

17 RICHARD DEAN HOLEN, WITNESS, SWORN
18 CHAIRWOMAN O'CONNOR: You may proceed.
19 DIRECT EXAMINATION
20 BY MR. CAMIEL:
21 **Q. Could you state your full name and spell your**
22 **last name?**
23 A. Richard Dean Holen, H-O-L-E-N.
24 **Q. Mr. Holen, where do you live?**
25 A. Poplar, Montana.

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- 1 **Q. How long have you lived there?**
 2 A. My entire life.
 3 **Q. And what do you do for a living?**
 4 A. Ranch.
 5 **Q. And do you have family?**
 6 A. Yes.
 7 **Q. Kids?**
 8 A. Yes.
 9 **Q. How many kids do you have?**
 10 A. Two.
 11 **Q. And where's your ranch located?**
 12 A. Poplar, Montana.
 13 **Q. Right outside of town?**
 14 A. Yes. We live in between Poplar and Wolf
 15 Point.
 16 **Q. And you were living -- since you've lived**
 17 **there your whole life, you lived there in 1979?**
 18 A. Yes, I was.
 19 **Q. How old were you in 1979?**
 20 A. Nineteen.
 21 **Q. First of all, did you know Kim Nees?**
 22 A. A little bit.
 23 **Q. You knew who she was?**
 24 A. I knew who she was.
 25 **Q. Did you know the Nees pickup truck?**

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- 1 A. Yes.
 2 **Q. What did that pickup truck look like?**
 3 A. Light green Chevy pickup.
 4 **Q. Was it an unusual vehicle? Was it**
 5 **distinctive?**
 6 A. No, it was just an ordinary pickup. It had
 7 like a -- it had a rack on the back, kind of, you know,
 8 like a toolbox. And they call it a "headache rack" there.
 9 **Q. And if you see that truck, would you easily**
 10 **recognize it?**
 11 A. I saw it every day -- or, you know, quite
 12 often.
 13 **Q. Did you know Barry Beach?**
 14 A. A little bit.
 15 **Q. Were you friends with him?**
 16 A. I knew who he was.
 17 **Q. Are you the same age as him or older?**
 18 A. Older.
 19 **Q. A couple years older?**
 20 A. (Nodding head affirmatively.)
 21 **Q. I want to turn your attention to June 15th of**
 22 **1979, the night that Kim Nees was murdered. Do you recall**
 23 **what you were doing that evening?**
 24 A. Yes.
 25 **Q. What were you doing?**

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- 1 A. Well, it was just an evening out. You know, I
 2 mean everybody was young, and they was uptown and driving
 3 around.
 4 **Q. Where?**
 5 A. The Legion Club in Poplar.
 6 **Q. And that evening, were you within anyone?**
 7 A. Which time?
 8 **Q. When you were out that night.**
 9 A. Well, everybody in the bar, and stuff, bars,
 10 different places.
 11 **Q. Were you at the Legion for awhile?**
 12 A. Yes.
 13 **Q. Do you know what hours you were at the Legion**
 14 **Club?**
 15 A. Not really. It was back and forth. You know,
 16 I mean, you know, you come and go and come back and -- I
 17 was there, I know, until two or after two, you know, until
 18 -- it was late.
 19 **Q. Did you know anybody who was working there?**
 20 A. Yes.
 21 **Q. Okay. And did you have a girlfriend who**
 22 **worked there?**
 23 A. Yes.
 24 **Q. Who was that?**
 25 A. Gretchen.

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- 1 **Q. What did she do at the Legion Club?**
 2 A. She waited tables.
 3 **Q. And when you were at the Legion that night,**
 4 **did anything unusual happen? Did you get in a fight?**
 5 A. Yeah, yes.
 6 **Q. Do you remember about what time that happened?**
 7 A. No, I don't -- I mean -- no.
 8 **Q. And did you stay at the Legion until it**
 9 **closed?**
 10 A. Yes.
 11 **Q. And why did you stay until it closed?**
 12 A. Well, that's where everybody was, you know.
 13 **Q. Was that when your girlfriend got off work?**
 14 A. Yes.
 15 **Q. And you already said that she bartended there.**
 16 A. She waited tables, I guess, yes.
 17 **Q. Okay. Do you know what time the Legion Club**
 18 **closed?**
 19 A. Two o'clock.
 20 **Q. Did you and Gretchen, your girlfriend, go**
 21 **anywhere from the Legion that night?**
 22 A. Yes. We drove out of town west of Poplar.
 23 **Q. When you say "drove" -- first of all, when do**
 24 **you think it was that you and your girlfriend left the**
 25 **Legion Club? If it closes at two, do you know when --**

1 A. It was after she got out of there. You know,
2 I mean after they cleared the tables, and stuff, it could
3 have been two-thirty, you know, or -- you know.
4 **Q. Okay. So after things were cleaned up, you**
5 **waited on her and then the two of you left?**
6 A. I was outside. She come outside.
7 **Q. Okay. What were you driving?**
8 A. A black car.
9 **Q. And where did the two of you go?**
10 A. Just out driving around.
11 **Q. Were you out on Highway 2?**
12 A. Yes.
13 **Q. Which direction, east or west, were you**
14 **headed?**
15 A. West.
16 **Q. That takes you out of town?**
17 A. Yes.
18 **Q. And while you were driving westbound on**
19 **Highway 2, did you see any other vehicles around?**
20 A. I seen Kim Nees's pickup.
21 **Q. How do you know it was Kim Nees's pickup?**
22 A. Well, because she was driving it. I could see
23 her.
24 **Q. How do you know it was the Nees pickup? You**
25 **recognized it?**

1 A. I seen it every day.
2 **Q. Okay. Where was it?**
3 A. It was ahead of me. I was going out of
4 Poplar, and the pickup was right directly ahead of me.
5 **Q. About how far ahead of you, would you say?**
6 A. Fifty feet -- well, I mean it slowed up. It
7 was turning off, going down in the park right east of
8 Poplar. It had to slow up because there was a car coming
9 from the -- heading east. And then the pickup turned off
10 and went down in the park beneath Poplar, and then I kept
11 on going west for a ways.
12 **Q. Now, while you were following the Nees pickup**
13 **headed out of town, you're heading westbound on Highway 2.**
14 **Could you see in through the back window into the cab of**
15 **the pickup?**
16 A. Yes.
17 **Q. Okay. Could you tell how many occupants were**
18 **in the pickup?**
19 A. At least five.
20 **Q. How could you say that?**
21 A. Because I could see them. The pickup was --
22 you can see the heads in the pickup. It would be the
23 driver's, whoever is beside it, the next -- there was
24 four, and there was somebody sitting on someone's lap on
25 the passenger side wearing a visor.

1 **Q. Wearing a visor?**
2 A. A visor, yes.
3 **Q. And you were close enough to see that?**
4 A. Oh, yeah.
5 **Q. Okay. And so you said that the vehicle, the**
6 **pickup, slowed down to make a left-hand turn?**
7 A. Yes.
8 **Q. Was this before or after the bridge that goes**
9 **over the river?**
10 A. Before.
11 **Q. Where was the pickup turning into?**
12 A. Right where they found it the next morning.
13 **Q. Is that down in the area they call the "train**
14 **bridge"?**
15 A. Yes, yeah.
16 **Q. So this wasn't back at the ball field or at**
17 **the high school; this was further west?**
18 A. What do you mean?
19 **Q. Well, when you're heading out of, when you're**
20 **heading out of Poplar on Highway 2 westbound, the high**
21 **school, the high school is on your left; is that right?**
22 A. Yes.
23 **Q. And then there's a field?**
24 A. There's a football field there right now.
25 **Q. Okay. And then comes the park where the train**

1 **bridge is?**
2 A. Yes.
3 **Q. And then the bridge over the river?**
4 A. Yes.
5 **Q. Okay. And so it was clear to you that she was**
6 **turning the truck down into the park?**
7 A. Oh, absolutely.
8 **Q. When the truck slowed down to make the turn,**
9 **did you get closer to the truck?**
10 A. Oh, yes.
11 **Q. (How close did you get?)**
12 A. Fifty feet.
13 **Q. Okay. After it turned into the, into the**
14 **park, where did you go?**
15 A. There's an old place where everybody used to
16 go turn around. It's called Saby's. It was about another
17 half a mile away from there -- or, you know, you just go
18 over the bridge and it's, I suppose, a half a mile from
19 where the pickup turned, or three-quarters, something like
20 that. Everybody drove out there, turned around, and come
21 back.
22 Right now to this day, it's all paved. You know,
23 now they call it the "Four Mile Square". But everybody
24 would go out and turn around and then go back into town or
25 wherever, you know. But everybody turned around out

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1 there. And all I did was drive out there, we turned
2 around, come back into -- come back in and noticed the
3 pickup was still down there. But it was talking to a car
4 at this time.

5 **Q. Now, when you say the pickup was still down**
6 **there --**

7 A. Kim Nees's pickup.

8 **Q. -- down in the park where you saw it turn in?**

9 A. Yes. It was real close to the highway then.
10 I mean you could see it.

11 **Q. So how far down the road into the park was it?**

12 A. One hundred yards, fifty yards, seventy-five.
13 You know, I mean at that time, seeing the pickup meant
14 nothing. I mean it's just, you know -- and then but after
15 you hear about things, then it kind of does.

16 **Q. You said that the pickup -- which way was the**
17 **pickup facing --**

18 A. South.

19 **Q. -- when you were coming back?**

20 A. South.

21 **Q. So that's heading into the park?**

22 A. Right.

23 **Q. Okay. (You said there was a car down there) as**
24 **well?**

25 A. Yes.

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1 **Q. Where did you see the car?**

2 A. Well, it was talking to -- the driver, Kim,
3 had to be -- she was driving the pickup. She was talking
4 to whoever was in the car. I don't know. I thought at
5 the time -- well, you know, years and years later if I
6 just would have turned, I would have -- you know, but
7 hindsight's 20/20.

8 **Q. Was the car adjacent or parallel with the --**

9 A. The driver's side windows were talking to each
10 other.

11 **Q. Okay. And then from -- so this is what you**
12 **saw as you were driving back into town?**

13 A. Right.

14 **Q. Where did you go from there?**

15 A. Just drove around.

16 **Q. When did you first hear that Kim Nees had been**
17 **killed?**

18 A. I went out to the farm, my dad's house, the
19 next day. I think my brother come out of the house, Jim
20 Holen, and that's where I heard of it.

21 **Q. Okay.**

22 A. And, yeah, I wasn't -- I never heard nothing
23 until, you know -- he's the one that told me, I think, or
24 everybody standing in the yard.

25 **Q. Did you hear where it was that she had been**

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1 **found?**

2 A. Oh, yeah.

3 **Q. You heard that it was down near the train**
4 **bridge?**

5 A. Yes.

6 **Q. And at some point after that, did the police**
7 **come talk to you?**

8 A. Well, not -- well, not really. The only thing
9 I remember is being at the Conoco station a few days
10 later. Stevy Grayhawk was there, and he asked me if I
11 had seen anything.

12 And I said, "Well, I just" -- you know, I kind of
13 told this story.

14 And he said, "We're going to get back and talk to
15 you."

16 I never seen anybody until Centurion showed up at
17 the doorstep.

18 **Q. Well, let me -- you're at the Conoco station.**
19 **And how many days after?**

20 A. Three - four, I mean a couple; you know, I
21 mean a couple -- it wasn't very -- it was a few days.

22 **Q. And you're at the station just filling your**
23 **car with gas?**

24 A. I don't know. That was kind of a hangout
25 spot, too.

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1 **Q. Okay. And was -- now, you said "Stevy**
2 **Grayhawk". Is this Steve Grayhawk, the Poplar police**
3 **officer?**

4 A. Senior.

5 **Q. Okay. And he was a police officer of the City**
6 **of Poplar?**

7 A. Oh, yeah.

8 **Q. Was he talking to other people there?**

9 A. Yes. Bobby Atkinson was there, too.

10 **Q. Okay. And did he come over and talk to you?**

11 A. No -- which one?

12 **Q. Steve Grayhawk.**

13 A. That's all: He asked me if I seen anything,
14 and I told him, "A little bit."

15 And he said, "I'm going to get back to you."

16 And then I've never talked -- I talked to him
17 hundreds of times since but never about this.

18 **Q. Now, when you say you talked to him, did you**
19 **tell him about seeing the Nees pickup go down into the**
20 **park?**

21 A. Yes.

22 **Q. Do you recall another occasion, any other**
23 **occasion, where a police officer came and talked to you**
24 **about Greg Norgaard?**

25 A. No, I don't.

1 **Q. Do you recall ever being talked to about being**
2 **down at the Legion that night, the Legion hall?**

3 A. No.

4 **Q. So this is back in '79. After you talk to**
5 **Deputy Grayhawk, did you tell anyone else what you had**
6 **seen that night?**

7 A. Years and years later.

8 **Q. Okay. You said that nobody ever got back to**
9 **you after you talked to Steve Grayhawk.**

10 A. Never.

11 **Q. Okay. You've given a statement in this case**
12 **that's dated March 1st of 2002. How was it that you came**
13 **to give a statement?**

14 A. I was approached by Centurion.

15 **Q. Okay. And where were you approached?**

16 A. At home.

17 **Q. Okay. Do you know how they -- how Centurion**
18 **Ministries found you?**

19 A. What they told me.

20 **Q. What did they tell you?**

21 A. Tommy Kirn had -- he asked, you know, when the
22 -- well, it was all over town that they were back in
23 Poplar, you know, going through the Nees case. And Tommy
24 had told, well, you guys about me, and then here you come.

25 **Q. But you talked to Tommy Kirn about what you**

1 **had seen?)**

2 A. Yes, yes.

3 **Q. When had you talked to him?**

4 A. It was within six months or, you know -- not
5 too long before, you know, I think Jim and yourself showed
6 up, or somebody.

7 **Q. And have you been contacted by the attorney**
8 **general's office to talk to them about what you saw?**

9 A. Sheriff Crawford called me one day and said,
10 "Hey, Jay's in town."

11 And I said, "Send him out."

12 And he said, "They don't want to come out."

13 Anyway, we never -- and then the next day, I went to
14 the sheriffs office, you know, to see where they were or
15 to see them. And they were at the train bridge in Poplar
16 taking pictures, and stuff. And I never get hooked up
17 with them. I wasn't avoiding anybody, but I never did --
18 they never come after me too much. I invited -- told the
19 sheriff to tell them to come on out to the house, and
20 nobody ever did.

21 **Q. Do you have any recollection of seeing Kim**
22 **Nees any earlier in the evening that night?**

23 A. Oh, I'm sure a person did, you know. I don't
24 know.

25 **Q. When did you realize that it was significant**

1 **that you had seen her driving down into the, into the park**
2 **with a cab-load of passengers?**

3 A. Well, it was very unusual to see her with that
4 many people anyway.

5 **Q. When you usually saw her in that truck, was**
6 **she usually with anyone?**

7 A. Not usually, no. She was pretty -- alone a
8 lot. When I lived at Poplar at that time where the Exxon
9 station is - it's a gas station where all the kids used to
10 stop and visit or park, you know - she was there a lot.

11 **Q. Would she be parked in her car sitting there a**
12 **lot?**

13 A. Oh, yeah. I mean often, a lot.

14 **Q. Do you have any doubt in your mind, Mr. Holen,**
15 **that it was the night of June 15th -- or the early morning**
16 **hours, I should say, of June 16th that you saw the Nees**
17 **pickup go down into the park?**

18 A. Absolutely not.

19 **Q. Why can you say that now?**

20 A. What do you mean?

21 **Q. Well, it's been 27 years since this occurred.**

22 A. Well, there was a lot of things that happened
23 that night, too. I mean, you know, there were several
24 fights at the Legion Club. And I mean that was quite a
25 deal that that young girl got killed that night, you know.

1 I mean it -- everybody remembers that day.

2 **Q. And so when you heard the next day that she**
3 **had been killed, you realized you had seen her that night**
4 **driving down into the park?**

5 A. No. When I started really kind of grabbing my
6 story -- or I mean with seeing her was that somebody was
7 talking -- I don't even remember who that was or how that
8 got -- but that Kim was supposedly killed at 11 o'clock or
9 midnight or in that area. That's absolutely impossible
10 because I seen her at two-thirty.

11 **Q. Okay. And (you don't have any doubt in your**
12 **mind that you told Steve Grayhawk what you had seen?)**

13 A. Oh, absolutely.

14 **Q. And he told you he would get back to you?**

15 A. He was going to be right on that, boy. And he
16 hadn't done it since.

17 **Q. Okay. Did he take -- did he appear to be**
18 **taking notes when he talked to you?**

19 A. No.

20 MR. CAMIEL: That's all I have. Thank you.

21 CROSS-EXAMINATION

22 BY MR. WELLENSTEIN:

23 **Q. Mr. Holen, my name is Mike Wellenstein. How**
24 **are you doing?**

25 A. How are you?

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- 1 **Q. Good, good. It's getting to be kind of a long**
2 **day.**
- 3 A. This is a long one.
- 4 **Q. Yes, it's getting there.**
5 **I think you testified that you saw Kim Nees in front**
6 **of you. You saw her --**
- 7 A. Absolutely.
- 8 **Q. Okay. And you said it was about two-thirty.**
- 9 A. Yes.
- 10 **Q. Two-thirty. Could it have been later than**
11 **two-thirty?**
- 12 A. Pardon?
- 13 **Q. Could it have been later than two-thirty?**
- 14 A. It could have been, yeah.
- 15 **Q. Okay. Well, you know, I've got your statement**
16 **here that you gave to Centurion Ministries.**
- 17 A. Yes.
- 18 **Q. And I'm going to look at it. It was given**
19 **2002, March 2002. Did you write that out --**
- 20 A. Yeah, I give them -- I knew --
- 21 **Q. Well, did you ever mention -- you never**
22 **mentioned seeing Kim Nees in your statement. You just**
23 **mentioned seeing her pickup truck; isn't that right?**
- 24 A. Well, I mean however you want to twist that.
25 But I mean she was --

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- 1 **Q. Well, don't you think it's important whether**
2 **you saw the truck or you saw Kim Nees?**
- 3 A. She was driving the pickup.
- 4 **Q. Okay, all right. Well, in Mr. Beach's**
5 **clemency application to the governor, he says that (quoted**
6 **as read): "Richard Holen told Officer Brown that**
7 **approximately at 2 a.m."**
- 8 **And now you're saying it's two-thirty. Isn't --**
9 **wouldn't a half-hour difference be quite a bit?**
- 10 A. I don't know what -- I mean I'm just telling
11 you the way it was.
- 12 **Q. You're telling us -- so did you ever --**
- 13 A. It couldn't have been two o'clock.
- 14 **Q. Did you tell them two or two-thirty? Do you**
15 **think --**
- 16 A. It had to be later.
- 17 **Q. It had to be later than two?**
- 18 A. And I believe -- oh, yes.
- 19 **Q. Okay.**
- 20 A. Because the girl that was riding with me, she
21 was, you know --
- 22 **Q. And that's your girlfriend? That was your**
23 **girlfriend?**
- 24 A. That was, you know -- but, yeah, I mean we was
25 riding around that night.

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- 1 **Q. Because in your statement, you said you never**
2 **talked to her after that. That doesn't sound like a**
3 **girlfriend at all.**
- 4 A. It wasn't too big a deal.
- 5 **Q. And do you know, do you know -- so Gretchen**
6 **could be -- would be corroborating your statement? She**
7 **could do that? She could verify it?**
- 8 A. She's not in very good health.
- 9 **Q. She's not in very good health. Where is she?**
- 10 A. She's in a nursing home in Wolf Point.
- 11 **Q. That's kind of ironic, isn't it?**
12 **Do you know her mental status now?**
- 13 A. No.
- 14 **Q. Now, in your testimony today, you said you saw**
15 **another, you said you saw another vehicle parked next to**
16 **the Nees pickup truck and they were talking back and**
17 **forth. That's not in your statement, is it?**
- 18 A. I can't help with that. That's --
- 19 **Q. So you've given one story to the Centurion**
20 **Ministries, and now you're giving one story -- you're**
21 **giving a different story today. Don't you think that fact**
22 **would have been important to tell Centurion Ministries?**
- 23 A. Oh, absolutely, it would have been important.
24 Because the more you think about it, I mean you know that
25 -- what it was, you know.

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- 1 **Q. Okay. Are you aware that the day after the**
2 **homicide, June 17, 1979, that you gave a statement to the**
3 **sheriff's office?**
- 4 A. No.
- 5 **Q. Would it surprise you if there was a sheriff's**
6 **note regarding a conversation with you?**
- 7 A. I've seen that, and I don't remember it.
- 8 **Q. So you've seen it, but there's no -- but**
9 **you'll agree there's no mention of the Nees pickup truck**
10 **or seeing Kim Nees that night?**
- 11 A. Well, who's the officer that took it?
- 12 **Q. Well, that's what happens when you try to go**
13 **back and solve a crime 28 years -- it's difficult to**
14 **figure out what's what, isn't it?**
- 15 A. Yeah.
- 16 **Q. Okay. Do you think your memory regarding the**
17 **events --**
- 18 A. It's okay.
- 19 **Q. Do you think your memory was better then on**
20 **June 17th or in 2002 when --**
- 21 A. Just then as it is now.
- 22 **Q. Just as good as it is now?**
- 23 A. Yeah.
- 24 **Q. I notice in your statement, you said, you said**
25 **that - here, let me get it here for you - that it always**

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1 **bothered you that Beach, Barry Beach, confessed to killing**
 2 **her all by himself because that doesn't fit what you saw.**
 3 **We can agree that that's in there, right?**
 4 A. (Nodding head affirmatively.)
 5 **Q. You know, even though you said that after**
 6 **Barry Beach confessed in 1983, even though you said it**
 7 **bothered you, you never came forward and told another law**
 8 **enforcement officer, did you?**
 9 A. Why should a person?
 10 **Q. Well, you said it bothered you that Barry**
 11 **Beach confessed.**
 12 A. There's a whole bunch of people -- you can go
 13 back to Poplar, and, you know, they'll tell you the same
 14 thing I'm telling you. There's two --
 15 **Q. A whole bunch? Who?**
 16 A. I don't -- let's don't get -- you know, but I
 17 mean --
 18 **Q. Well, you just --**
 19 A. -- it's going all over.
 20 **Q. You just said "a whole bunch".**
 21 A. In Poplar, Montana, you can go down the street
 22 and talk to lots of people about this deal.
 23 **Q. And they'll have a lot of rumors on it and**
 24 **stories?**
 25 A. I don't know if they're so much rumors.

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1 **Q. But who are those people, then? You said that**
 2 **there's lots of people.**
 3 A. You could -- random pick.
 4 **Q. Random pick?**
 5 A. Yeah. You know, I -- here you go after me,
 6 but I mean I'm just telling you the truth.
 7 **Q. I'm not going --**
 8 A. Yes, you are.
 9 **Q. Well, you know what? You're testifying today**
 10 **about something that occurred in 1979.**
 11 A. Yeah.
 12 **Q. And you're making -- and it involves whether**
 13 **the Board is going to --**
 14 A. Yeah.
 15 **Q. The clemency of Mr. Beach. And that's**
 16 **important that we get all of the facts straight, isn't it?**
 17 A. Yes.
 18 **Q. And that's what I'm questioning you about, the**
 19 **facts.**
 20 **Well, Barry just went to trial -- were you in Poplar**
 21 **in 1984?**
 22 A. Sure.
 23 **Q. And so you knew about his trial then? Were**
 24 **you aware of it?**
 25 A. Yeah, I guess so.

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1 **Q. Okay. And you never mentioned anything to any**
 2 **law enforcement officer even though it bothered you?**
 3 A. I did a couple days later, and they didn't
 4 show up.
 5 **Q. In 1984?**
 6 A. No, I mean I, you know --
 7 **Q. Well, that's -- in your statement, you said**
 8 **that's when it bothered you, after he confessed.**
 9 A. You talk about it and you kind of move on.
 10 You know, at that time he supposedly confessed. Well, if
 11 he did it, he did it, you know. And then you put it all
 12 together, you know, more things.
 13 **Q. Have you read Barry Beach's confession?**
 14 A. Oh, just what was in the newspapers.
 15 **Q. So just what's in the newspapers?**
 16 A. Yes.
 17 **Q. So you got quite a bit of your facts from just**
 18 **what's in the newspapers. So do you know Former Sheriff**
 19 **John Grainger?**
 20 A. Yes.
 21 **Q. Okay. And you're married to one of his**
 22 **cousins?**
 23 A. Hm-hmm.
 24 **Q. And you never thought about talking to John**
 25 **about this, what you saw?**

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1 A. No.
 2 **Q. No, okay.**
 3 A. In '84, no, I didn't.
 4 **Q. No, I'm talking -- John Grainger was sheriff**
 5 **for quite awhile, wasn't he? He just recently left**
 6 **office. And you never talked to him?**
 7 A. No.
 8 **Q. So you just kind of -- even though, even**
 9 **though you had this valuable information, you just were**
 10 **going to --**
 11 A. I talked to these men.
 12 **Q. That's right, you talked to them first, didn't**
 13 **you?**
 14 A. They're the only ones that asked.
 15 **Q. They're the only ones that asked?**
 16 A. Yeah.
 17 **Q. They were going around Poplar asking a lot of**
 18 **people what happened?**
 19 A. They asked -- they were asking.
 20 **Q. Yeah. Hold on a second, please.**
 21 **You testified that you got in a fight.**
 22 A. Hm-hmm.
 23 **Q. Do you know what time you got in that fight?**
 24 A. No. Well, everybody else is -- that was in
 25 there -- (pause.)

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1 Q. So you can remember seeing the Nees vehicle,
2 but you can't remember who you got in a fight with and
3 what time. And you can remember seeing the Nees vehicle
4 at, you said, two-thirty, but you can't remember anything
5 about the fight?

6 A. Because, you know, you -- it's after the bar
7 is closed.

8 Q. Yeah. And you're drinking a lot, and it's
9 kind of hard to remember if it was --

10 A. Oh, now I know you're going with that. But,
11 no --

12 Q. Well, there's just some -- there's just
13 contradictions in there, and I'm just trying to clear it
14 up.

15 A. It was after two-thirty.

16 Q. It was after two-thirty?

17 A. When I seen -- it was two-thirty on when --
18 Kim Nees driving her pickup.

19 Q. So Barry Beach in his clemency application of
20 the two o'clock time --

21 A. Huh?

22 Q. The two o'clock time is all wrong, then? It
23 wasn't at two o'clock when you saw --

24 A. It had to be after --

25 Q. Okay, thank you.

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1 A. -- from two o'clock on.

2 MR. WELLENSTEIN: Okay.

3 REDIRECT EXAMINATION

4 BY MR. CAMIEL:

5 Q. Mr. Holen, you're using the bar closing time
6 as kind of a way to gauge what time you must have seen the
7 pickup?

8 A. Yes.

9 Q. Because that's something that --

10 A. Well, it took a few minutes for her to get
11 done in there and, you know, to come out and that kind of
12 stuff.

13 Q. Okay. Whereas, you know, the fight was just
14 sometime earlier in the evening?

15 A. That was early, I think, yeah. And
16 everybody -- I mean it was no -- I don't know, but
17 everybody was still in there, you know.

18 Q. Any doubt in your mind that it was after,
19 after bar-closing time?

20 A. Oh, no, no.

21 Q. Any doubt in your mind that it was the Nees
22 pickup?

23 A. No.

24 Q. Any doubt in your mind you saw that pickup
25 turning down into the park?

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1 A. No.

2 Q. Any doubt in your mind that when you came back
3 into town, you saw the pickup again still in the park?

4 A. It's absolutely true.

5 Q. And you're clear that a couple days later, you
6 told Steve -- Officer Steve Grayhawk that you had seen
7 that vehicle?

8 A. (Yes.) Bobby Atkinson was there, too; not
9 talking to me, he was a little ways away.

10 Q. So you were talking to Steve Grayhawk, but
11 Bobby Atkinson was also at the gas station?

12 A. Yes.

13 Q. And you expected Steve Grayhawk to get back to
14 you?

15 MS. PLUBELL: Madame Chairman, may I ask for a
16 point of clarification on leading questioning?

17 CHAIRWOMAN O'CONNOR: On whether -- oh,
18 leading questions should be -- every single question has
19 been asked and answered already. You haven't asked one
20 new question, Mr. Camiel. Wide latitude is wide latitude.

21 Was that your question?

22 MS. PLUBELL: Well, it was whether leading
23 questions were permissible on direct.

24 CHAIRWOMAN O'CONNOR: Well, you've both done
25 plenty of leading questions. We're not being too tough on

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1 that, so we won't be too fuzzy there.

2 Why don't you wrap up, Mr. Camiel?

3 MR. CAMIEL: Thank you.

4 Q. (By Mr. Camiel) Mr. Holen, did you talk --
5 give your statement to Bobby Atkinson or to, or to Steve
6 Grayhawk?

7 A. Steve, Stevey.

8 Q. Well, did you see what Bobby Atkinson was
9 doing at doing at the service station?

10 A. He was driving away -- I mean he was -- I just
11 remember him being there. I think he just left.

12 MR. CAMIEL: Thank you. That's all I have.

13 CHAIRWOMAN O'CONNOR: Do you have anything
14 more, Mr. Camiel -- or Mr. --

15 MR. WELLENSTEIN: May I have just one quick
16 one?

17 CHAIRWOMAN O'CONNOR: Certainly.

18 RE-CROSS-EXAMINATION

19 BY MR. WELLENSTEIN:

20 Q. Are you aware that Sheriff Crawford, Freedom
21 Crawford, has interviewed Steve Grayhawk?

22 A. Uh-uh.

23 MR. WELLENSTEIN: I have no further questions.

24 CHAIRWOMAN O'CONNOR: I have some questions.
25 Describe for me, please, the car that you saw

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1 driver's side to driver's side --
 2 THE WITNESS: I have no idea. All I could see
 3 was lights. It was -- the pickup, you must have seen a
 4 pickup sometime talking to a car, or --
 5 CHAIRWOMAN O'CONNOR: Yeah, I've seen a pickup
 6 talking to a car.
 7 THE WITNESS: You know, that's how it was.
 8 CHAIRWOMAN O'CONNOR: Okay.
 9 THE WITNESS: The pickup was -- the taillights
 10 on the pickup was higher than the headlights on the car.
 11 I mean it was a car.
 12 CHAIRWOMAN O'CONNOR: And is it true that your
 13 testimony was that you had driven by once west of town,
 14 you turned around, and when you came back, it was -- the
 15 car was there --
 16 THE WITNESS: Yes.
 17 CHAIRWOMAN O'CONNOR: -- is that right?
 18 So it's not -- I mean I haven't done this in
 19 Poplar my whole life, but Culbertson, which isn't that far
 20 away, does the same thing, the same route.
 21 THE WITNESS: Oh, yeah.
 22 CHAIRWOMAN O'CONNOR: Okay, so you did this
 23 little route. So it's a mile, or something. It's not
 24 very far?
 25 THE WITNESS: Yeah. I mean, no, it ain't very

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1 far; no.
 2 CHAIRWOMAN O'CONNOR: So it's five minutes
 3 later, if --
 4 THE WITNESS: Oh, no, I mean it's just a few.
 5 CHAIRWOMAN O'CONNOR: Not even.
 6 THE WITNESS: In order to drive it at, oh, 45
 7 - 50 miles an hour and go half to three-quarters -- you
 8 know Poplar bridge?
 9 CHAIRWOMAN O'CONNOR: Hm-hmm.
 10 THE WITNESS: And do you know how -- okay.
 11 You know old Tom Saby's junkyard?
 12 CHAIRWOMAN O'CONNOR: Hm-hmm.
 13 THE WITNESS: That's where we turned around,
 14 right -- turned right there and come back.
 15 CHAIRWOMAN O'CONNOR: I know where you're
 16 talking about.
 17 THE WITNESS: There you go.
 18 CHAIRWOMAN O'CONNOR: There you go, okay. So
 19 this was -- so that car was probably down there when you
 20 saw the truck coming down?
 21 A. I was half-surprised to see the headlights,
 22 too. See, but at the time, the pickup and everybody
 23 driving down -- I mean, you know, she never had that many
 24 people with her, and stuff. You know, she was always kind
 25 of a loner; or one or two, or something, but -- or you

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1 would see the pickup sitting at the station by itself. It
 2 was there all the time. You know, I lived within a
 3 stone's throw from that service station.
 4 CHAIRWOMAN O'CONNOR: Now, you said that in
 5 your testimony earlier. Explain for me, please, the
 6 significance of that: She was by herself alone, and she
 7 was parked at the gas station all the time.
 8 THE WITNESS: No -- I mean you didn't see her
 9 with a pickup load of people. I mean either the pickup
 10 would be -- it was -- I mean that pickup was standing
 11 there all the time.
 12 CHAIRWOMAN O'CONNOR: Why would that be?
 13 THE WITNESS: I don't know. That's where she
 14 sat to smoke cigarettes, or whatever. I mean but that
 15 pickup was all the time --
 16 CHAIRWOMAN O'CONNOR: At the gas station?
 17 THE WITNESS: Yes, after -- when it was
 18 closed, you know, at -- but in the evening time, she was
 19 there.
 20 CHAIRWOMAN O'CONNOR: Okay. Now, it does seem
 21 odd, I must say, that you don't remember this fight. Now,
 22 you were 19 years old and the statute of limitations has
 23 obviously passed.
 24 THE WITNESS: Oh, yeah.
 25 CHAIRWOMAN O'CONNOR: Were you in fights a

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1 lot? I mean what's the deal with the fight, that you
 2 don't remember the fight?
 3 Were there lots of fights you were in, that
 4 this was just one of many fights? Or was this a special
 5 fight? Or what about this fight?
 6 THE WITNESS: You're trying to get the time of
 7 it?
 8 CHAIRWOMAN O'CONNOR: No, no. I'm trying to
 9 get: You were asked by one side or the other about, "What
 10 was the fight about?" or, "Who was the fight with?"
 11 THE WITNESS: Oh, there was a whole bunch of
 12 fights that night.
 13 CHAIRWOMAN O'CONNOR: That night?
 14 THE WITNESS: Yes.
 15 CHAIRWOMAN O'CONNOR: And then with you?
 16 THE WITNESS: No, I mean that there was --
 17 Alex Trottier was in a fight with John Bruster Alexander.
 18 CHAIRWOMAN O'CONNOR: Okay, you remember who
 19 the other people were in fights with. My question --
 20 THE WITNESS: And it was at, it was at two
 21 o'clock.
 22 CHAIRWOMAN O'CONNOR: It was two o'clock, and
 23 you had been drinking a little. I get all that.
 24 THE WITNESS: It was when the bar -- everybody
 25 was leaving, that was a madhouse in there.

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1 CHAIRWOMAN O'CONNOR: I get that it was a
2 madhouse. But I'm asking you -- it seems strange to me
3 that you don't remember who you were in a fight with, when
4 you --
5 THE WITNESS: Craig Cane.
6 CHAIRWOMAN O'CONNOR: Well, there you go.
7 THE WITNESS: You never asked me who it was.
8 CHAIRWOMAN O'CONNOR: Okay, Craig Cane. Who
9 was Craig Cane?
10 THE WITNESS: Just a guy in there.
11 CHAIRWOMAN O'CONNOR: Some guy who ticked you
12 off that night?
13 THE WITNESS: Yes.
14 CHAIRWOMAN O'CONNOR: All right, so you were
15 in a fight with Craig Cane. You do remember that now?
16 THE WITNESS: Yeah.
17 CHAIRWOMAN O'CONNOR: Now, was there anything
18 else special in town going on this night? Just an
19 ordinary summer night?
20 THE WITNESS: No. There was a dance at the
21 Legion, you know. I don't know if I --
22 CHAIRWOMAN O'CONNOR: Was there often a dance
23 at the Legion?
24 THE WITNESS: Oh, yeah, in them days, it was
25 -- Mark Voorhees, like, in those -- he used to get Moe

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1 Bandy, different, pretty good-sized bands in there, and
2 stuff.
3 CHAIRWOMAN O'CONNOR: Pretty much every --
4 THE WITNESS: Oh, no, not often; you know,
5 once in awhile, yeah.
6 CHAIRWOMAN O'CONNOR: So by your memory, that
7 was one of the many summer nights when they had a band at
8 the Legion.
9 THE WITNESS: Oh, yeah, yeah.
10 CHAIRWOMAN O'CONNOR: So by your memory,
11 that's what made it special?
12 THE WITNESS: No. I mean the memory of the
13 whole thing, all of it --
14 CHAIRWOMAN O'CONNOR: Well, you had been in a
15 fight with old what's-his-name.
16 THE WITNESS: Yeah. All of these things
17 happened, but I mean that girl got killed that night.
18 CHAIRWOMAN O'CONNOR: Right. Well, I get
19 that. But I'm trying to hear what else you remember about
20 that night. So you do now remember the fight now that
21 we've had a little conversation about it.
22 THE WITNESS: Yeah.
23 CHAIRWOMAN O'CONNOR: And you remember there
24 was a dance at the Legion. And you remember it was a
25 summer night, and there were often dances at the Legion.

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1 THE WITNESS: Yes.
2 CHAIRWOMAN O'CONNOR: So that's kind of --
3 THE WITNESS: Hm-hmm.
4 CHAIRWOMAN O'CONNOR: That's about the shape
5 of it. Is there anything else that you're burning to say
6 but nobody's asking you?
7 THE WITNESS: I can't remember here. I seen
8 the girl that night. I mean, you know, that's kind of
9 what it boils -- you know, I seen Kim in that pickup.
10 CHAIRWOMAN O'CONNOR: No, Mr. Camiel, after my
11 whole dog and pony show, do you have more questions?
12 MR. CAMIEL: Well, I don't have the
13 familiarity with the area that you all do.
14 CHAIRWOMAN O'CONNOR: Yeah.
15 REDIRECT EXAMINATION
16 BY MR. CAMIEL:
17 **Q. Does the fact that made this night different**
18 **than just any other Friday night was that -- did that have**
19 **to do with the fact that the next day, you heard Kim was**
20 **killed?**
21 A. Yeah. I mean, well, there was always
22 fighting, and stuff like that. That used to be a pretty
23 fun little town, and things. But I mean that was --
24 that's pretty bad when that girl got killed.
25 MR. CAMIEL: I have nothing else.

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1 MR. CURTISS: Let me just ask you -- and this
2 is kind of a question -- you're straightforward, and I
3 know I'll get an answer or a response.
4 Let me ask you this: Just in as close as you
5 can come to it, how many persons -- how many different
6 stories have you heard in Poplar, Montana, that did this
7 rather than Barry Beach? Just off the cuff.
8 I mean there's three girls mentioned now. Who
9 else? I mean many, many?
10 THE WITNESS: To tell you the truth there,
11 sir --
12 MR. CURTISS: Yeah.
13 THE WITNESS: -- it's always been the same
14 bunch. Like a lot of (people always say), "How did they
15 keep it a secret?"
16 It's never been a secret. It's been (the same
17 names for 30 years.)
18 MR. CURTISS: I'll say that I don't know about
19 that. I was just --
20 THE WITNESS: Oh, yeah.
21 MR. CURTISS: I'm just asking: In a small
22 community --
23 THE WITNESS: It's never been different
24 people.
25 MR. CURTISS: In a small community, there's

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1 always going to be a lot of rumors.

2 THE WITNESS: Absolutely. But this one, the
3 names have never changed; just everybody got older, you
4 know.

5 MR. CURTISS: Okay, thank you.

6 RE-CROSS-EXAMINATION

7 BY MR. WELLENSTEIN:

8 **Q. So who are the names you keep hearing over**
9 **time?**

10 A. I don't know who was in the pickup. I can't
11 say that.

12 **Q. You said the names --**

13 A. I said Sissy Atkinson, Maude Grayhawk, Joanne
14 Jackson, and who else -- Rhea Red Dog gets mentioned, and
15 -- I don't know. There's four: Joanne, Sissy -- Maude,
16 Sissy, Joanne, Rhea, Jordis Ferguson. Anyway, it's --

17 **Q. And Van Dover?**

18 A. Eddie, yeah, there you go. Eddie Van Dover,
19 yeah, he's right in there. He's the barefoot man. *

20 **Q. The barefoot guy.**

21 A. Yeah.

22 **Q. And Caleb Gorneau?**

23 A. I've heard the name. I've hear the --

24 **Q. And Shannon O'Brien?**

25 A. Well, I don't know where they all fit in, but

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1 MR. WELLENSTEIN: No.

2 CHAIRWOMAN O'CONNOR: Do you have any more
3 questions?

4 MR. CAMIEL: No.

5 CHAIRWOMAN O'CONNOR: Okay. You can be
6 released. Thank you for your testimony.

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1 some of them -- it's the same ones for 28 years.

2 **Q. And you've heard those names from?**

3 A. You know, there's probably 20 years it never
4 got brought up, I mean to me, that stuff. But I mean
5 everybody's talking about it. You know, ever since when
6 it come back up, it's a lot of people in Poplar talking
7 about it.

8 **Q. A lot of stories.**

9 A. A lot of stories. Well, I'll tell you this
10 much: Why of all of these people --

11 **Q. No, excuse me. That's a lot of stories,**
12 **though.**

13 A. Let me talk, too. They all have all of this
14 -- all of this innocence you're going after, or whatever
15 -- where are them people now when they've asked to be --
16 if they have nothing to do with it or killing this woman,
17 and things, where are they?

18 **Q. Well, Sissy Atkinson was here.**

19 A. Listen. Then she looked good.

20 MS. PLUBELL: Madame Chairperson, none of
21 those people have been released from their subpoenas, and
22 I want that to be on the record. And some of them were
23 never subpoenaed. They were never subpoenaed.

24 CHAIRWOMAN O'CONNOR: Do you have any more
25 questions?

