMINATION

By Mr. Ertel:

Q. I am curious, how long were you at the Hum-Dinger that day?

A. From about 3:30 to about quarter after.

Q. Quarter after four?

A. Yes.

Q. Your name is Robert Fries, Jr.?

A. Yes.

Q. You live at 2020 West Southern Avenue?

A. Yes.

Q. That is in South Williamsport?

A. Yes.

Q. You are a friend of Kim Hubbard's?

A. Yes.

Q. Good friend?

A. Yes.

Robert Fries.

Q. Close personal friend?

A. Yes.

Q. Would you consider yourself his best friend?

A. One of his best.

Q. Do you recall on the 26th of October, 1973, being stopped in a traffic check?

A. Yes.

Q. Do you recall saying to the Police Officers that you saw the victim on the afternoon she was reported missing, and at the time you saw her was in the area of the Hubbard home around 3:45 P.M.?

A. Yes.

Q. You were at the Hum-Dinger from 3:35 to 4:15?

A. I thought the whole thing over and tried to figure out exactly where I was and it couldn't have been the girl.

Q. Yet on the 26th of October, that is only about six or seven days after she was missing you saw the girl, and you know Jennifer Hill, don't you?

A. No.

Q. You don't know Jennifer Hill?

A. No, just a picture of her in the paper.

Q. Never saw her at all?

A. Never.

Q. At that time you were sure you saw the victim?

A. I thought I did.

Q. And it was around the Hubbard home?

A. Yes.

Q. You told the Police Officers around 3:45, wasn't it?

Robert Pries.

A. I believe so.

Q. Now, I want to get this straight about this 3:30 to 4:15 at the Hum-Dinger, what time did Kim Hubbard show up there?

A. I believe it was around 4:00.

Q. Who was he with, if anyone?

A. I didn't notice if he was with anybody or not, I didn't see him with anybody in particular, like if he got a ride down or not.

Q. You don't know who he was with?

A. No.

Q. You didn't see him arrive?

A. I was in the back of the lot, but I couldn't tell you what direction he entered.

Q. Was Ard Stetts there at the same time he was there?

A. Yes.

Q. Did Ard leave before him?

A. Yes.

Q. Did Ard, how much time before that, before you that Ard Stetts left?

A. I imagine about five, maybe ten minutes.

Q. So Ard Stetts left around 4:05 or 4:10?

A. Yes.

Q. Ard Stetts was driving his Bronco?

A. Yes.

Q. Did Kim Hubbard ever tell you he was in that cornfield where Jennifer Hill was found?

A. He said he has been parking down there already.

Robert Fries.

Q. In that cornfield, didn't he?

A. Which cornfield, you know, I couldn't tell you, but I imagine down in that location.

Q. Didn't you tell me when I interviewed you prior to this case, in the presence of Corporal Barto, he told you he had been in that cornfield where the girl had been?

A. Yes, he said down, I don't know if the exact same spot where she was found, but in there.

Q. He had been parking in that cornfield?

A. Yes.

Q. He told you that?

A. Yes.

Q. Did he tell you what day he was parking in that cornfield?

A. No, it was before this though.

Q. Incidentally, you saw an ear ring in Kim Hubbard's car?

A. Yes.

Q. You drew a picture of that ear ring for us?

A. Yes, Sir.

(Commonwealth's Exhibit No. 120 marked for identification.).

Q. This was drawn in your presence, was it not?

A. Yes.

Q. And it shows the curve in the Sylvan Dell Road, doesn't it?

A. Yes.

Q. It shows the road going back to the tanks, does

Robert Fries.

it not?

A. Yes.

Q. Didn't you identify that as the place where he told you he had been parking?

A. No, I said he has been parking in the cornfield. You can get into it from the back also.

Q. But in that cornfield where that road was, where the Arco Gas Tanks were?

A. Yes.

Q. Then you drew us a picture of an ear ring you saw in his car, did you not?

A. Yes.

Q. Was this the original ear ring you drew?

A. Yes.

Q. Then you changed it and made it like this?

A. No, that there is the same thing.

Q. Then you made it over here a little bit different?

A. No, I was just drawing it.

Q. Incidentally, you changed that ear ring after you saw a picture of Jennifer Hill with an ear ring which I presented to you, did you not?

A. No, I didn't.

Q. You don't recall having seen this picture?

A. Yes, I saw the picture, but I didn't change the drawing, I had it in my mind what the ear ring looked like, it was not one Jennifer Hill was wearing.

Q. Not the one you drew first?

Robert Fries. - Wendy Shaffer.

A. I drew this then you showed me a picture.

Q. Then you drew another one?

A. It is the same one.

Q. No further questions.

RE-DIRECT EXAMINATION

By Mr. Fierro:

Q. You say that is not, the picture, the one you drew, which resembles Jennifer's ear ring, is that correct?

A. That is correct.

Q. That is all.

RE-CROSS EXAMINATION

By Mr. Ertel:

Q. Incidentally, you also identified that ear ring being for a pierced ear, did you not?

A. Yes.

Q. Thank you, no further questions.

By Mr. Fierro:

Step down.

(Excused from witness stand.).

By Mr. Ertel:

He is not excused.

WENDY SHAFER, being duly sworn according to law, testified as follows:

By The Court:

Q. How old are you, Miss?

A. 11.

Q. Proceed.

Robert Fries. - Wendy Shaffer.

A. I drew this then you showed me a picture.

Q. Then you drew another one?

A. It is the same one.

Q. No further questions.

RE-DIRECT EXAMINATION

By Mr. Fierro:

Q. You say that is not, the picture, the one you drew, which resembles Jennifer's ear ring, is that correct?

A. That is correct.

Q. That is all.

RE-CROSS EXAMINATION

By Mr. Ertel:

Q. Incidentally, you also identified that ear ring being for a pierced ear, did you not?

A. Yes.

Q. Thank you, no further questions.

By Mr. Fierro:

Step down.

(Excused from witness stand.).

By Mr. Ertel:

He is not excused.

WENDY SHAFER, being duly sworn according to law, testified as follows:

By The Court:

Q. How old are you, Miss?

A. 11.

Q. Proceed.

Wendy Shaffer.

DIRECT EXAMINATION

By Mr. Fierro:

Q. What is your name?

A. Wendy Shaffer.

Q. Where do you live, Wendy?

A. 349 Clark Street, South Williamsport.

Q. Wendy, did you know Jennifer Hill?

A. In a way.

Q. Well, did you know her when you saw her, let's put it that way?

A. Yes.

Q. Did you see her on October 19th last year?

A. Yes.

Q. Where was she when you saw her?

A. On our front porch.

Q. When you say "on our front porch", you mean where your Mother and Dad lives?

A. Yes.

Q. The address that you just told the Jury about?

A. Yes.

Q. Is that correct?

A. Yes.

Q. Did you get a good look at her?

A. Yes, Sir.

Q. Are you sure you saw her there?

A. Yes.

Q. Could you tell what she was wearing?

A. Yes.

Wendy Shaffer.

Q. What was she wearing?

A. She had a jersey on and she had a pair of blue jeans with hearts on the knees.

Q. A pair of blue jeans with hearts on the knees?

A. Yes.

Q. What color were those hearts?

A. Red.

Q. Now, the jersey you saw, can you be more definite about that, that is describe it better?

A. No.

Q. Why do you say you saw red hearts on the knees of the jeans?

A. Because I like patches and I noticed her patches on her pants.

Q. You are sure they were on?

A. Yes.

Q. About what time of the day would this have been, Wendy?

A. I don't know.

Q. Can you say it was before lunch, now with me lunch means around noon, was it before lunch or after lunch?

A. After lunch.

Q. And you are sure of what you told us about the blue jeans and the red hearts?

A. Yes.

Q. Cross examination.

Wendy Shaffer.

CRC 33 EXAMINATION

By Mr. Ertel:

Q. Wendy, when you say she was on your porch, was your Mother there?

A. Yes.

Q. Your Mother testified here, hasn't she?

A. Yes.

Q. Wendy, they were there for some time, were they not?

A. Yes.

Q. And, Wendy, did you know that Jennifer had torn the back of her pants?

A. No.

Q. Did anyone ask for a pin to pin those pants at that time?

A. No.

Q. You don't recall that, do you know if her pants were torn?

A. No.

Q. You don't know that?

A. No.

Q. Did Jennifer tell you where they had been playing, had they been playing?

A. Yes.

Q. Had you been playing with them, by any chance?

A. No.

Q. But you live close to the Super-Duper Lot?

A. Yes.

Wendy Shaffer. - Janet Grimes.

Q. Had there been kids playing there that day?

A. Yes.

Q. Do you know if Jennifer was one of those children?

A. I don't know.

Q. Was Ruthie with her when she was there?

A. I don't know.

Q. I mean, I am sorry, on your porch, was Ruthie with her then?

A. Yes.

Q. Were the Bricker kids there then, if you recall?

A. I don't know.

Q. But that was, she had completed playing, she was at your porch, is that right?

A. Yes.

Q. Thank you.

By Mr. Fierro:

Thank you. Step down. May she be excused?

By Mr. Ertel:

Certainly.

(Excused from witness stand.).

JANET GRIMES, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Fierro:

Q. What is your name?

A. Janet Grimes.

Q. Where do you live?

Wendy Shaffer. - Janet Grimes.

Q. Had there been kids playing there that day?

A. Yes.

Q. Do you know if Jennifer was one of those children?

A. I don't know.

Q. Was Ruthie with her when she was there?

A. I don't know.

Q. I mean, I am sorry, on your porch, was Ruthie with her then?

A. Yes.

Q. Were the Bricker kids there then, if you recall?

A. I don't know.

Q. But that was, she had completed playing, she was at your porch, is that right?

A. Yes.

Q. Thank you.

By Mr. Fierro:

Thank you. Step down. May she be excused?

By Mr. Ertel:

Certainly.

(Excused from witness stand.).

JANET GRIMES, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Fierro:

Q. What is your name?

A. Janet Grimes.

Q. Where do you live?

Janet Grimes.

A. 1024 West Central Avenue, South Williamsport.

Q. Relative to the Hubbards, where is that?

A. Right next door.

Q. On the same side of the street?

A. Yes.

Q. To whom are you married?

A. Phillip Grimes.

Q. Is he related in some way to the Hubbards?

A. No.

Q. You are?

A. Yes.

Q. What is your relationship to either one of the Hubbards?

A. Mrs. Hubbard is my sister.

Q. You have children?

A. Yes.

Q. What are their names?

A. Candy, Mike and Mark.

Q. Do they live at home with you?

A. The two boys are still at home.

Q. Who else lives in your house?

A. My Mother.

Q. Now, Mrs. Grimes, talking about your son, Michael, or Mike, does he also have another name that he is known by?

A. His name is Phillip Michael.

Q. Is he sometimes called "Phil" and sometimes called "Mike"?

A. Yes.

Q. Let's talk about, I will use the name "Mike", okay?

A. Yes.

Q. Let's talk about Mike Grimes and let's talk about October 19th last year?

A. Yes.

Q. Do you know what Mike was doing on that afternoon?

A. Yes, I do.

Q. What was he doing?

A. He was working on his car out front of the house.

Q. Were you at home all afternoon?

A. Yes, I was.

Q. Do you have any idea of what time he began to work and what time he finished?

A. Well, he started somewhere right around 10:00 in the morning, and, well, I called out to him at 5:00 to come in. He wanted me to call him at 5:00 and he cleaned up his tools then.

Q. You say he wanted you to call him at 5:00 and so you did?

A. Yes.

Q. How do you know you called him at 5:00?

A. I looked at the clock.

Q. Did anything happen before 5:00, did you get any other visitors that day?

A. No, I had no visitors that day.

Q. Do you know a Mr. Forsberg?

By Mr. Ertel:

Objection, it is leading.

Janet Grimes.

By The Court:

You may answer.

A. Yes, I do.

By Mr. Pierro:

Q. Did you see him that day?

A. Yes.

Q. About what time?

A. Well, he usually comes to the house right around ten of four.

Q. Well, did you see Mr. Forsberg on October 19th?

A. Yes, I did.

Q. Was there anyone with him?

A. His one little boy.

Q. What is that boy's name?

A. Brian.

Q. How old would Brian be about?

A. Around four years old.

Q. Now, when you called Mike, did you go outside?

A. I opened the door and stepped just outside of the door and called him.

Q. What did Mike do?

A. He said okay, and he started to clean up his tools.

Q. What did he do after he got his tools cleaned up?

A. Came in the house.

Q. What did he do after that?

A. Well, there was a quick wash-up and change of clothes to pick up his girlfriend.

Janet Grimes.

Q. Do you have any idea what time Mike left the house to pick up his girlfriend?

A. It was right around twenty - twenty-five after five when he left.

Q. Now, did you have any visitors between 5:00 and 5:30 that afternoon?

A. Well, my brother, he left and then come back again.

Q. Is that Mr. Forsberg?

A. Yes.

Q. You say he left and came back again?

A. Yes.

Q. When he came back was there anyone with him?

A. Just his little boy, he left his, he got out of the car and his wife took the car.

Q. In other words, his wife did not come into the house?

A. Not at that time.

Q. Did Mr. Forsberg come into the house?

A. Yes.

Q. What I would like to know what happened first, did Mr. Forsberg come into the house and Mike left to pick up his girl, or did Mike leave to pick up his girl and afterwards Mr. Forsberg came in? In other words, which one was first?

A. No, Mr. Forsberg came back in the house before Mike got in from cleaning up his tools, and then he was there and then Mike got ready and left to pick up his girlfriend.

Janet Grimes.

Q. Well, when Mike left to pick up his girlfriend was Mr. Forsberg there?

A. Yes.

Q. Do you know whether or not you looked outside to see whether there was anyother cars on the street?

A. I looked out off and on all day.

Q. I mean that afternoon?

A. That afternoon, yes, because I was watching my son work on his car, he was climbing under it and that usually worries me when they climb under the car.

Q. Well, did you see anyother cars parked near where Mike's car was parked?

A. I see Kim's.

Q. You saw Kim's?

A. I seen him when he came home.

Q. You saw Kim when he came home?

A. Yes.

Q. You understand that you are under oath?

A. Yes, I do.

Q. Now, you say you were watching the time concerning your son, do you have any idea what time you saw Kim drive up?

A. Well, I was standing at the door watching out when Kim came home, it was a few minutes after four.

Q. Are you sure of this?

A. Yes.

Q. What did Kim do?

A. Got out of his car and went into the house.

Janet Grimes.

Q. Now, any time after that, for example you said you went out and called your son at 5:00?

A. Yes.

Q. Did you see Kim's car there?

A. Yes.

By Mr. Ertel:

I object to the constant leading.

By The Court:

Refrain from leading your witness.

By Mr. Fierro:

Q. Are you sure of that?

A. Yes.

Q. Were you familiar with Kim's car, that is what it looked like before October 19th?

A. Well, I know what he gets out of, I seen it parked over there.

Q. Do you know if there was anything wrong with it?

A. I know he had a smashed up fender, but I don't know when it happened.

Q. Well, I am not asking about when it happened, but you do know it had a smashed up fender?

A. Yes.

Q. Before October 19th, let's say for a period of a month before that, how often would you say you saw that car?

A. Quite often. Now, I couldn't really pinpoint out how many times.

Q. I didn't hear the last part?

Janet Grimes.

A. I couldn't really state how many times.

Q. After 5:00 of that day, did you have any occasion to go outside?

A. No.

Q. You did not?

A. No.

Q. Mrs. Grimes, I want to show you marked as Commonwealth's Exhibit No. 115, everybody knows it is a helmet, I want you to look at it. All of the time did that, you knew Kim Hubbard's car, did you ever see this helmet in that car?

A. No, I have not.

Q. Cross examination.

CROSS EXAMINATION

By Mr. Ertel:

Q. I take it that Mr. Forsberg was there when you looked out the window and saw Kim?

A. When he came home.

Q. Mr. Forsberg was there?

A. Yes, he comes about ten of four.

Q. Now, what part did you see, whether or not the grill of Kim's car was damaged?

A. No, the way he parks and the way the houses are, I only seen the back end of his car.

Q. So you would not know if his grill was damaged or not?

A. No.

Q. All of the time you seen the car...

Janet Grimes.

A. Well, I seen the fender different times we went by.

Q. Was the grill damaged or not?

A. I would not know, I never looked at it that close.

Q. In other words, you never really looked at his car very closely at all?

A. No.

Q. You discussed, have you discussed this case with anyone?

A. In our home.

Q. Did you talk with Mrs. Hubbard about it?

A. We have talked about it, yes.

Q. Many times?

A. Yes.

Q. She has discussed with you what you saw on that day?

A. I have told her, yes.

Q. She has discussed with you what you saw on that day on many occasions?

A. I would not say we discussed it, I told her what I have seen.

Q. When was the first time you told her what you saw?

A. Well, it was awhile afterwards, because nobody expected Kim to be arrested for it, so it was sometime then.

Q. Now, you talked about the constantly, you talked about it constantly since then, haven't you, with Mrs. Hubbard?

A. No, although she lives next door I don't see her

Janet Grimes.

that much.

Q. Well, Kim came over to your house on the day the Police Officers came to his house, did he not?

A. I think he did come in. I am not sure.

Q. Well, he spent the whole morning there while we were talking to Mr. and Mrs. Hubbard?

A. He was there for awhile, yes.

Q. Did you talk with him then?

A. I said a couple of words to him, but talk to him, no, because he was more or less talking to Mike, I guess.

Q. Talking to Mike at that time?

A. I believe.

Q. You knew he told you that the Police Officers were over there investigating the murder of Jennifer Hill?

A. Yes.

Q. And were going to question him about it?

A. Yes.

Q. And he was talking to Mike at that time?

A. He talked to Mike and my daughter was there, he talked to my daughter.

Q. Well, how long was he there?

A. I don't know, I didn't really think he was there that long, because he walked around awhile and left and went back over to his own home.

Q. Incidentally, how was Kim dressed on this day?

A. I don't know.

Q. How was he dressed on the 19th of October?

Janet Grimes.

A. Like he usually is, blue jeans, I guess, and a shirt.

Q. What kind of shirt?

A. I would not know.

Q. What kind of shoes did he have on?

A. I don't know.

Q. But you knew that the Police Officers were at the Hubbard house when he came over there on the 31st of October and was talking with your son, Mike Grimes?

A. Yes.

Q. They were investigating the death of Jennifer Hill?

A. Yes.

Q. Did Mr. Forsberg see Kim come in then?

By Mr. Fierro:

I object, it calls for her conclusion.

By The Court:

Sustained.

By Mr. Ertel:

Q. Did he make any indication to you that he saw Kim?

By Mr. Fierro:

I object to that, your Honor, we are going to call him.

By The Court:

Sustained.

By Mr. Ertel:

Q. Was he standing next to you at the window?

A. No.

Janet Grimes.

Q. Incidentally, where was his car parked?

A. He parked in front of Mike.

Q. Right directly in front of Mike?

A. Yes.

Q. Where was Kim's car parked?

A. Up in front of his, in front of, when he pulled in he pulled in front of my brother.

Q. Well, your house is quite some distance from the Hubbard home, isn't it?

A. I am on the corner, there is a lot and then my sister's home.

Q. How far is that?

A. That is a 45 foot lot, I believe.

Q. Then on up is Kim's house, is it not?

A. Yes, right on the edge of that lot.

Q. No further questions.

By Mr. Fierro:

No further questions. May she be excused?

By Mr. Ertel:

Yes.

By Mr. Fierro:

That means, Mrs. Grimes, you need not wait around.

(Excused from witness stand.).

NATALIE FORSBERG, being duly sworn according to law,
testified as follows:

DIRECT EXAMINATION

By Mr. Fierro:

Q. What is your name?

A. Natalie Forsberg.

Q. Where do you live?

A. R.D. #3, Williamsport.....I am sorry, it is R.D. #4,

now.

Q. To whom are you married?

A. Richard Forsberg.

Q. Are you employed?

A. Yes.

Q. Where?

A. Carroll House.

Q. Where were you employed last October 19th?

A. Carroll House.

Q. On that day, do you recall that day?

A. Yes.

Q. What were your hours of work?

A. 9:00 to 5:01.

Q. You said 5:01?

A. Yes, I punched out at 5:01.

Q. You are that precise that you punched out at 5:01?

A. Yes.

Q. Did anybody pick you up?

A. Yes, my husband.

Natalie Forsberg.

Q. Where?

A. Over at the Carroll House.

Q. Third Street or Pine Street?

A. I usually meet him there at the corner of Court
Court and Pine.

Q. Did he pick you up that day?

A. Yes.

Q. Where did you go from there, that is from the
Carroll House?

A. Over to my Mother-in-law's.

Q. Who is your Mother-in-law?

A. Mrs. Ruth Forsberg.

Q. Mrs. Ruth Forsberg?

A. Right.

Q. Where does she live?

A. 1024 West Central Avenue.

Q. There is a lady who just testified, Janet Grimes,
is that the same place where Janet Grimes lives?

A. Yes.

Q. So that your Mother-in-law lives with Janet Grimes?

A. Yes.

Q. I presume that your Mother-in-law is Janet Grimes'
Mother?

A. Right.

Q. Now, what was traffic conditions like that Friday
night, do you remember?

Natalie Forsberg.

A. I don't know that particular night, but at 5:00 it is usually heavy.

Q. Well, when you got to your Mother-in-law's house, that is the place where Janet Grimes lives, what did you do with reference to the car and your husband?

A. My husband got out and I took the car and went to the grocery store.

Q. Now, do you know what automobiles you saw at, as you stopped your car in front of your Mother-in-law's and parked on the same side of the street?

A. I saw Kim's car.

Q. Were you familiar, were you familiar at that time with Kim's car?

A. I knew Kim's car because I noticed the fender was banged up.

Q. How long had you noticed that banged up fender?

A. That was the first time I noticed it.

Q. Had you seen this car before?

A. You mean before it was banged up?

Q. Yes?

A. Yes.

Q. Were you familiar with it?

A. Yes.

Q. What time do you believe it was that you got to your Mother-in-law's house that Friday?

A. Well, it could have been anytime from 5:10 to 5:20. I don't know just how long it took us to go over there.

Natalie Fornberg.

Q. But you know what time you quit work?

A. Yes.

Q. Where did you go from there?

A. To the Super-Duper.

Q. By the way, when you saw Kim's car, in which direction was it facing?

A. Going up Central Avenue, it would be west.

Q. Was it facing towards Maynard or Market Street?

A. Towards Maynard.

Q. When your husband stopped his car, which way was it facing?

A. The same way.

Q. Did you see the back end of Kim Hubbard's car?

A. I can't say for certain.

Q. Well, had you ever seen the back end of his car before that day?

A. Yes.

Q. You had?

A. Yes.

Q. I am going to show you that is marked for identification as Exhibit No. 115, which everybody can see is a helmet, and I want to ask you, did you ever see this helmet in Kim Hubbard's car at any time?

A. No.

Q. By the way, after you came back from the Super-Duper, where did you go?

A. I went back to my Mother-in-law's.

Natalie Forsberg.

Q. And did what?

A. Went in the house for awhile and then we left.

Q. When you went back into your Mother-in-law's house, do you know whether Mike Grimes was there or not?

A. No, he wasn't there when I went back, he was out there when I stopped the first time.

Q. Now, when you went back, can you tell us whether Kim's car was there, did you pay attention?

A. Yes, his car was there.

Q. You say his car was there?

A. Yes.

Q. Are you sure of that?

A. Yes.

Q. You may cross examine.

CROSS EXAMINATION

By Mr. Ertel:

Q. I am sorry, I missed something, you said when you first got to your Mother-in-law's house Mike was out there?

A. Yes, he was there working on the car.

Q. Outside?

A. Yes.

Q. This would be between 5:10 and 5:20 in the afternoon?

A. Yes, possibly.

Q. You said the traffic was heavy, you had to come from Court Street, now did he fix, did he pick you up on the corner of Court and Third?

A. The street there, the new road they put through,

Natalie Forsberg.

is that Court....no, I have the wrong street. The street that is behind the Carroll house.

Q. All right. Now, your husband picked you up over there and you had to go across the Market Street Bridge?

A. Yes.

Q. Were you able to get on or did you have to go around some way because of construction?

A. I don't remember if it was open that time or not straight through using that way, or if we had to go out to Third Street and down.

Q. But it took you some time to cross the bridge and get over there?

A. Well, that I am not certain how long it took us.

Q. Was your husband parked there or driving around waiting for you to get on that corner?

A. This, I am not sure whether he was waiting or whether I waited for him.

Q. But there was at least some delay from the time 5:01 you punched out, did you have to do some things after you punched out?

A. No, the time clock is on the main floor.

Q. You punched out and came outside?

A. Yes.

Q. You don't know how long you had to wait, you don't know how long your husband had to wait?

A. No.

Q. So you can't fix any time on that at all, is that

Natalie Forsberg.

what you are saying?

A. No.

Q. You don't know if you had to come back out onto Third Street to go across the bridge or not?

A. No, I don't know if that was during the time the street was not open or not.

Q. Then you had to cross and go up Market Street, you would have to pass two traffic lights?

A. Yes.

Q. Do you know if they were red or green?

A. That, I can't tell you.

Q. Then you had to go up Central Avenue to the Hubbard home?

A. Yes.

Q. Now, Mike Grimes' car, where was it parked?

A. Well, it was parked up closer to the Hubbard home than to the Grimes' home.

Q. Was Mike underneath it or underneath the hood?

A. No, he was standing out when I saw him.

Q. What do you mean "standing out"?

A. He was there at the front of the car.

Q. The hood was up?

A. Yes.

Q. Was he doing any work on the car?

A. I think he was, I mean he was there as though he was doing something.

Q. How long did you stay ?

Natalie Forsberg.

A. I didn't go in, all I had was have my husband go in.

Q. Your husband was driving at this time?

A. He was driving when we pulled up and we just switched driver's seats.

Q. Was your child there with you then?

A. He took the little one in the home.

Q. You just slipped over into the driver's seat?

A. Yes.

Q. Was Mike still there when you left?

A. What do you mean?

Q. When you left that time?

A. At the time I went to the store?

Q. Yes?

A. Yes.

Q. And the hood was still up, I take it?

A. Yes.

Q. Now, you say the back of the Hubbard vehicle was to your's?

A. Yes, I passed as I pulled on up.

Q. Was it up in front of the Hubbard home then?

A. Yes.

Q. Were you able to put your car between Mike Grimes' car and the Hubbard car?

A. Yes.

Q. Was there quite a distance between the two?

A. Enough to park.

Q. Did you park there when your husband came back?

Natalie Forsberg.

A. No, he stopped right in the road.

Q. That is the first time you noticed any damage on Kim Hubbard's car?

A. Yes, we don't go there that often, it just happened to be the night I was going for groceries.

Q. Do you go for groceries every Friday night?

A. No, I was going there for awhile, I was going every Thursday night for awhile.

Q. You were always going over to your.....

A. My husband usually goes in there while I go.

Q. Incidentally, did anyone tell you that Jennifer Hill was missing at this time, did your husband tell you?

A. I knew it when I was up at the store.

Q. That is the first you knew it?

A. Yes, I didn't know it before.

Q. But you know Mike Grimes?

A. Yes.

Q. Is he your Nephew?

A. Yes.

Q. Do you know , you knew what he looked like?

A. Yes.

Q. He was working on that car?

A. Yes.

Q. You are absolutely certain of that?

A. Yes.

Q. There is no question he, in your mind, was working there on that car when you arrived there?

Natalie Forsberg. - Richard Forsberg.

A. No, he was standing there at the car.

Q. Did he have some tools in his hand?

A. This, I can't tell you. I mean, as I said, we just pulled up and he was standing there working.

Q. What kind of clothes did , was he dressed in?

A. I don't know, he usually has jeans on, I couldn't tell you what he had on.

Q. There is just no question he was out there?

A. No.

Q. No further questions.

By Mr. Pierro:

Step down. May she be excused?

By Mr. Ertel:

As far as I am concerned.

(Excused from witness stand.).

RICHARD FORSBERG, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Pierro:

Q. State your name?

A. Richard Forsberg.

Q. How old are you?

A. 43.

Q. What is your occupation?

A. High School Teacher.

Q. Where?

A. Williamsport Area High School.

Natalie Forsberg. - Richard Forsberg.

A. No, he was standing there at the car.

Q. Did he have some tools in his hand?

A. This, I can't tell you. I mean, as I said, we just pulled up and he was standing there working.

Q. What kind of clothes did he was he dressed in?

A. I don't know, he usually has jeans on, I couldn't tell you what he had on.

Q. There is just no question he was out there?

A. No.

Q. No further questions.

By Mr. Pierro:

Step down. May she be excused?

By Mr. Ertel:

As far as I am concerned.

(Excused from witness stand.).

RICHARD FORSBERG, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Pierro:

Q. State your name?

A. Richard Forsberg.

Q. How old are you?

A. 43.

Q. What is your occupation?

A. High School Teacher.

Q. Where?

A. Williamsport Area High School.

Richard Forsburg.

Q. A lady by the name of Natalia just testified, is that your wife?

A. She is.

Q. Of course, you are related to Kim Hubbard?

A. He is my Nephew.

Q. His Mother is your sister, is that correct?

A. That is correct.

Q. Next door to the Hubbards lives your Mother?

A. Right.

Q. Your sister?

A. Right.

Q. Mrs. Grimes?

A. Yes.

Q. Now, Mr. Forsberg, let's go back to last October 19th, did you have any occasion to be on West Central Avenue last October 19th?

A. I did.

Q. Where did you go?

A. Went to my Mother's to wait until my wife quit work.

Q. By your Mother we mean Mrs. Forsberg?

A. Yes.

Q. Who lives with Mrs. Grimes?

A. Yes.

Q. That is the place where that is next door to the Hubbards?

A. Yes.

Richard Forsberg.

Q. There is an empty lot in between?

A. Yes.

Q. Both of these houses are on the same side of the street?

A. They are.

Q. Now, you say you went to your Mother's, why?

A. I leave high school at 3:30, I live in Nesbit Heights, that is seven and a half miles away, I pick my wife up at 5:00, and to save gas and money I don't go home, I spend my time with my Mother until my wife quits work. This is practically a daily activity.

Q. Even though it may be daily, let's go to October 19th, did you visit your Mother?

A. I did.

Q. Did you have anyone with you when you drove up?

A. My four year old son, Brian.

Q. Did you go into the house?

A. I did.

Q. Do you know, by the way, what time you got there or approximately what time you got there?

A. Approximately ten minutes of four.

Q. About ten minutes of four?

A. Yes.

Q. Did you see Mike Grimes?

A. I did.

Q. Where did you see him?

A. He was working on his car in front of the house.

Q. Are you sure?

Richard Forsberg.

A. Positive. I spoke to him, I made a comment about him taking the car to the garage and having it done right.

Q. You went into the house?

A. I did.

Q. Did you leave the house anytime that afternoon?

A. Not until it was time to pick my wife up.

Q. What time would that have been?

A. Approximately quarter of five.

Q. How do you know?

A. I looked at the clock and time consciously, I have to pick my wife up.

Q. Do you know what time your wife quit work?

A. She is to punch out at 5:00.

Q. How often do you pick your wife up, or did you at that time?

A. Every day she works.

Q. Every day?

A. This is every day of the week except Wednesday.

Q. It was then?

A. It was then.

Q. Presumably it still is?

A. It is.

Q. Did you pick your wife up?

A. Yes.

Q. Who was driving?

A. I was.

Q. Where did you go when you picked her up?

Richard Forsberg.

A. I would say normal traffic. We just beat the 5:00 traffic by picking her up at 5:00.

Q. When you got there, what time did you say you think it was?

A. Approximately ten to quarter after.

Q. Was Kim Hubbard's car there?

A. It was.

Q. Was Mike's car?

A. It was.

Q. What did you do, Mr. Forsberg, then?

A. Since there was such a small space and my wife was going to take the car, I just pulled up beside it, slid out and took Brian and went in the house.

Q. When you went in the house, you mean your Mother's place?

A. Yes.

Q. Did you see Mike in your Mother's place?

A. He was still on the car outside when I got back.

Q. He still was?

A. Yes.

Q. Do you have any idea what time your wife came back from the Super-Duper or whatever the marketing place was?

A. Approximately twenty-five to six.

Q. Where did you go, if you did, at that time?

A. Well, we left the house approximately quarter of five to head for home....quarter of six, I am sorry.

Q. And left for home?

Richard Forsberg.

A. Yes.

Q. Where is that?

A. Nesbitt Heights, west of DuBoistown.

Q. When you say you left, you mean you, your wife and child?

A. Yes.

Q. At approximately quarter to six?

A. Yes.

Q. Well, would that be heading west?

A. West.

Q. From where your Mother lives?

A. Yes.

Q. Did you have to go by the Hubbard house?

A. Yes.

Q. Did you see Kim Hubbard's car?

A. Yes, it was there at that time.

Q. Are you sure of that?

A. Positive.

Q. Was there anything distinctive about the Hubbard car that you knew at that time?

A. Yes, my wife pointed out the fact of the fender which she had not seen before, she asked me if I knew when Kim smashed it. I had no idea.

Q. Other than the smashing of the fender, were you familiar with the car?

A. I knew it was a green Cutlass, I had looked at it the day after Kim rebuilt it or redone it over at the Community

Richard Forsberg.

College.

Q. Now, Mr. Forsberg, I am going to show you marked for identification as Commonwealth's Exhibit No. 115, it is a helmet, I am asking you did you ever see this helmet in Kim Hubbard's car?

A. No, Sir, I did not, never.

Q. Did you ever see this helmet?

A. I never saw that helmet before today.

Q. Cross examination.

CROSS EXAMINATION

By Mr. Ertel:

Q. Mr. Forsberg, you say it is a custom of your's to go to your Mother's?

A. It is.

Q. So you would go there every day?

A. Every day.

Q. Incidentally, obviously you didn't have Brian at school, where did you get Brian?

A. I picked Brian up, I can't think of the name of the road, it is the road that follows the river into Duboistown, you come out Valley Street, and instead of making the loop to go over Arch, you come back around the railroad track, Pat Lynn is the babysitter .

Q. Is that Riverside Drive?

A. No.

Q. It does not matter. You had to go there and pick up Brian?

Richard Forsberg.

Q. Did you have to get him dressed or anything, get his clothing?

A. We have to put his coat on.

Q. What time do you quit at school?

A. 3:30.

Q. What do you teach?

A. I teach Bookkeeping and Data Processing currently.

Q. What time do students leave?

A. They leave at 3:10.

Q. Now, how was the traffic that day when you went over to Williamsport, was it easier to get over to Williamsport than it was to come back?

A. You mean when I left my Mother's home?

Q. When you left the Forsberg home over there to come to pick up your wife, was it easier to come over?

A. It was.

Q. In other words, the traffic was lighter?

A. It was particularly coming from South Side over.

Q. Do you recall how long you had to wait for your wife?

A. Four or five minutes.

Q. Where do you wait?

A. I stay in my car, I pull in the parking lot directly behind the Carroll House.

Q. It took her four or five minutes to come out?

A. From the time she punched out, I would say maybe three, maybe four minutes.

Richard Forsberg.

Q. Now, when you first went over there, you parked your car right in front of the Grims's car?

A. In front of Mike Grimes' car.

Q. Now, which direction did you come from when you went to the Forsberg house initially, and I am talking about the time when you were, after you picked up your son and went there?

A. I had come up Clinton Street, which is a side street, to the corner where my Mother lives, from Southern, made the loop, there was no parking places available and I went on up until I found one in front of Mike's car.

Q. Your car would have been pointed in what direction?

A. West.

Q. Towards Maynard Street?

A. Yes.

Q. What direction was Mike's car pointed?

You were on the correct side of the street?

A. On the right side going west.

Q. You were parked in the direction that you were supposed to?

A. Yes.

Q. You didn't see Hubbard's car at that time at all?

A. I did not.

Q. Incidentally, your wife only went to the grocery store or something like that for something like twenty minutes?

A. That is right.

Q. She didn't do her weekly buying?

A. No, she went after some necessities.

Richard Forsberg.

Q. So that normally you would stop there and she would go and get the groceries?

A. That is true, Sir, I do not like to go grocery shopping.

Q. You do this pretty much every week?

A. Pretty much.

Q. Your car was parked directly in front of Mike's car?

A. It was.

Q. Were there anyother cars on the street?

A. There was two cars behind Mike's, one was his Dad's, I don't know who the other one belonged to.

Q. Mike was still working on his car when you came back between 5:10 and 5:15 in the afternoon?

A. He was.

Q. He was still out front?

A. Yes.

Q. Was he underneath or on his feet?

A. He was moving around under the hood, moreorless, he was not on the ground.

Q. He was bending over like you would look?

A. Putting something back. I didn't put my head under to see what he was doing.

Q. Incidentally, you said that you knew that Kim rebuilt his car at the Community College?

A. Yes.

Q. When was that?

Richard Forsberg.

A. That was last summer, because I had made arrangements with Kim to repaint mine after school reopened in September.

Q. That car, was it repainted then?

A. Back at that time I think Kim said he had painted it.

Q. Well, it was pretty shiny then, a new paint?

A. I would say so, metallic.

Q. Metallic green?

A. Yes.

Q. Did you ask Mike what he was fixing on his car?

A. I don't know if I asked him what he was fixing or if he made a comment as to working on the starter, I believe.

Q. How about the battery terminal?

A. I couldn't say, I don't think the battery terminal was mentioned at that time.

Q. Are you sure about what he talked about at that time or don't you have a specific recollection?

A. I am not specific, although I think it was more to the starter than the battery.

Q. Incidentally, when you were inside of the house, where were you in the house?

A. Sitting at the kitchen table.

Q. Where was your Mother?

A. Sitting at the end of the kitchen table opposite me.

Q. Where was Mrs. Grimes?

A. Floating around the kitchen from the sink to the stove

Richard Forsberg.

to the refrigerator.

Q. Is the kitchen towards the back of the house?

A. It is in the rear of the house.

Q. Did Mrs. Grimes make any indication to you of seeing anybody?

A. I can't say she specifically said she saw anybody, no.

Q. Did you see Kim that day at all?

A. I did not.

Q. At no time?

A. No.

Q. No further questions.

By Mr. Fierro:

No further questions.

(Excused from witness stand.).

By The Court:

We are going to recess. The Defendant is excused. The Jury is excused. Everyone else remain seated until they leave. Court is recessed.

(Recessed at 12:20 P.M., EDT, and reconvened at 1:30 P.M., EDT.).

By The Court:

May I see Counsel?

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

By The Court:

Would you have Mr. Forsberg come in?

Richard Forsberg.

RICHARD FORSBERG, previously sworn, recalled to the witness stand and testified as follows:

CROSS EXAMINATION

By Mr. Ertel:

Q. Mr. Forsberg, I neglected to ask you, you returned to the house while your wife went to get the groceries?

A. I pulled up, I got out and went in the house and she went on to the store.

Q. And you were in there, I think you said somewhere approximately a half hour?

A. To be approximate, yes.

Q. Twenty-five minutes?

A. Somewhere around there.

Q. Did you see Mike in the house?

A. He came in one time with something from the car, talked to his Mom and went back out.

Q. So he was still outside when you left?

A. When I left when?

Q. The second time, at 5:45 or in that neighborhood?

A. No, he was not there when I left at 5:45.

Q. But you don't know where he went?

A. I have no idea.

Q. But he only came in to get something and went back out?

A. He came in and went upstairs and came back down and left.

Q. No further questions.

Nancy Stuempfle.

By Mr. Fierro:

No further questions.

(Excused from witness stand.).

NANCY STUEMPFLE, being duly sworn according to law,
testified as follows:

DIRECT EXAMINATION

By Mr. Fierro:

Q. What is your name?

A. Nancy Stuempfle.

By Mr. Ertel:

May I have an offer?

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

By Mr. Ertel:

Has she been in the Court Room?

By Mr. Fierro:

Yes, she has been in the Court Room.

By Mr. Ertel:

I move to disqualify her.

By The Court:

Refused, proceed.

By Mr. Fierro:

Q. Where do you reside?

A. 222 Spring Street, Duboistown.

Q. Nancy, concerning last October 19th, did you have
an occasion to see Kim Hubbard?

A. Yes, I did.

Q. Was he with anybody?

Nancy Stuempfle.

By Mr. Fierro:

No further questions.

(Excused from witness stand.).

NANCY STUEMPFLE, being duly sworn according to law,
testified as follows:

DIRECT EXAMINATION

By Mr. Fierro:

Q. What is your name?

A. Nancy Stuempfle.

By Mr. Ertel:

May I have an offer?

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

By Mr. Ertel:

Has she been in the Court Room?

By Mr. Fierro:

Yes, she has been in the Court Room.

By Mr. Ertel:

I move to disqualify her.

By The Court:

Refused, proceed.

By Mr. Fierro:

Q. Where do you reside?

A. 222 Spring Street, Duboistown.

Q. Nancy, concerning last October 19th, did you have
an occasion to see Kim Hubbard?

A. Yes, I did.

Q. Was he with anybody?

Nancy Stuempfle.

A. Yes, Colleen Whitenight.

Q. Where did you see them?

A. At the Hum-Dinger.

Q. Do you have any idea what time you saw them?

A. Well, approximately between, I arrived at around quarter after eight, 8:30, and they came in after we were there. I was with my boyfriend.

Q. Do you have an idea how long they were there?

A. Well, I think they left, well, we were there longer than they did and I left, we got in the car at five of, the five of nine news was playing on the radio.

Q. Cross examination.

By Mr. Ertel:

No questions.

By Mr. Fierro:

May she be excused?

By The Court:

Any objection?

By Mr. Ertel:

No objection.

(Excused from witness stand.).

RUTH HUBBARD, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Fierro:

Q. What is your name?

A. Ruth Hubbard.

Nancy Stuempfle.

A. Yes, Colleen Whitenight.

Q. Where did you see them?

A. At the Hum-Dinger.

Q. Do you have any idea what time you saw them?

A. Well, approximately between, I arrived at around quarter after eight, 8:30, and they came in after we were there. I was with my boyfriend.

Q. Do you have an idea how long they were there?

A. Well, I think they left, well, we were there longer than they did and I left, we got in the car at five of, the five of nine news was playing on the radio.

Q. Cross examination.

By Mr. Ertel:

No questions.

By Mr. Fierro:

May she be excused?

By The Court:

Any objection?

By Mr. Ertel:

No objection.

(Excused from witness stand.).

RUTH HUBBARD, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Fierro:

Q. What is your name?

A. Ruth Hubbard.

Ruth Hubbard.

A. Yes.

Q. You are called "Ruthie", aren't you?

A. Yes.

Q. You knew Jennifer Hill?

A. Yes.

Q. Now, did she stay at your house on the night of October 18th?

A. Yes.

Q. Coming to October 19th, Ruthie, will you tell us what you and Jennifer did from the time you got up that morning?

A. We woke up and we were kind of bored, we were in our night clothes, and we went downstairs and had breakfast, and then we went upstairs and got changed into our clothes and went up to the Brickers. The twins were not home, well, they were not up, so we came back down to my house and we kept on loafing around and my Mom said, "If you want anything to do, I will give you some work.", so we hurried back up to the Brickers again and they weren't home then, so we came back down and went down to the Hum-Dinger. We met the twins down there at the Hum-Dinger. We ate and then we came back out and had a grape battle, we threw grapes at each other, and then we went on to the Catholic School playground and we played kickball, and we teased a couple little kids and then we came on home. We got a drink of water, and went on up to Michelle Hurley's house to get the football and went down to the Super-Duper field to play. Some boys came along and took the field away from us, so we went over to Mrs. Shaffer's and we stayed over there a little bit and

Ruth Hubbard.

went up the street and said "Hiya" to Terry Shaffer, and then we walked down to my house. Norma called....

Q. Who is "Norma"?

A. Norma Hill.

Q. How do you know when she called?

A. When we walked in the house, we were upstairs playing and the phone rang and I answered the phone and I talked to Norma and she said, "Is Jennie there?", and I go "Yes.", so I handed her the phone and I stood right next to her, and she started crying, she said, "Well, I have to go on home now.", and she kind of sniffled and cried a little, and I asked her why she had to go home, and she said, "I have to clean out my drawers.". We talked about going to the football game, and so when we came downstairs, first we played around in my bedroom, and I packed her bag with all her clothes in it, and then we came on downstairs, and we walked out front...well, we stopped and talked to my Mom while she was cleaning the floor, and we talked awhile, and she had her bag and her coat and she got ready to leave, and it was about quarter of four when she left, and when she walked out, I came out to the porch with her and I watched her on down, just across the street really, and I came back into the house.

Q. Now, all during the time that you and Jennifer were in the house that afternoon, did you see your brother, Kim?

A. Not in the house, but down at the Super-Duper when we were playing, we saw him go past two times, one to the Super-Duper and one back.

Ruth Hubbard.

Q. Now, back to this question again, when you and Jennifer were in the house during the afternoon, was Kim ever present when you and Jennifer were there?

A. No.

Q. Do you know, can you describe the clothing that Jennifer wore that day?

A. Yes.

Q. Tell us?

A. She had one pair of light blue pants, she had one pair of jeans, they are kind of long with hearts on the knees and laced around the bottom, with little heart patches.

Q. What color, do you know, around the bottom?

A. It was the same color of the hearts.

Q. What color was that?

A. Red, and little designs on it.

Q. What?

A. Red with little designs on it.

Q. Using your fingers and hands, give the Jury an idea of how big these red hearts were?

A. About that big, they covered the knee cap.

Q. What else was she wearing?

A. She had a jersey on with the number "33" and her sneakers, which were black and white, and that is all, her underclothes.

Q. Did she have a jacket of any sort?

A. Yes, she, it looked like a light black jacket, but I guess it was really blue, I couldn't tell you.

Ruth Hubbard.

Q. Did it have any markings on the jacket?

A. Yes, it had a patch called "Free Spirit", it was red and white.

Q. Called what?

A. "Free spirit", then she tore off a "SWA" over it, which she took off at our house and put it in her pocket.

Q. Did you see her do that?

A. Yes, I saw her do it.

Q. What day did she do this?

A. October 19th.

Q. Now, is that all you remember about clothing?

A. Well, she had this light blue pants and her pajamas with her.

Q. Was she carrying anything?

A. Yes.

Q. What?

A. She had a Glick shoe bag which was pink and white with "Glicks" on it.

Q. I imagine there were some things in there that belonged to her?

A. Yes.

Q. What time do you think it was that Jennifer left?

A. Quarter of four.

Q. Now, after Jennifer left, do you have an idea, or if you know, either one, as to when you saw your brother, Kim?

A. Yes, a little bit after 4:00.

Q. You saw your brother?

Ruth Hubbard.

A. Yes.

Q. For how long?

A. Just for a little bit because I went out front to talk to the Brickers and he drove up and walked in. When I came in I didn't see him because I went upstairs.

Q. When did you next see your brother, Kim?

A. 4:30.

Q. Why do you say it was 4:30?

A. Well, because Linda Ranck calld and I had to look at the clock to see what she wanted, and I looked at the clock to talk to her, because the clock is there, and I just sat and looked at it.

Q. Was there anything you were going to do with the Rancks that day or night?

A. Yes, we were going to go to a football game.

Q. Where was that?

A. That was up in Muncy, I don't know exactly where it was at.

Q. Well, you you, you say you got a call from Linda Ranck, what was your brother doing?

A. He was buffing the floor. He told me to get off of the phone, he was waiting for a call, for Colleen Whitenight to call.

Q. He told you to get off of the phone?

A. Yes, and off his floor so he could buff it.

Q. What did you do after that?

A. I went on upstairs to get ready, and I heard the

Ruth Hubbard.

phone ring and when my brother yelled in that Jack was on the phone and he wanted to know where Jennie was, so I put on my Dad's bathrobe and came on downstairs, my Mom said it was Jack, she left.....

By Mr. Ertel:

Objection.

By The Court:

Sustained.

By Mr. Fierro:

Q. You heard your Mother talking to somebody on the phone?

A. Yes.

Q. Without saying what was said, did anybody mention at that time, the time?

By Mr. Ertel:

Objection.

By The Court:

Can you ask her if she knew what the time was?

By Mr. Fierro:

Q. Do you know what time it was when you heard your Mother talking on the phone, what was the time?

A. Yes.

Q. What time was it?

By Mr. Ertel:

I object, that is just a backhand way of getting in hearsay.

By The Court:

Over ruled.

Ruth Hubbard.

By Mr. Fierro:

Q. What time was it?

A. Quarter of five.

Q. How do you know?

A. Because My Mother said, "Jack, Jennie left an hour ago.", and she left at quarter of four to quarter of five, it would be an hour by quarter of five.

Q. Ruthie, did you see Jennifer at any time after she left your house that day?

A. No.

Q. You did not?

A. No.

Q. Now, after your Mother had a telephone call, do you know if anyother phone calls, and just say "Yes" or "No"?

A. Yes.

Q. How many more?

A. Quite a few.

Q. Did you answer any of them?

A. Just one at 4:00 and 4:30, yes, I answered.

Q. Now, I am speaking now of the one at 4:30, I am speaking now with reference to the Hills, did you answer any phone calls from the Hills?

A. Yes.

Q. Who didyou speak to?

A. Jackie.

Q. Is that a daughter of the Hills'?

A. Yes.

Ruth Hubbard.

Q. About what time was that call?

A. 4:00.

Q. Now, going all of the way past this phone call that your Mother had, that you say was quarter of five, after that did you answer the phone?

A. Yes.

Q. How many times did you answer the phone after that time, let's say after quarter of five?

A. Do you mean for the Hills?

Q. Yes?

A. No, I didn't answer any then.

Q. You got phone calls from, but it was not from the Hills?

A. Right.

Q. What happened after 5:00 with reference to the Hills?

A. At 5:30 we walked down the street.

Q. Who is "we"?

A. My Mother and I. We walked down the street to the Catholic, and we met Jack and Norma Hill there, and we walked on up to Clinton Street.

Q. Was there any conversation between the Hills and your Mother?

A. Yes, and Jack talked to my brother.

Q. Jack talked to your brother?

A. Yes.

Q. You mean Kim, this is your only living brother,

A. Yes.

Q. Where was Kim when Jack talked to him?

A. Clinton Street, right around Clinton Street.

Q. How far away from him?

A. He was pretty close to him, about from here to here.

Q. Where are you pointing to, Ruthie?

A. Right there.

Q. The edge of the Jury Box?

A. Yes.

Q. From where you are sitting?

A. Yes.

Q. You say that is how close Jack was to Kim?

A. Yes.

Q. Now, after that, I mean after seeing Kim and Jack talk and after you and your Mother seeing Mr. and Mrs. Hill, now what did you and Kim and your Mother do?

A. Well, Norma and my Mom walked down through the alley and Jack went down, I walked on up to the house to wait for Linda, for her to come to pick me up and I was supposed to stick by the house, my brother was, on account of any phone calls, if any phone calls at all, concerning Jennie.

Q. Where was Kim?

A. Kim was out front. He said he would stick right around the house, he was just out front on his bike.

Q. Did you see him on the bike?

A. Yes.

Q. What was he doing with it?

Ruth Hubbard.

Q. Let's pick it up from there now, seeing your brother on his bike in front of the house and your waiting for somebody to pick you up, what else went on, if anything?

A. We walked on into the house, my Mother came up and we were all in the house.

Q. Who is "all"?

A. My brother, my Mother and I, we were in the house, then we went back out, I forget why, but we went back out and Ross Smith, I mean Captain Ross drove up, and we talked to him for a little while, my brother and my Mother and I.

Q. Talked to Captain Ross?

A. Yes.

Q. Then at...go on?

A. About 7:00 Linda Ranck picked me up and we went to the game.

Q. You went to the football game?

A. Yes.

Q. And this is what you know about October 19th?

A. Yes.

Q. Cross examination.

By The Court:

Mr. Ertel?

CROSS EXAMINATION

By Mr. Ertel:

Q. Ruth, when in the morning, when you went to the Hum-Dinger, you went there around noon, is that correct?

A. Yes.

Ruth Hubbard.

A. Yes.

Q. And Jennifer had a "Cosmo" and a milk shake, didn't she, or a "submarine"?

A. A half of one.

Q. And a milk shake?

A. Yes.

Q. She had some french fries of the Brickers?

A. Well, we were there and the twins offered some and we took some.

Q. So she had some french fries?

A. Yes.

Q. Then you went from there up the alley and had a grape battle?

A. Yes.

Q. Do you recall, don't you, that Jennifer ate a grape?

A. A couple, yes.

Q. You saw her do that?

A. Yes.

Q. Now, you would recognize Jennifer's clothing if you saw them, wouldn't you?

A. Yes.

Q. Incidentally, didn't Jennifer tear her dark blue slacks with the red hearts, down the back?

A. Yes.

Q. You had to get her a pin somewhere?

A. I don't think I had a pin to give her, I am not sure.

Ruth Hubbard.

Q. Did she get that at the Shaffers', do you know?

A. No, she didn't get any at the Shaffers'.

Q. Well, they were torn by the time you got to the Shaffers'?

A. Yes.

Q. Were they pretty well split down the rear?

A. Just somewhat.

Q. Would you recognize those if you saw them?

A. Yes.

Q. I show you marked as Commonwealth's Exhibit No. 67, are these the pants she tore?

A. Yes.

Q. Are they anymore torn now than they were then?

A. Slightly.

Q. Well, that pin there, do you know who put the pin there?

A. No.

Q. But those are the pants you were talking about, is that right?

A. Yes.

Q. Now, when you went upstairs with Jennifer, you remember being at the Shaffers' for sure, don't you?

A. Yes.

Q. You remember talking to Mrs. Shaffer on the porch?

A. Yes.

Q. You talked for quite awhile, I guess?

A. Just awhile.

Ruth Hubbard.

Q. And Mrs. Shaffer testified that was 3:30, would that be right?

A. No.

Q. You think that is wrong?

A. Yes.

Q. Have you talked over the times in this case with anybody?

A. No.

Q. You mean you have not talked to your Mother about this case at all?

A. Not much.

Q. Never?

A. Of course.

Q. You mean your Mother didn't sit down and talk to you about times?

A. Not too much at all.

Q. Well, isn't it true that you got back to your house just about quarter of four from the Shaffers'?

A. No.

Q. And isn't it true that is about the time you got the phone call?

A. At 4:00 I got the phone call, quarter of four Jennie left.

Q. Quarter of four, isn't that the time you got the call from Mrs. Hill?

A. No.

Q. And isn't it true after you got the phone call from

Ruth Hubbard.

Mrs. Hill that Jennifer didn't want to go home and she fooled around?

A. Could you please repeat that question?

Q. After you got the phone call from Mrs. Hill, isn't it true Jennifer didn't want to go home?

A. Yes.

Q. She fooled around for awhile?

A. In my upstairs.

Q. You played around, and you got the bag out and, the Glick bag out and put the corn in the bottom of it?

A. Yes, I don't know where I put the corn, but it was in the bag.

Q. That corn she brought with her, is that right?

A. Yes.

Q. Then after that Jennifer was going to leave, but you made arrangements with Jennifer, didn't you?

A. We talked about going to the football game, but we were not sure about it.

Q. You were trying to make an arrangement you would go to the football game together that night, weren't you?

A. Yes.

Q. Jennifer was to try to talk her Parents into allowing her to go or you go with them, right?

A. Yes.

Q. You were not going to go with the Ranck girl?

A. Right.

Q. And you had arranged this that she would try to

Ruth Hubbard.

talk her Parents into taking you to the football game?

A. Yes.

Q. But Jennifer didn't want to go home, she wanted to stay at your house at that point?

A. Yes, for dinner, her Parents could come up and pick us up to take us.

Q. Then it was sometime later that Jackie Hill called and wanted to know where Jennifer was, she was not home yet?

A. Yes.

Q. Now, how long does it take for you to walk down to the Hill house from your place?

A. 10 minutes to 15 minutes.

Q. And she told you Jennifer was not home?

A. Yes.

Q. Linda Ranck called at 4:30, didn't she?

A. Yes.

Q. And Linda wanted to know what happened to Jennifer, and you told Linda that Jennifer was missing, didn't you?

A. Yes, but Linda called a few times, more than once. At 4:30 we were not talking about that.

Q. At 4:30 didn't you tell her that you were not sure, maybe you would not go because Jennifer was missing?

A. No.

Q. You didn't?

A. No.

Q. It is true Linda called you at 4:30, she called you between 3:30 and 4:00?

Ruth Hubbard.

Jennifer and me got home about 3:00.

Q. You are sure about that time?

A. Yes.

Q. Did you look at a clock?

A. Right there, the radio has a clock right on it.

Q. You looked at the radio and you saw you got home at 3:00?

A. Yes.

Q. You had been at the Shaffers' just before that?

A. Yes.

Q. You are sure of that?

A. Positive.

Q. Now, did you discuss the time that you got home with your Mother?

A. No.

Q. No further questions.

By Mr. Fierro:

That is all.

May she be excused?

By Mr. Ertel:

Yes, she may.

By Mr. Fierro:

That means you don't have to come back, but don't be in the Court Room, you can go out.

(Excused from witness stand.).

By Mr. Fierro:

Q. Didn't I bring up to you and the group that I wanted you to tell the truth about this matter?

A. Yes.

Q. Haven't I constantly said that?

A. Yes.

By Mr. Ertel:

Objection.

By The Court:

I will permit it on the record.

By Mr. Fierro:

That is all.

By Mr. Ertel:

Nothing further.

(Excused from the witness stand.).

Recalled

RUTH HUBBARD, being previously sworn, recalled and testified as follows:

By Mr. Ertel:

May I approach Side Bar, your Honor?

By The Court:

Yes.

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

DIRECT EXAMINATION

By Mr. Fierro:

Q. Now, you have been sworn before, and you are Ruthie Hubbard, to identify you on the record?

Ruth Hubbard.

A. Yes.

Q. Ruthie, on October 19th, of course you know Linda Ranck?

A. Yes.

Q. On October 19th, how many phone calls did you get from Linda?

A. About four.

Q. And can you tell us.....

By Mr. Ertel:

I object to anything further, the offer was.....

By Mr. Fierro:

Time period is all.

By The Court:

Proceed.

By Mr. Fierro:

Q. Can you tell us between what time periods you got those four calls?

A. Mainly between 5:00 to 6:30.

Q. Cross examination.

By Mr. Ertel:

No questions.

(Excused from witness stand.).

WILLIAM HAKES, being duly sworn according to law, testified as follows:

By Mr. Ertel:

Side Bar.

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

Michael DeNino.

By The Court to Michael DeNino:

Q. How old are you?

A. 9.

Q. Do you know what it means to tell the truth?

A. Yes.

Q. Do you go to Church at all?

A. Yes.

Q. Where?

A. Faith Tabernacle.

MICHAEL DeNINO, being duly sworn according to law
by the Court, testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

May we have an offer, please?

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

By Mr. Fierro:

Q. Now, tell us your name?

A. Michael DeNino.

Q. How old are you, Mike?

A. Nine.

Q. Where do you live?

A. 390 Clark Street.

Q. Is that in South Williamsport?

A. Yes.

Q. What school do you go to?

A. Central Elementary.

Q. That is in South Williamsport?

Michael DeNino.

Q. Now, did you know Jennifer Hill?

A. Yes.

Q. You knew what she looked like?

A. Yes.

Q. You heard about that she disappeared last year, didn't you?

A. Yes.

Q. Do you remember being off of school one day last year in October?

A. No, I was playing football with her.

Q. You were?

A. Yes.

Q. Do you remember what day that was?

A. No.

Q. Do you remember if that was the day she disappeared?

A. I think.

Q. You think so?

A. Yes.

Q. Well, if you were playing football with her, who else was with her?

A. My brother, Michelle Hurley, the two Brickers, Cindy and Sherry, and I think Lee Miller was there, and one of the Shafers was there, I ain't sure.

Q. Anyother girlfriends?

A. I don't know.

Q. Mike, do you remember what she was wearing the day she was playing this football?

Michael DeNino.

A. Yes.

Q. What was she wearing?

A. She had a pair of blue jeans on with two hearts on her knees, and then one in the back of her pants.

Q. Do you remember what the bottom of her pants looked like?

A. I think they were cuffed.

Q. Do you know what the color of the hearts were?

A. They are like red with white polka dots, pinkish.

Q. Do you remember what else she might have been wearing?

A. She was wearing, I think it was a red or blue sweat shirt that had number "33" on it.

Q. You are sure of that, that it had number "33"?

A. I am not that sure about it.

Q. You think that is what you saw?

A. Yes.

Q. Cross examination.

CROSS EXAMINATION

By Mr. Ertel:

Q. Do you remember where you were playing football?

A. Yes.

Q. Where was that?

A. Super-Duper field.

Q. Was that in the early afternoon, do you know?

A. I don't remember what time it was.

Michael DeNino.

Q. Did Jennifer tear her pants there, do you recall?

A. Yes.

Q. Did she get a pin somewhere to pin her pants?

A. I don't know.

Q. You just remember she tore them?

A. Yes.

Q. Well, I show you marked as part of Commor lth's Exhibit No. 62, and ask you if they look like the pants you saw, do you remember?

A. Yes.

Q. You think they are the same ones?

A. I think, I am not sure.

Q. How about the rip, do you remember if the rip was in the seat?

A. Yes, that is right about where it was.

Q. Do you know Kim Hubbard?

A. Yes.

Q. Have you ever seen his car?

A. No.

Q. You never saw his car at all?

A. No.

Q. You don't know what kind of car he drives?

A. No.

Q. You don't recall what time you were playing football?

A. No.

Q. Do you know, was it after lunch or before lunch, do you remember that?

Michael DeNino. - James DeNino.

A. I don't know.

Q. How do you know Kim Hubbard?

A. Before I was swimming down the river and I saw him.

Q. That is the only time you ever saw him?

A. Yes.

Q. Okey, thank you.

By Mr. Fierro:

May he be excused?

By Mr. Ertel:

Certainly.

(Excused from the witness stand.).

JAMES DeNINO, being duly sworn according to law,
testified as follows:

DIRECT EXAMINATION

By Mr. Fierro:

Q. Tell us your name?

A. Jimmy DeNino.

Q. The boy that was in here is Mike?

A. Yes.

Q. That is your brother?

A. Yes.

Q. Where do you live, Jim?

A. 390 Clark Street, South Side.

Q. Where do you go to school?

A. Central Elementary on West Mountain Avenue.

Q. Jim, do you, did you know Jennifer Hill?

A. Not well, I knew her, but not very good.

Michael DeNino. - James DeNino.

A. I don't know.

Q. How do you know Kim Hubbard?

A. Before I was swimming down the river and I saw him.

Q. That is the only time you ever saw him?

A. Yes.

Q. Okey, thank you.

By Mr. Fierro:

May he be excused?

By Mr. Ertel:

Certainly.

(Excused from the witness stand.).

JAMES DeNINO, being duly sworn according to law,
testified as follows:

DIRECT EXAMINATION

By Mr. Fierro:

Q. Tell us your name?

A. Jimmy DeNino.

Q. The boy that was in here is Mike?

A. Yes.

Q. That is your brother?

A. Yes.

Q. Where do you live, Jim?

A. 390 Clark Street, South Side.

Q. Where do you go to school?

A. Central Elementary on West Mountain Avenue.

Q. Jim, do you, did you know Jennifer Hill?

A. Not well, I knew her, but not very good.

James DeNino.

Q. Did you, when you saw her did you know that it was Jennifer Hill?

A. Yes.

Q. Do you remember any occasion last October when you played games with her and other children?

A. Yes.

Q. For example, can you tell us who some of those children were?

A. Pardon?

Q. Who were some of the children that you were playing with that included Jennifer Hill? I mean who else was there?

A. Michelle Hurley, Cindy and Sherry Bricker and Danny Maggs, Wendy Shaffer, and I think Ruthie Hubbard.

Q. What kind of game were you kids playing?

A. Football.

Q. Do you know if that was the day that later on you either read or heard about that Jennifer disappeared?

A. No.

Q. You don't know?

A. No.

Q. Did you see Jennifer at any time after that day that you played that game with her?

A. No, Sir.

Q. You never did?

A. No, Sir.

Q. On this day that you and these other children you

James DeNino.

mentioned played this football, do you remember what Jennifer was wearing?

A. Yes, she had on a pair of blue jeans with Hearts on them on the rear end and on her knees, and she had a jersey on with the number "33".

Q. You are sure about the jersey with number "33"?

A. Well, not very sure, but I think that is what she had on.

Q. How about these pants, you say they had red hearts on them?

A. Yes.

Q. You are sure of that?

A. That is one thing I am sure of.

Q. Cross examination.

By The Court:

Mr. Ertel?

CROSS EXAMINATION

By Mr. Ertel:

Q. Can you tell us where you were playing on that day?

A. On the Super-Duper field.

Q. That is....

A. On Southern Avenue.

Q. Is that pretty close to the Shaffer home?

A. Yes, right across the alley.

Q. Do you recall if it was afternoon when you were playing there?

James DeNino.

A. Yes, it was between 11:30 and 12:00.

Q. Did you play with her later that afternoon?

A. Well, we started, I started to play with her around 11:30 or 12:00.

Q. How do you get those times, do you remember?

A. Well, it is approximate.

Q. Did the big boys kick you off that place?

A. Well, they were not really big kids, there was just a lot of them, that was all.

Q. In any event, they kicked you off?

A. Yes.

Q. Do you know if Jennifer went over to the Shaffer house, do you know?

A. Yes, well, we went over to tell her Mom, and she was talking to her for about five minutes, well, almost five minutes, and I guess she just got friends with her and stuff, and then the dog came out and they they left.

Q. Did Jennie pat the dog and stuff?

A. I think so.

Q. That was at the Shaffer house?

A. Yes.

Q. You talked to Mrs. Shaffer, didn't you?

A. Yes.

Q. Or she talked to Jennifer?

A. Yes.

Q. That is the last time you saw Jennifer?

A. Yes.

Q. Were you at the "grape battle", by any chance, do

James DeNino.

you know anything about a "grape battle"?

A. No.

Q. Do you know if Jennifer tore her pants that day?

A. Yes, because she had a hole in her crotch because she said she would not "hike" the ball.

Q. She what?

A. She had a hole in the crotch.

Q. She would not what?

A. She would not "hike" the ball.

Q. Do you know if she got a pin for that anywhere?

A. No.

Q. You don't recall anyone getting a pin for her pants?

A. No.

Q. Okey, thank you.

By Mr.. Fierro:

You may step down. May he be excused?

By Mr. Ertel:

Yes.

(Excused from witness stand.).

PHILLIP M. GRIMES, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Fierro:

Q. Tell us your name?

A. Phillip Michael Grimes.

Q. I would like that you speak a little louder, say it

James DeNino.

you know anything about a "grape battle"?

A. No.

Q. Do you know if Jennifer tore her pants that day?

A. Yes, because she had a hole in her crotch because she said she would not "hike" the ball.

Q. She what?

A. She had a hole in the crotch.

Q. She would not what?

A. She would not "hike" the ball.

Q. Do you know if she got a pin for that anywhere?

A. No.

Q. You don't recall anyone getting a pin for her pants?

A. No.

Q. Okey, thank you.

By Mr.. Fierro:

You may step down. May he be excused?

By Mr. Ertel:

Yes.

(Excused from witness stand.).

PHILLIP M. GRIMES, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Fierro:

Q. Tell us your name?

A. Phillip Michael Grimes.

Q. I would like that you speak a little louder, say it

Phillip M. Grimes.

again?

A. Phillip Michael Grimes.

Q. How old are you?

A. 17.

Q. Do some people call you "Mike"?

A. Yes.

Q. Mike, that is what I will call you, Kim Lee Hubbard is your cousin?

A. Yes, Sir.

Q. Now, what is your Mother's first name, is it Janet?

A. Yes, Sir.

Q. Janet Grimes is your Mother, and you may not know it, but she testified this Morning, and what is your address?

A. 1024 West Central Avenue, South Williamsport.

Q. Who lives in that house, Mike, name all of the people who live there?

A. My Mother and my Dad, Phillip Grimes, my Grandmother, Ruth Forsberg, my brother, Mark, and that is it.

Q. Now, going immediately to October 19th, you remember that day, don't you?

A. Yes.

Q. When was the first time that you saw Kim on October 19th?

A. He was off and on all day.

Q. All right, tell us about it, how many times you saw him, whether it was before noon, afternoon, how many times?

A. I saw him off and on all day, starting, the first tim

Phillip M. Grimes.

I saw him was around noon.

Q. Did you talk to him?

A. Not then I didn't.

Q. When was the next time you saw him, approximately what time?

A. About 4:00.

Q. What were you doing around 4:00?

A. Working on my car.

Q. Where was your car?

A. In front of my house.

Q. When do you think you started working on your car?

A. About 11:00 that morning.

Q. What was wrong with it?

A. My starter went out, it needed new brushes.

Q. How do you know that it was around 4:00 that you saw Kim and you are, and you were out there working on your car?

A. At 3:30 I went in the house to get some tools and I talked to my Mother and I come back out at quarter of four, and my Uncle, Richard Forsberg come a couple of minutes after I went back out of the house, and Kim came in right after that.

Q. You say Kim came in right after that?

A. Yes, Kim pulled up.

Q. Where did Kim park his car?

A. Out in front of me.

Q. Which way was your car headed?

A. Up towards Maynard Street.

Q. And when Kim parked his car, you said in front of you which way was it headed?

Phillip M. Grimes.

A. Up towards Maynard.

Q. Were both of these cars on the same side of the street?

A. Yes.

Q. How far away would you say Kim's car was parked from where you had your car parked?

A. 15 or 20 feet maybe.

Q. Did you clearly see Kim and his car?

By Mr. Ertel:

I object to leading.

By The Court:

Refrain from leading.

By Mr. Fierro:

Q. Are you positive you saw Kim's car at that time?

By Mr. Ertel:

I object, the same objection.

By The Court:

Reword your question.

By Mr. Fierro:

Q. Mike, are you familiar with Kim's car?

A. Yes.

Q. Can you describe it to the Jury? We are talking about October 19th, what his car looked like?

A. It was green, it had the right front fender, or the left front fender was crunched, pretty good, from an accident. It was an Oldsmobile Cutlass, four door, hard top, I think.

Q. Do you know about how long Kim had that car?

A. I couldn't say.

Phillip M. Grimes.

Q. Do you know about how long Kim had that car?

A. I couldn't say.

Q. Do you have any idea?

A. A half a year.

Q. Now, when Kim pulled up and parked his car, was there any conversation between you?

A. No, Sir.

Q. What did you see Kim do?

A. Got out of the car and went directly into his house.

Q. What did you do?

A. I continued on working on my car.

Q. Can you tell us how long you had continued to work on your car, that is from that point on?

A. It was after 5:00 when I finally cleaned up my tools and went in.

Q. When you went in, did you learn what time it was?

A. Yes, Sir, quarter after five.

Q. Why would you, why were you so, so anxious about the time?

By Mr. Ertel:

Objection.

By Mr. Pierro:

Q. Were you anxious about the time?

A. Yes.

Q. What for?

A. Because I had a date that night.

Phillip M. Grimes.

Q. What time was your date?

A. 5:30.

Q. When you went in you said it was quarter after five, how did you learn this?

A. I looked at the clock, the clock was right inside of the door.

Q. Now, Mike, between the time of 4:00 and quarter after five, did you see Kim at any time in between those times?

A. Yes.

Q. When?

A. About 5:00 he came out of the house and he spoke to me, because my Mom had called me and told me it was 5:00 and I started cleaning up my tools and asked me if I got my car fixed and I said "No.", and I asked him where he was going and he said to go to look for the Hill girl, and he got in his car and drove away.

Q. Mike between 4:00 and the time you say that you saw Kim drive away, you said it was 5:00, were you always outside at your car?

A. Yes, Sir.

Q. All of the time?

A. Yes, Sir.

Q. Can you tell us whether or not Kim Hubbard was there or, whether or not his car was there or moved at any time between 4:00 and 5:00?

A. It was there and it did not move.

Q. Are you sure?

Phillip M. Grimes.

A. Yes, Sir.

Q. While you were working on your car that afternoon, did anybody you know stop and speak to you?

A. Yes, Sir.

Q. Who?

A. Paul Bubb.

Q. Anybody else?

A. The two Sampsell boys were in the car with him.

Q. Now, do you have any time relationship, that is about what time they may have gone by?

A. It was right before Kim came home at 4:00, I would say it was approximately five of four.

Q. Did anyother boy that you know go by?

A. Rick Koch drove by a little after four and he tooted the horn.

Q. Now, you mentioned your Uncle, I think it is Richard Forsberg, do you know what time Mr. Forsberg came that day?

A. Approximately about ten minutes of four.

Q. What did he do?

A. He got out of the car with one of his boys and went in our house.

Q. Did you have a conversation with him at that point?

A. Yes, he made moreorless a wise crack about my car, me if I would take it to a garage I would not have that problem.

Phillip M. Grimes.

Q. Now, when did you next see your Uncle, Richard, he went in, but when did you next see him now?

A. About ten minutes of five he was, he came out of the house to go pick up his wife from work.

Q. Did you see your Uncle drive away?

A. Yes.

Q. When did you next see your Uncle?

A. When he come back at about quarter after five.

Q. Who was with him?

A. Natalie.

Q. Is that his wife?

A. Yes.

Q. What did your Uncle and Natalie do, especially with relationship to the car?

A. Richard got out of the car and Natalie went on up the street with it, drove it on up the street.

Q. Where did Richard go?

A. Into the house.

Q. Now, at the time that Richard came back with his wife, can you tell us where Kim's car was?

A. In front of his house.

Q. It was?

A. Yes, Sir.

Q. Are you sure?

A. Yes.

Q. Now, what time did you say that it was that Richard and his wife came to your house?

A. Between ten after and quarter after five.

Q. Now, after Richard and his wife came up, what did you do, Mike?

A. Well, I was cleaning up my tools, and I followed Rich on into the house.

Q. What did you do?

A. Went on in and cleaned up and about twenty-five after five I left.

Q. Why do you say twenty-five after five you left, do, how do you know it was that?

A. I looked at the clock on the way out the door to see what time it was.

Q. Why would you want to look at the clock, did you have a reason for it?

A. Yes, I wanted to get over to my girlfriend's house at 5:30.

Q. What time was your date?

A. 5:30.

Q. Did you keep your date?

A. Yes.

Q. Did you see Kim at anyother time that evening?

A. No.

Q. You did not?

A. No.

Q. Did you have a good look at Kim's car while it was parked there between 4:00 and 5:00?

A. Yes.

Phillip M. Grimes.

Q. You did?

A. Yes.

Q. Now, Mike, I want to show you marked for identification as Commonwealth's Exhibit No. 115, and as you can see it is a white hard helmet?

A. Yes.

Q. Did you ever see this particular helmet before?

A. No, Sir.

Q. What?

A. No, Sir.

Q. Did you ever see this or any helmet like it in Kim's car at any time?

A. No.

Q. Are you sure?

A. I am positive.

Q. Cross examination.

By The Court:

Mr. Ertel?

CROSS EXAMINATION

By Mr. Ertel:

Q. I am interested, Mike, who is your girlfriend you went to?

A. Bonnie Derr.

Q. Where did you go with her?

A. I stayed at her house part of the night and then we went out.

Q. Went out?

Phillip M. Grimes.

A. Yes.

Q. Where did you go?

A. Bowling.

Q. Where did you go bowling?

A. ABC Bowling Lanes.

Q. How long were you there?

A. Two hours.

Q. What time did you get there?

A. About 6:00.

Q. Stayed until what?

A. About 8:00, I guess.

Q. Then where did you go?

A. Back to her house.

Q. How long were you there?

A. Until midnight.

Q. In other words, you spent the whole evening with Bonnie Derr, is that correct?

A. Yes.

Q. Are you sure of that?

A. Yes.

Q. Now, you are positive that this is the day you saw Kim's car there between these hours was the night you took Bonnie and went bowling?

A. Yes.

Q. Did you watch a movie at her house on TV or anything?

A. We watched some TV.

Q. What TV program was it, do you remember?

Phillip M. Grimes.

A. I don't remember.

Q. But you are sure this is the day you saw Kim Hubbard's car, is that right?

A. Yes.

Q. No question in your mind when you spent that time from 5:30 to midnight with Bonnie Derr?

A. Yes.

Q. You couldn't be mistaken on it?

A. No.

Q. You are absolutely sure?

A. Yes.

By Mr. Fierro:

That is the fourth time, and I object.

By The Court:

Sustained.

By Mr. Ertel:

I want to make sure.

By Mr. Fierro:

Not four times.

By The Court:

It was answered, Sir.

By Mr. Ertel:

Q. Now, where do you work?

A. I was working with Michael Stuenkel as a cleaner.

Q. Was Kim Hubbard working there?

A. At an earlier date.

Q. What do you mean by "earlier date"?

A. He had quit work, he worked for him for awhile and

Phillip M. Grimes.

then he quit.

Q. Did he quit much before this day you saw him?

A. I don't remember when he quit.

Q. But you are, you and Kim are pretty good friends, aren't you?

A. I guess so.

Q. You are not only cousins, but you are friends?

A. Yes.

Q. You worked at the same place?

A. Yes.

Q. Who got who the job?

A. I got Kim the job.

Q. You got Kim the job there?

A. Yes.

Q. Now, I am curious about this time you saw the Sampsell boys on the Street along with this Paul Bubb?

A. Yes.

Q. It was very shortly thereafter you saw Kim?

A. Yes.

Q. What was it, five minutes, three minutes?

A. About five minutes.

Q. Are you sure about that?

A. Yes.

Q. That is the time he arrived there?

A. Yes.

Q. There is no question about that either?

A. No.

Q. Five minutes after you saw Bubb, Kim arrived?

Phillip M. Grimes.

A. Yes.

Q. Well, you didn't see Kim then, did you?

A. Yes.

Q. You didn't see his face, did you?

A. No, I didn't see his face.

Q. The only reason you say you think it was Kim is the way the car drove up, isn't it?

A. I saw the car drive up and park the car and go in the house.

Q. You were underneath the car, your car, weren't you?

A. Yes.

Q. You were underneath and you didn't see Kim?

A. Yes, I did.

Q. You know Kim drive's fast, don't you, all of the time?

A. Not all of the time.

Q. But you heard it pull up in a loud noise, didn't you?

A. No.

Q. Now, when you looked and you saw these legs, you saw legs, didn't you?

A. Yes.

Q. You didn't see anything above the waist, did you?

A. Yes.

Q. You did?

A. Yes.

Q. Underneath this car, you looked out and saw above his waist?

Phillip M. Grimes.

A. Yes.

Q. What did you see?

A. I saw Kim.

Q. What did he wear?

A. A pair of blue jeans on, a pair of sneakers and old overshirt.

Q. Now, Mike, you talked to the Police in this case, didn't you?

A. Yes.

Q. And you talked to them about how you saw Kim Hubbard come up there, allegedly Kim Hubbard?

A. Yes.

Q. Didn't you tell them the first time that you saw blue jeans and combat boots, and then you hesitated and said "or maybe sneakers"? Isn't that what you said?

A. I don't remember.

Q. You don't remember what you told the Police?

A. Nope.

Q. Well, you talked to them just January 11, 1974, didn't you?

A. Yes.

Q. You talked to the Police on January 11, 1974, and you can't even tell us what you told them, yet you remember what happened on October 19th?

A. Yes.

Q. And they went over this entire episode with you, did they not?

A. Yes.

Phillip M. Grimes.

Q. You know that the combat boots are important in this case, don't you?

A. Yes.

Q. That is why you hesitated after you said combat boots to the Police?

A. I didn't know at that time.

Q. Now, didn't you also tell the Police that Kim parked right square in front of your car?

A. Yes, he was in front of me.

Q. Yet the Forsberg automobile was right in front of your car, wasn't it?

A. Yes.

Q. So there was the Forsberg car and then Kim's car?

A. Yes.

Q. So you didn't see Kim's car all of the time you were underneath that car?

A. Yes, I can see his car.

Q. What was it, your starter that was the problem on your car?

A. Yes.

Q. That is all you worked on, on that day?

A. Yes.

Q. You put in bushings in it?

A. Brushes.

Q. That is the only problem you had, was just putting the brushes in?

A. Yes, I put the brushes in the next day though, that

Phillip M. Grimes.

night I still didn't have my car fixed, I had to use my Dad's car to go over.

Q. Isn't it true you had a problem with your battery terminals?

A. No.

Q. It is not?

A. No.

Q. Incidentally, who helped you on that car?

A. Well, my friend, Dave Frantz, he was down earlier in the day, and my brother, they just talked to me, my brother and his friend.

Q. Did anybody help you with that car that day?

A. Dave helped me a little bit.

Q. That is all?

A. That is all.

Q. Nobody else?

A. Nope.

Q. You say you got up that day at around 11:00 or started on your car around 11:00?

A. Started on my car around 11:00.

Q. Nobody helped you on the car except the Frantz boy?

A. No.

Q. No further questions.

By Mr. Fierro:

Step down.

(Excused from witness stand.).

Colleen Whitenight.

COLLEEN L. WHITENIGHT, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Pierro:

Q. What is your name?

A. Colleen L. Whitenight.

Q. Maybe we didn't all hear you?

A. Colleen Whitenight.

Q. How old are you, Colleen?

A. 18.

Q. Where do you live?

A. 237 Spring Street, DuBoistown.

Q. Do you know Kim Hubbard?

A. Yes.

Q. How long have you known him?

A. Since when I was in about 8th and 9th grade.

Q. Have you been called, what is called "keeping company" going steady with him for any period of time?

A. Yes.

Q. For about how long?

A. Three years.

Q. I suppose sometimes on and off, you break up, did you ever break up?

A. Yes.

Q. Colleen, I want to talk about October 19th of last year, you, of course, know all about that date, don't you?

Colleen Whitenight.

A. Yes.

Q. Now, with reference to you and Kim, when was the first time, and we are talking about October 19th, when was the first time that you spoke to him, either in person or by phone?

A. That afternoon, in the late afternoon.

Q. Late afternoon?

A. Yes.

Q. Where did you, was it in person or by phone?

A. By phone.

Q. Where did you call from?

A. My Dad's store that I was working at that day.

Q. What is the name of your Dad's store?

A. Clearview TV.

Q. Had you been working there for some time?

A. Yes.

Q. Do you know if your Father was there when you made the call?

A. No, he was not.

Q. You say he was not?

A. No.

Q. Were you, did you reach Kim?

A. I called his house and somebody answered the phone.

Q. Did you talk to him by phone at that time?

A. I can't remember whether I did or not.

Q. Did you call him again?

A. No.

Colleen Whitenight.

afternoon?

A. One.

Q. Did you reach him?

A. I....

By Mr. Ertel:

I object, she stated she can't remember.

By Mr. Fierro:

Q. Why did you talk to him by phone that afternoon?

By Mr. Ertel:

I object, it was answered.

By The Court:

You may answer again?

A. I can't remember if I talked to him or not.

By Mr. Fierro:

Q. Is that the only call you made to him that day?

A. That is the only time I called him, he called me later that night.

Q. About what time?

A. 6:00.

Q. Did you recognize his voice?

A. Yes.

Q. Are you sure it was around 6:00?

A. Yes.

Q. Where were you when he called you?

A. At my house.

Q. Was that the only other call that you and he had that afternoon or night?

A. Yes.

Colleen Whitenight.

Q. D'd you see him that afternoon or night?

A. That night I did.

Q. About what time?

A. About quarter after seven.

Q. Where did you see him at that time?

A. Well, I came down to his house in my car and I met, he was standing at the alley, and we parked my car and....

Q. And what?

A. Then we went up to his house.

Q. Now, when you got to his house, and by the way, what time do you say that was?

A. Quarter after seven.

Q. When you got to his house, do you know who was there?

A. Yes.

Q. Who?

A. His Mother.

Q. Do you know what his Mother was doing?

A. She was buffing the floor.

Q. What did you and Kim do when you got to his house?

A. Well, we went into the door, since they were buffing the floor we took our shoes off and we helped buff the floor and move the furniture back in place.

Q. When you say "...we helped buff the floor...", does that mean you too?

A. Yes.

Colleen Whitenight.

Q. You said that you took your shoes off?

A. Yes.

Q. Did you see what Kim was wearing?

A. Yes.

Q. What was he wearing on his feet?

A. Sneakers.

Q. Do you have any idea how long you and Kim helped with the floor?

A. About a half hour, 45 minutes.

Q. Whatever time that was, after you and Kim got through helping with the floor, what did you and Kim do?

A. We stayed at the house until about 8:00.

Q. Then what did you do?

A. Well, Mr. Ross came, he is the Policeman, and we talked to him.

Q. That would be Captain Ross?

A. Yes.

Q. You say you talked to Captain Ross, were you present?

A. Yes.

Q. You say "you talked", does that mean Kim and Mrs. Hubbard as well?

A. Yes.

Q. Captain Ross came, you talked for about how long?

A. About 10 minutes.

Q. What happened next?

A. Well, he told us a story....

Q. Well, we don't want you to tell us what Captain

Collen Whitenight.

Ross told you.

A. We wanted to find out what he was talking about.

Q. By the way, this conversation with Captain Ross, was that inside of the house or outside of the house?

A. Inside.

Q. Now, after Captain Ross left, what next did you and Kim or include Mrs. Hubbard, if she was included, what did you do?

A. We got in Kim's car and Mrs. Hubbard and Kim and and I, we went to find this guy he was talking about.

Q. You mean that Captain Ross was talking about?

A. Yes.

Q. In other words, you went to a certain place?

A. Yes.

Q. Can you name the place?

A. No, but it is down along where Ray-O-Eac is.

Q. Did you get into the house or not?

A. No, no, I didn't, Kim went to the house.

Q. Did they get into the house?

A. No.

Q. Where did you go next?

A. We went back to the house and we dropped Mrs. Hubbard off and then Kim and I went to the Hum-Dinger.

Q. Did you see anybody there that you knew?

A. Yes.

Q. Who?

A. My girlfriend.

Q. What is her name?

Colleen Whitenight.

A. Nancy Stuempfle, and her boyfriend.

Q. Tom Bryan.

Q. Anybody else?

A. Rick Koch.

Q. Did you recognize anybody else?

A. No.

Q. How long do you think that you and Kim stayed at the Hum-Dinger?

A. About 10 or 15 minutes.

Q. Did you have something to eat or drink?

A. I think we had cokes.

Q. Now, before you left the house, that is Captain Ross, you say, came and talked to you for about ten minutes and then you, Mrs. Hubbard and Kim left to go to a certain place, did you watch Kim as he put something on his feet?

By Mr. Ertel:

I object to leading questions.

By The Court:

The objection is over ruled, you may answer.

A. Well, we put our shoes back on, and I got them....

By Mr. Fierro:

Q. You what?

A. I got the shoes.

Q. You got the shoes for who?

A. For Kim and I.

Q. Well, what did you get for Kim?

A. His sneakers.

Colleen Whitenight.

Q. Are you sure?

A. Yes.

Q. You say that you are the one that got them?

A. Yes.

Q. Now, after you came back from the Hum-Dinger, where you say you had been there about 10 to 15 minutes, where did you and Kim go?

A. We went parking down the Dell.

Q. You went parking down the Dell?

A. Yes.

Q. About how long were you there?

A. About an hour.

Q. Where did you go from there, Colleen?

A. We went back to Kim's house.

Q. What did you do, and how long were you there?

A. Well, we just sat around on the couch and the TV was on, and his sister came home then and then we decided to take my car back up to my house, that was about 10:30.

Q. About 10:30?

A. Yes.

Q. You took your car back to your house?

A. Yes.

Q. Who went with you?

A. I went by myself, but Kim followed me home.

Q. What next did you and Kim do, if anything?

A. We came back down to his house.

Q. In whose car?

Colleen Whitenight.

A. In Kim's car.

Q. In other words, you left your car at home?

A. Yes.

Q. In other words, you went back with Kim?

A. Yes.

Q. To where?

A. To his house.

Q. What did you do when you got to his house, I am talking about you and Kim?

A. We watched a movie that night.

Q. Do you remember what the movie was?

A. It was about motorcycles.

Q. I didn't hear you?

A. About motorcycles.

Q. Is that all you did while you were there?

A. Yes.

Q. Did you leave there at any time during or after this movie?

A. No.

Q. Well, what time, or what next then did you and Kim do?

A. Well, I left at 12:30, he took me home.

Q. You say it was about 12:30?

A. Yes.

Q. Do you have any idea why you say 12:30?

A. No, but I decided to get home, when I went home, I just knew the movie was not over to 1:00, and I left before

Colleen Whitenight.

the movie was over, and I watched a good part of the movie before I left.

Q. Now, when you got home, what did you do with reference to Kim, if anything?

A. I called him.

Q. About what time?

A. Between quarter of one and 1:00, before the movie was over.

Q. Did you talk to Kim?

A. Yes.

Q. Was that the last you talked to Kim then?

A. Yes.

By The Court:

Mr. Fierro, this might be a good time to take a recess. The Defendant is excused. The Jury is excused. Court is recessed for 15 minutes.

(Recessed at 2:45 P.M., EDST, and reconvened at 3:00 P.M., EDST.).

(Colleen Whitenight returned to witness stand.).

By Mr. Fierro:

Q. Colleen, were you familiar with Kim's car?

A. Yes.

Q. Had you been in it much?

A. Yes.

Q. Like before October 19th, about how often had you been in it?

A. Almost every night.

Q. Now, I am going to show you as, marked for identificat

Colleen Whitenight.

as Commonwealth's Exhibit No. 115, which is a white helmet, look at it, did you ever see this or any helmet like it in Kim's car?

A. No.

Q. Are you sure?

A. Yes.

Q. All right, you say you were in it almost every night?

A. Yes.

Q. Well, you were in it on October 19th too, weren't you?

A. Yes.

Q. Were you in the car the next day?

A. Yes.

Q. Where did you go the next day with Kim?

A. We took some food down to the Hills'.

Q. You what?

A. We took some food down to the Hills'.

Q. By "we", meaning?

A. Kim and his Mother and I.

Q. Anyone else?

A. I don't think so.

Q. Do you happen to know what kind of food you took?

A. It was a roast.

Q. Did you go into the house?

A. Yes.

Q. Who did you see in the hill house?

A. Mrs. Hill, and the Grandmother.

Colleen Whitenight.

Q. Did Kim go in?

A. Yes.

Q. How long did you folks stay?

A. Just a couple of minutes.

Q. From there where did you go?

A. I can't remember.

Q. Now, come back to the previous day, October 19th, you said you saw Kim at around 7:15 and you described all of the activities right up to about 12:30 - 1:00, whatever it is, I want to ask you this question, what was Kim's behaviour like?

By Mr. Ertel:

Objection.

By The Court:

The objection is over ruled. You may answer.

A. He just acted like he always did with me, just normal.

By Mr. Fierro:

Q. Did you have occasion on the night of October 19th to see his face and hands?

A. Yes.

Q. Did you notice anything unusual about them?

A. No.

Q. Cross examination.

By The Court:

Mr. Ertel.

Colleen Whitenight.

CROSS EXAMINATION

By Mr. Ertel:

Q. Colleen, you were interviewed by the Police Officers in this case, were you not?

A. Yes.

Q. And you were interviewed on the 31st of October, 1973, were you not?

A. Yes.

Q. Now, on that occasion you were interviewed in the presence of your Parents, were you not?

A. Yes.

Q. And you immediately began to lie to the Police Officers, did you not?

By Mr. Fierro:

I object to that statement.

By The Court:

The objection is sustained.

By Mr. Ertel:

Q. Did you tell them mistruths?

By Mr. Fierro:

I object to that.

By The Court:

Reword your question.

By Mr. Ertel:

Q. Did you tell them the truth?

By Mr. Fierro:

I object, let's find out what was asked and answered.

Colleen Whitenight.

By The Court:

Reword your question.

By Mr. Ertel:

Q. Did you tell the Police you had not seen Kim for about two weeks prior to that time?

A. Yes.

Q. Did you admit that was not true?

A. Yes.

Q. Did you then break down and say you were telling them the truth?

A. What was the question?

Q. Did you then say you would tell them what you knew?

A. Yes.

Q. And did you tell them you had gone on and off with Hubbard for about two years?

A. Yes.

Q. Are you in love with Kim Hubbard?

A. Yes.

Q. Did you tell them you had called the Hubbard residence about 3:45 P.M. on October 19th, and the reason you knew that, you were watching a movie "One Life To Live"?

A. Yes.

Q. You stated Kim's Mother answered the phone?

A. Yes.

Q. She said Kim was buffing the floor?

A. Yes.

Q. You did not talk to him?

Colleen Whitenight.

A. I said I didn't remember whether I did or not.

Q. You never called Kim's home from the, you were at the store working that day, were you not?

A. Yes.

Q. That is your Father's Clearview TV?

A. Yes.

Q. And you never called Kim when your Father was there, would you?

A. No.

Q. You didn't call him on this occasion while your Father was in that store, did you?

A. On what occasion.

Q. On the 19th?

A. I didn't call him when my Father was there, no.

Q. You didn't talk to him while your Father was at the store, would you?

A. No.

Q. And you know that you stayed in the store until 5:20 that night, isn't that true?

A. I probably stayed until it was closing.

Q. You don't have the key to turn off the burglar alarm system, somebody else has to turn it off?

A. That is right.

Q. Were you in the car after the 31st of October?

A. Was I in a car?

Q. In it?

A. Yes, I can't remember whether I was or not.

Colleen Whitenight.

Q. After the 31st of October, up until the time he was arrested, from the time the Police talked to you until the time Kim was arrested?

A. I don't think so.

Q. You were never in his car between those two times?

A. I don't think I was.

Q. Now, you dated Kime for how long?

A. About three years.

Q. I am going to have to ask you some embarrassing questions.....

By Mr. Fierro:

Maybe.

By Mr. Ertel:

Q. Have you been having sexual intercourse with him for that period of time?

A. Yes.

Q. Did you have an abortion by him?

By Mr. Fierro:

I object to this.

By The Court:

Side Bar, please.

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

By The Court:

The objection is sustained.

By Mr. Ertel:

Q. On the night in question you said you went down in the Dell, is that right?

Colleen Whitenight.

A. Yes.

Q. Now, when you went down in the Dell you didn't go down in the cornfield, you went down on Sixth Avenue, did you not?

A. Sixth Avenue?

Q. Where did you go, down by the railroad tracks?

A. Yes.

Q. But not down into the cornfield?

A. No.

Q. In fact you have never been in the cornfield in the Dell, have you, with the Defendant?

A. No.

Q. And your relationship, sexual relationship with the Defendant has been a long standing one?

By Mr. Fierro:

Your Honor, I object.

By Mr. Ertel:

I think that is the question you said specifically I could ask.

By Mr. Fierro:

Should we go to Side Bar again, he keeps making statements.

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

By Mr. Ertel:

Q. How long have you been dating the Defendant specifically, can you give us a beginning date, Colleen?

A. I said 8th or 9th Grade. I dated him before he

Colleen Whitenight.

went in the service.

Q. Before he went in the service, did you date him while he was in the service?

A. No.

Q. How about when he came out of the service?

A. Yes.

Q. You have been going with him on and off to the present time?

A. Yes.

Q. How old were you when you were in 8th or 9th grade?

A. About 14 or 15.

Q. No further questions.

By The Court:

Mr. Fierro?

RE-DIRECT EXAMINATION

By Mr. Fierro:

Q. Colleen, the District Attorney asked you about a statement that you made to the Police in front of your Parents, of course that includes your Father, can you tell the Court and Jury, what, if anything, your Father said to you or indicated to you concerning that interview?

A. Well, my Parents didn't know I was seeing Kim up until then, and I knew they had to find out, and I was really upset at the time because the Police were sitting there and my Parents were sitting there, and I was just really upset.

Q. You say you were upset?

A. Yes.

Colleen Whitenight.

Q. Did you have time to think over those events from the time you gave that interview?

By Mr. Ertel:

I object, that is now leading.

By The Court:

Reword your question.

By Mr. Fierro:

Q. Did you think about these matters after that interview?

A. Yes.

Q. Has your Father specifically said anything to you with reference to testifying on behalf of Kim?

A. No, just to tell the truth.

Q. What?

A. Just to tell the truth.

Q. How long was it you said that you were thinking about this thing after that interview, without telling us what you finally thought of, how long a period of time went by after you had this interview with the Police that you finally came in your own mind as to what happened on the 19th?

By Mr. Ertel:

I object, that is implying she came to some other conclusion, and it is leading.

By Mr. Fierro:

Q. Did you come to some other conclusion after you thought about it, after that interview?

A. Yes.

Q. How long did it take you to think about it,

Colleen Whitenight.

whether it was hours or days or weeks, tell us?

A. Probably about a couple of weeks.

Q. Why did it take you that long, tell us what your mental state was?

By Mr. Ertel:

I object to this.

By The Court:

Sustained.

By Mr. Fierro:

Q. Did you tell the truth here today?

A. Yes.

Q. That is all.

By The Court:

Mr. Ertel?

RE-CROSS EXAMINATION

By Mr. Ertel:

Q. Did you receive a letter from Kim?

A. Yes.

Q. How did you get that letter?

A. I picked it up at his house.

Q. From his Mother?

A. Yes.

Q. His Mother gave it to you?

A. Yes.

Q. I have no further questions.

By The Court:

Is that the one you are talking about that is in evidence?

Colleen Whitenight.

By Mr. Ertel:

Q. Specifically what is marked as Commonwealth's Exhibit No. 116, is that it?

A. Yes.

Q. And you gave it to a girlfriend to keep for you, is that right?

A. Yes.

Q. You didn't want anybody else to get hold of it, is that correct?

By Mr. Fierro:

I object to that, whatever her motive was.

By The Court:

Sustained.

By Mr. Ertel:

Q. You didn't, did you tell her you didn't want your Father to get it?

By Mr. Fierro:

I object to what she told somebody else about it.

By The Court:

Sustained.

By Mr. Ertel :

Q. There are other letters too, are there not?

A. Yes.

By Mr. Fierro:

From whom? We would like to know and whether they are in evidence, and they are the best evidence, I would like to see them.

Colleen Whitenight.

By The Court:

Over ruled.

By Mr. Ertel:

Q. You got them from Kim?

A. Yes.

Q. Through his Mother?

A. Yes.

Q. Where are they?

A. At his home.

Q. But these two letters you singled out and gave to a girlfriend?

A. Yes, but I had two others at home too, so I took them down to her house so my Parents didn't know I was writing to Kim.

Q. That is all.

By The Court:

Mr. Fierro?

By Mr. Fierro:

Q. You say you took these letters to your girlfriend so your Parents would not know about it?

A. At the time she was with me and I didn't have a place to put them and so I said, "Here, will you keep these for me?", and she put them in her pocketbook and had them ever since.

Q. No further questions.

By Mr. Ertel:

That is all.

(Excused from witness stand.).

Dorisann Hubbard.

By Mr. Pierro:

May she be excused?

By Mr. Ertel:

Yes.

DORISANN HUBBARD, being duly sworn according to law,
testified as follows:

DIRECT EXAMINATION

By Mr. Pierro:

Q. State your name?

A. Dorisann Hubbard.

Q. You are Kim Lee's Mother?

A. Yes.

Q. Where do you live?

A. 1030 West Central Avenue, South Williamsport.

Q. How old is Kim now?

A. He is 20.

Q. Mrs. Hubbard, there was a girl in here by the
name of Colleen Whitenight who testified, do you know her?

A. Yes, I do.

Q. Do you know whether she has been keeping company
with your son?

A. Yes, she has.

Q. Mrs. Hubbard, before we get into this thing, what
I would like to find out, were you familiar with your son's car,
did you know what it looked like?

A. Yes.

Q. Do you know if there was anything wrong with it,

Dorisann Hubbard.

I am talking about October 19th?

A. Yes.

Q. What was wrong with it, what could you see?

A. I know it was banged up.

Q. What part of it was banged up?

A. The left fender and light.

Q. I want to show you marked as Commonwealth's Exhibit No. 115 and everybody in this Court Room knows this is a hard hat type of helmet, you can see it, can't you?

A. Yes.

Q. Did you ever see this Exhibit before in your life?

A. Never.

Q. Never?

A. I have never seen it.

Q. Now, outside of this particular Exhibit, have you ever seen a hard hat type of helmet in Kim's car of any kind?

A. No.

Q. Does your husband own any hard hat type helmet?

A. We have never owned one.

Q. Never owned one?

A. Never.

Q. Have you ever had a helmet like this in your house, that you know of?

A. Never.

Q. You knew Jennifer Hill?

A. Yes, I did.

Q. For how long did you know her?

A. From the day she came from the Hospital, her life.

Q. That is all, I have no further questions.

By Mr. Pierro:

Thank you, Mrs. Hubbard, you may step down.

May she be excused?

By Mr. Ertel:

She may be excused.

By Mr. Pierro:

You may be excused. Your Honor, may we come to Side Bar?

(Excused from witness stand.).

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

By The Court:

The Defendant is excused for 15 minutes. The Jury is excused. Court is recessed.

(Recessed at 4:15 P.M. and reconvened at 4:55 P.M.).

CARL FENSTEMACHER, previously sworn, recalled to the witness stand and testified as follows:

DIRECT EXAMINATION

By Mr. Pierro:

Q. We had your name before, please repeat it for the record?

A. Carl Fenstermacher.

Q. What is your occupation?

A. Office Manager.

Q. Of what?

A. Strohmann Brothers Company, the Roll Plant.

Q. Where is that located?

Carl Fenstermacher.

A. 3375 Lycoming Creek Road.

Q. You were subpoenaed to bring certain records concerning Kim Hubbard, weren't you?

A. Yes, that is correct.

Q. Did you bring those records?

A. Right here.

Q. Are they the official copies, official records of the company?

A. These are notarized copies of the originals.

Q. Are they and were they under your supervision as Plant Manager?

A. That is correct.

Q. Do they show when Kim Hubbard went to work at Stroehmann's?

A. They do so.

Q. Will you tell us by looking at the record, unless you have a memory of it, would you please tell us when Kim Hubbard went to work at Stroehmann Brothers?

A. At 4:00 P.M. on October 24th.

Q. Of what year?

A. 1973.

Q. Now, Mr. Fenstermacher, as the Plant Manager, do you know whether certain equipment is issued to employees?

A. Yes.

Q. Do you know what employment Kim was given on October 24th?

A. He was to work as a Baker's Helper in our Sweet

Rolls Department.

Q. In that Department, as, do you know as Plant Manager whether equipment is issued to those employees?

A. It is issued to all employees.

Q. To all?

A. To all.

Q. Let's just talk about Kim, of course he was one of the employees, now what equipment on October 24th of last year was issued to Kim Hubbard or any new employee that went to work at your Plant?

A. Normally, when a person is put to work he is given a helmet and a uniform and that is it.

Q. When you say "a uniform", what does that mean?

A. Pants and shirt, or dress in the case of a woman.

Q. Now, I am going to show you marked for identification as Commonwealth's Exhibit No. 115, and I want you to look at it, if you wish you may remove it from the bag, unless you don't need to, that is up to you?

A. That is the brand.

Q. That was, that is what brand?

A. The brand we issue at our Plant.

Q. You have just said this is the brand, that Commonwealth's Exhibit No. 115, that is the brand helmet that is issued at your Plant?

A. That is correct.

Q. Is that correct?

A. That is correct.

Carl Fenstermacher.

Q. Cross...I am sorry, do you know whether or not this equipment is issued when the man goes to work or before he goes to work?

A. I cannot definitely say, it could be either time. Normal practice is when a man goes to work.

Q. Okay, cross examination.

CROSS EXAMINATION

By Mr. Ertel:

Q. Mr. Fenstermacher, I believe we do have one part of your record that is not there, is that correct?

A. Yes, the Employment Application.

Q. Do you know when he applied to Stroehmann's?

A. I believe the Application was dated 10-10-73.

Q. You don't know, of course, who interviewed him or when this was made out do you, or did you do it?

A. I may have, I couldn't truthfully say at this point.

Q. You don't know?

A. No, we get too many people in, I don't recall.

Q. Incidentally, do you know what time he quit your Plant?

A. His last day of work you mean?

Q. Yes?

A. No, not without looking in the file.

Q. Would you look?

A. I would guess the Wednesday after he started, the following Wednesday.

Carl Fenstermacher.

Q. Will you check?

A. Sure.

Q. Please?

That would have been October 30th at half-past

Q. That was his last day?

A. Yes.

Q. Is it your normal policy when a man quits to have
him r his uniform and helmet?

A. He did not quit as such, that was his last day of
work.

Q. He just never came back?

A. Yes.

Q. You don't know if he surrendered his helmet and
uniform

A. To my knowledge, he did not.

Q. But you didn't receive it?

A. I did not receive it.

Q. Do you know if anybody else could have received it?

A. Very possible.

Q. Now, this helmet, do you have serial numbers on them?

A. No.

Q. So there is no way to know that particular helmet
came from your particular establishment?

A. Just by the brand name.

Q. Do you know how many helmets with that brand name are
distributed in this area?

Carl Fenstermacher.

A. In our Plant probably 200 a year.

Q. Do you get them all back?

A. Not necessarily.

Q. How about other establishments in the area, does anyother establishment have them?

A. I know the other two Stroehmann Plants have the same brand.

Q. You don't have the records from the other Stroehmann Plants, do you?

A. No.

Q. You don't know if he worked there at them, do you?

A. No, I do not.

Q. Did he give any previous employment on Commonwealth's Exhibit No. 118 which you had with your files?

A. I don't believe, no, there is nothing marked on.

Q. Nothing at all?

A. The U.S. Army is the only thing that was shown there.

Q. I have no further questions.

By Mr. Pierro:

I don't either. May he be excused?

By Mr. Ertel:

(Excused from witness stand.).

Robert Simon.

ROBERT P. SIMON, being duly sworn according to law,
testified as follows:

DIRECT EXAMINATION

By Mr. Fierro:

Q. State your name?

A. Robert P. Simon.

Q. Where do you live?

A. 1804 Princeton Avenue.

Q. Where do you work?

A. Stroehmann Brothers' Company Roll Plant.

Q. That is on Lycoming Creek Road?

A. Yes, Sir.

Q. What is your position there?

A. Production Manager.

Q. Mr. Simon, do you know Mr. Hubbard?

A. Yes, Sir.

Q. Do you know when Mr. Hubbard went to work
for Stroehmann's?

A. Not until I talked with Mr. Fenstermacher and looking
over the records.

Q. And when was it when you looked at the records?

A. On the 24th, Sir.

Q. The 24th of what?

A. October.

Q. What year?

A. 1973.

Q. Now, I think Mr. Fenstermacher said he went to work

Robert Simon.

somewhere around 4:00, is there a 4:00 shift?

A. Yes, Sir.

Q. Was that like 4:00 to 11:00?

A. 4:00 to 12:30 or in that area.

Q. Who was, at least on October 24th, in charge of that shift, or was there more than one man?

A. It would probably be Mr. Terry Andrews, that is the man that is in charge of that shift.

Q. What do you know concerning what equipment, if any, is issued to an employee at that particular Plant?

A. When a man starts work he is issued a pair of pants, a shirt and a white hat, a helmet.

Q. You say when he starts work he gets it?

A. Yes, Sir.

Q. I want to show you what has been identified as Commonwealth's Exhibit No. 115, if you wish you may remove it from the bag, it is up to you, but I want you to look at it?

A. Yes.

Q. What is that?

A. This is the type of helmet we use at the bakery.

Q. Look at the brand?

A. Yes.

Q. What brand is it?

A. Scalp-cap.

Q. Do you know whether that is the brand you use at the bakery?

A. I would not swear to it, but I am pretty sure it is.

Q. But this is the type of helmet that you issue, is that correct?

A. Yes.

Q. When you say clothing, what do you mean?

A. Pair of white pants and a white shirt.

Q. Cross examination.

By The Court:

Mr. Ertel?

CROSS EXAMINATION

By Mr. Ertel:

Q. I take it you were not directly responsible for Mr. Hubbard at all, I mean you were not right in contact with him during his employment?

A. Well, I hired him.

Q. You hired him?

A. Yes.

Q. Did you take his Application?

A. Yes, Sir.

Q. Do you remember specifically having him fill out his Application?

A. Outside of seeing quite a few Applications, I would believe that would be the one.

Q. Could it have been Mr. Fenstermacher that took his application rather than you?

A. Well, it is kept in the office, once I hire a man, then it is given to the office and put into his records.

Q. Well, that is dated the 10th of October?

A. Yes, Sir.

Robert Simon.

Q. Is that when you hired him?

A. I believe, looking at the records, there is times that somebody can come in and put an Application in and not be hired for a week, a day, a month or a couple of months, depending on the need for people, so it is quite likely that he could have put it in on the 10th and not been hired right away.

Q. You don't know about this?

A. No.

Q. You don't know when he was hired?

A. Just from going over the records, it was the 24th.

Q. That is the day he started work?

A. Yes, Sir, the day he started work.

Q. But when was he hired?

A. That, I couldn't tell you, Sir.

Q. Could it have been before the 24th and told to come in on that particular date, is that true?

A. Yes, Sir.

Q. And at that time you would have issued his helmet and his white clothing?

A. Common practice is to be given to him when he starts working, the day he started work.

Q. You don't know specifically whether Kim Hubbard got it when he was hired or when he started work, is that correct?

A. No, Sir, I don't.

Q. If Mr. Fenstermacher said when he applied and if he was hired then, it might have been given then, or when he started work, you don't know about that?

Robert Simon.

A. No, it is common practice to give it whenever the man starts his work, his shift.

Q. You don't know who issues this, do you?

A. At the time that it was being issued by myself and by the supervisor on duty.

Q. You have not talked to Mr. Andrews to ask him if he....

A. We discussed it but he doesn't remember and I don't remember. At the time there was a constant turnover of employees.

Well, you were looking for people back around October, is that right, somebody came in you were really looking for people?

A. Any particular day, yes.

Q. Incidentally, there is red ink on there which may be the same handwriting, do you know whose red ink that would be the person that wrote it, and he wrote a "20" I believe?

A. This would possibly be the Secretary and Telephone Operator.

Q. What would the "20" indicate?

A. 20 years of age. That is my handwriting on top, "The second shift Sweet Rolls."

Q. Then you have up here "Start 10-29", I believe. Did you write that?

A. I had written 10-28. I don't remember why the "9"

Robert Simon.

was on there, I don't recall changing it to "9".

Q. Do you remember writing that "Start 10-28" was that before, was that back, was that back at that time or was that just recently you wrote that, if you know?

A. No, it had to be the time I hired him, at the time I hired him. I don't recall why it was put on here.

Q. But that is your writing?

A. Yes, Sir, that is my writing.

Q. Incidentally, this helmet, this type of helmet, do you know where you purchase them?

A. No, Sir, I don't, that is I don't even know who purchases them, whether Mr. Fenstermacher would or whether it is purchased through General Office.

Q. Could you have put that on there that he was supposed to come on the 28th when you first interviewed him on the 10th, that that was the date he was given to come into work?

A. I would say it is likely, there is occasions that somebody comes in and puts an Application in and says, "I cannot come to work for two weeks.", and if I think the man is, would be a good employee, then I will say "Whenever you can come here, if you need two weeks to get straightened out, then it is okay, I will hire you whenever you come.".

Q. You know 10-28 is exactly two weeks from 10-10?

A. I just used that as an instance, I have a man that just came in today that was here five days ago, I believe that he said he had to get things straightened out in Kentucky.

Robert Simon.

Q. We can't talk about other men, we have to talk about this one, but that is a possibility also, you just don't know?

A. No, Sir, I don't.

Q. No further questions.

RE-DIRECT EXAMINATION

By Mr. Pierro:

Q. When an Application is submitted, is a medical examination required?

A. Yes, Sir, before they start work a medical examination is required.

Q. That Application is dated what?

A. 10-10, I believe.

Q. And do you know when the medical examination was submitted, would it show there?

A. It would not show on here, but according to the records of Mr. Fenstermacher it was on the 18th that the Doctor had the examination.

Q. And that is required before he goes to work?

A. Yes, Sir, they have to have an examination before they come into the Plant.

Q. Thank you.

RE-CROSS EXAMINATION

By Mr. Ertel:

Q. Can he be hired subject to him passing the medical examination?

A. Yes, Sir.

Robert Simon.

Q. No further questions.

By Mr. Pierro:

Thank you, that is all.

(Excused from witness stand.).

By The Court:

Everyone else remain, the Defendant is excused.

The Jury is excused until tomorrow morning at 9:00. Court stands in recess until tomorrow morning at 9:00.

(Recessed at 5:15 P.M., EDT.).