

1 MR. MOSES: Call Greg Norgaard.

2 WHEREUPON,

3 MR. GREG NORGAARD

4 having been called as a witness on behalf of the Defendant,
5 and being first duly sworn upon his oath, testified as follows:

6
7 DIRECT EXAMINATION

8 By Mr. Moses:

9 Q Would you state your name please?

10 A Greg Norgaard.

11 Q Mr. Norgaard, I am Timer Moses and I am the
12 attorney for Mr. Beach, the defendant here, and I am calling
13 you to ask you some -- certain questions about what had
14 occurred on June 15th and 16th, 1979 in connection with the
15 death of Kim Nees. You understand that that is why you are
16 here?

17 A Yes.

18 Q Thank you. Now then, what was your relationship
19 with Kim Nees on or about that time, were you going with her?

20 A Yes, more or less, yes.

21 Q Pardon?

22 A More or less, yes.

23 Q And did you see her on June 15th, 1979?

24 A Yes.

25 Q And where did you see her?

1 A I picked her up and then went to the show.
2 Q What time was that?
3 A Well the show starts at the drive in right
4 after dark.
5 Q What time was that?
6 A Well, it would be - the show starts right at
7 the time it gets dark.
8 Q What time would that be, Mr. Norgaard?
9 A 9:30 or 9:00 o'clock.
10 Q And did you tell her at that time anything
11 about being out with Steven Schagunn?
12 A No.
13 Q What?
14 A No.
15 MR. RACICOT: Your Honor, we are going to object to these
16 conversations that he had between -- between this witness and
17 Kimberley Ann Nees, it is hearsay.
18 MR. MOSES: All right, what is he objecting to?
19 THE COURT: He is objecting to any
20 conversation that he had with Kim
21 Nees as being hearsay.
22 MR. MOSES: We developed that in this case with respect to
23 the witness, Shannon O'Brien.
24 MR. RACICOT: It was brought up by Mr. Moses, and we object
25 to any conversation between this witness and Kimberley Nees.

1 THE COURT: What was your question
2 again?

3 MR. MOSES: I asked him if she told him if she had been out
4 with someone else the preceding evening until 4:30?

5 MR. RACICOT: Objection, Your Honor, it is hearsay.

6 THE COURT: Sustained.

7 Q Did you have a conversation with her at that
8 time with respect to her whereabouts on the night before?

9 A Not that I can recall, no.

10 Q Speak up?

11 A Not that I can recall.

12 Q I am going to hand you what has been here as a
13 statement taken on June 17th, 1979, and ask you to look at
14 the last paragraph. (Witness examines said document as
15 requested) Is that a statement that you gave to the special
16 agent of the Federal Bureau of Investigation?

17 A Must be. It is a long time ago.

18 Q You now recall a conversation that you had with
19 Kim Nees?

20 A Over that, no.

21 Q Were you upset that evening?

22 A No.

23 Q Did you say, or as described as saying "I'm
24 pissed a little"?

25 MR. MOSES: Your Honor, I am going to object to this; he

1 called Mr.Norgaard as his witness and now ---

2 MR. MOSES: Yes I am.

3 MR. RACICOT: He is asking leading questions and making
4 those suggestive certain answers, and it is not only misleading,
5 and he is quoting unknown sources of hearsay information.

6 MR. RACICOT: Then I can impeach my own witness as was
7 pointed out by Mr. Racicot and he has these reports which has
8 the exactly language with respect to the last question, and
9 I am simply asking if he described, two days after this event,
10 where he described himself as being "pissed a little".

11 THE COURT: Well he is now a hostile
12 witness and I think he can ask
13 leading questions, but I don't believe
14 you can ask this witness leading
15 questions that reflect hearsay of a
16 witness not available.

17 MR. MOSES: I am just asking him what his attitude was and
18 he said he was not upset and I want to show that he told the
19 FBI a few days later that he was pissed off. That was the
20 reason for that.

21 MR. RACICOT: The report reflects that. Somebody else said
22 that, that is my point; if he wants to ask that question, did
23 you say that, that is fine, I have no problem with that.

24 Q All right, did you say that in connection with
25 this event involving Kim Nees staying out until 4:30 AM, the

1 preceding night, did you use those words?

2 A That was four and a half years ago.

3 Q What?

4 A It is over four and a half years ago, that is
5 a long time, I don't remember.

6 Q And when you picked up Miss Nees, where did you
7 go, Mr. Norgaard?

8 A Show.

9 Q And how long did you stay at the show?

10 A Until the end of it.

11 Q Speak up a little louder, I can't hear you.

12 A Until the end of the show and then drove around.

13 Q And what time would that be approximately?

14 A I took her home at twelve o'clock, close to
15 twelve o'clock.

16 Q And then were you alone?

17 A I went down to the Legion Club.

18 Q What kind of a vehicle were you driving?

19 A a '73. '73 Mustang.

20 Q With a loud muffler?

21 A I guess so.

22 Q And when you went down to the Legion I take it
23 you were still driving your Mustang, right?

24 A Yes.

25 Q Did you go into the Legion Club at Poplar, Montana?

1 A Yes.

2 Q And how long did you stay there?

3 A Until it closed.

4 Q And what time did it close?

5 A Close to two o'clock I guess.

6 Q Pardon?

7 A Close to two o'clock.

8 Q And then where did you go?

9 A Drove around.

10 Q And did you drive by Kim's house?

11 A Yes.

12 Q And what time was that?

13 A Right shortly after two.

14 Q What did you see there?

15 A Nothing, the pickup wasn't there.

16 MR. RACICOT: Can the jury hear this witness?

17 (Several responded that they had difficulty hearing this

18 witness)

19 MR. RACICOT: You have to speak up, Mr. Norgaard.

20 Q Did you make a telephone call to the Nees house?

21 A Yes.

22 Q And what time was that?

23 A About two thirty, maybe a little later.

24 Q What was the purpose of making that telephone

25 call, Mr. Norgaard?

1 A To see if Kim was home.
2 Q And who did you talk to?
3 A Kim's mother.
4 Q And why didn't you just drive by and stop in
5 and see Kim?
6 A I don't know.
7 Q Well the pickup was gone so I suppose when you
8 saw that the pickup was gone, you went and made a telephone
9 call, is that it?
10 A Yes.
11 Q To see if she was there?
12 A Yes.
13 Q And all this happened during a period of thirty
14 five or forty minutes after you left the Legion Club?
15 A Yes.
16 Q And where did you go during all of that period
17 of time?
18 A Drove around, looking for her.
19 Q Where did you look?
20 A Oh in about a four mile square, -- there used
21 to be a road on the other side, where you go along the Indian
22 Highway.
23 Q Were you on Highway 2 at any time?
24 A Yes.
25 Q And what did you tell Kim's mother as a result
of this telephone conversation?

1 A I am not sure.

2 Q Did she ask you to go and look for Kim?

3 A As I remember it she told me if I found her
4 to tell her to come home, that night.

5 Q And I take it, as a result of that telephone
6 conversation, you were out looking again for Kim?

7 A For a little bit.

8 Q What?

9 A For a little bit.

10 Q Did you make any other phone calls that morning?

11 A Yes.

12 Q Who did you call?

13 A Skule Moe residence.

14 Q What was the purpose of that call?

15 MR. RACICOT: We would object, Your Honor, as being irrelevant
16 and I would like to be heard out of the presence of the Jury,
17 if that is going to be his question here.

18 THE COURT: You want to go into
19 Chambers?

20 MR. RACICOT: If that is going to be his question to this
21 witness.

22 THE COURT: The question was "what was
23 the purpose of that call?". All right
24 we can go into Chambers.

25 WHEREUPON, counsel, the defendant and the Court went into
chambers, outside the hearing of the Jury.

1 THE COURT: Go ahead.

2 MR. RACICOT: Your Honor, I believe his answer to that
3 question is that he was going to invite Catherine Moe out on
4 a party and I just don't see any relevance in this line of
5 questioning and he seems to be getting further and further
6 afield, and so our objection is basically irrelevant.

7 THE COURT: Your response?

8 MR. MOSES: My response is that any witness -- that this
9 witness when he did not see Kim Nees, is entitled to testify
10 as to what he was doing, what his purposes were, where he
11 went and who he talked to and particularly in view now that
12 he said he wasn't pissed; so it would be as to what his
13 attitude was, and why he called Cathy Moe, because he wanted
14 to call her to get back at Kim, which he did.

15 THE COURT: Why would that be relevant?

16 MR. MOSES: I think it would be relevant to show his state
17 of mind.

18 MR. RACICOT: As to his state of mind?

19 MR. MOSES: Sure. Bias and prejudice as Mr. Racicot has
20 stated.

21 MR. RACICOT: We feel that it is irrelevant.

22 THE COURT: How far as you going to
23 go with this?

24 MR. MOSES: I just want to know where all of these witness
25 were. I am not going to confine it simply to Mr. Beach's

1 presence. There are other witnesses who are in this, who
2 had some contact and I believe they are entitled to present
3 their story.

4 MR. RACICOT: Are you trying to present him as a possible
5 suspect to this crime, is that your point? Is he to be
6 suspected of this along with Goose Kirn.

7 MR. MOSES: Of course.

8 THE COURT: I think that is kind of
9 wild.

10 MR. MOSES: The problem is, the problem is, Your Honor,
11 that this is a circumstantial evidence case; then the
12 opportunity for other people is just as clear, or greater
13 than Mr. Beach, and if we can't present that opportunity then,
14 of course, we simply can't prevail and would be prevented in
15 showing another reasonable hypothesis and that is where I am
16 going, whether it wins or not.

17 THE COURT: Well let's go back into
18 court.

19 IN THE COURTROOM - all counsel, the defendant, and the jury
20 being present.

21 THE COURT: You may proceed.

22 DIRECT EXAMINATION continued by Mr. Moses:

23 Q What was the purpose of calling Cathy Moe?

24 A To ask her to go out.

25 Q You wanted her to go out that evening?

1 A Wanted to ask her if she wanted to go out, she
2 parties quite a bit.
3 Q You wanted to go out with her night, that
4 early morning?
5 A Yes.
6 Q Did she agree to go out with you?
7 A No.
8 Q Where did you go after that?
9 A I drove around a little while and then went home.
10 Q I take it that you were driving around Poplar,
11 Montana from 1:30 A.M., until around 3:00 o'clock A.M., or
12 afterwards?
13 A Yes, something like that.
14 Q Did anyone else see you driving around?
15 A I am sure they did.
16 Q You are sure that they did?
17 A I don't know, but there were a lot of people
18 in town.
19 Q Now if someone said that you were driving
20 around in a pickup, would that be true?
21 A No.
22 MR. MOSES: That's all, thank you very much.

CROSS EXAMINATION

25 By Mr. Racicot:

1 Q Nor Norgaard, you were also question quite
2 extensively concerning the death of Kimberley Ann Nees, were
3 you not?

4 A Yes.

5 Q Over and over again?

6 A Yes.

7 Q And your fingerprints were taken, were they
8 not?

9 A Yes.

10 Q And you were questioned by a number of different
11 individuals, correct?

12 A Yes.

13 Q Now you said that Cathy Moe likes to party a
14 lot?

15 A Yes.

16 Q Had you gone out with her before?

17 A Yes.

18 Q So that you called her to see if she wanted to
19 go out that evening?

20 A Yes.

21 Q And that was after you had gone to the Legion
22 Club?

23 A Right.

24 Q Now you stated on direct examination that your
25 relationship with Kim was that you were going with her ---

1 A Yes.
2 Q ...more or less?
3 A Yes.
4 Q And what do you mean by "more or less"?
5 A Well both of us went out with other people.
6 Q So that you weren't really going steady, is that
7 it?
8 A Well I thought we were anyway.
9 MR. RACICOT: Okay, no further questions.

10
11 REDIRECT EXAMINATION

12 By Mr. Moses:
13 Q Well, your relationship with Kim Nees was very
14 close, wasn't it?
15 A Yes.
16 Q And on the morning of June 16th, 1979, were you
17 drunk?
18 A Yes.
19 MR. MOSES: Thank you, no further questions.
20 MR. RACICOT: Nothing further.
21 MR. MOSES: We ask that this witness be excused.
22 MR. RACICOT: That's fine.
23 WHEREUPON this witness was EXCUSED.
24
25