

1 MR. RACICOT: Call Steve Lambert.

2 WHEREUPON,

3 MR. STEVE LAMBERT

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

7

8 DIRECT EXAMINATION

9 By Mr. Racicot:

10 Q May I have your name please?

11 A Steve Lambert.

12 Q And your occupation?

13 A Engineering Technician for the Department of  
14 Highways.

15 Q And you work for the State of Montana?

16 A Yes.

17 Q And where are you employed at now?

18 A I am based out of Wolf Point and part of the  
19 time I go out of the Wolf Point office as a draftsman.

20 Q You are a draftsman?

21 A Part time.

22 Q Okay, and have you had special training in that  
23 area?

24 A Yes, I went two years to Dawson College.

25 Q And did you complete those courses in draftsmanship

1 and the courses that go along with that sort of thing?

2 A Yes sir.

3 Q And have you been employed by the highway  
4 department involved in the drawing of maps, sketches and that  
5 sort of thing?

6 A Yes I have, about four years in.

7 Q And have you been requested on other occasions  
8 to prepare diagrams and sketches of certain areas to scale?

9 A For highway maps?

10 Q Yes?

11 A Yes, I have.

12 Q And have you ever been requested to do so by  
13 law enforcement?

14 A Yes I have.

15 Q And have you in fact done that?

16 A Yes sir.

17 AT THIS TIME, an exhibit that is proposed by the State  
18 of Montana is marked by the Court Reporter as State's  
19 Exhibit Number 28

20 Q I will show you what has been marked as State's  
21 Exhibit 28 for identification, and ask you if you could  
22 identify that?

23 A Yes this is a drawing that I did.

24 Q And prepared by you?

25 A Yes.

1 Q And did you in your preparing of that drawing,  
2 rely upon any other sketches that were done?

3 A I used the police sketch that was drawn on  
4 paper that was made.

5 Q Okay. I am handing you what has been marked as  
6 State's Exhibit Number 27 for identification and ask if that is  
7 the drawing that you relied upon in making your sketch?

8 A Yes.

9 Q Now the drawing of State's Exhibit Number 27  
10 is not to scale is it?

11 A No.

12 Q There has been some testimony here that the  
13 measurements that are reflected on number 27 are accurate, and  
14 are those the measurements that you used to utilize for your  
15 drawing?

16 A Yes.

17 Q And your drawing is to scale, is that correct?

18 A Yes it is.

19 Q And it correctly portrays the objects depicted  
20 on it in relation to one another?

21 A Yes, it does.

22 Q Based upon the information you received from  
23 State's Exhibit Number 27?

24 A Yes.

25 Q So that it is your testimony, Mr. Lambert, that

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15 Q And in your drawing there are four. Is there any  
16 reason for that?

17 A No, just that there were footprints shown and  
18 so just for my drawing I put footprints in there.

19 Q And did you assume there were footprints all  
20 the way up and down that trail?

21 A The trail was sort of grassy, so whether there  
22 were footprints all the way up and down, I don't know.

23 Q Okay. My question is why did you

1           A           I can't tell you. It was just to show that  
2 there were footprints in this area. It doesn't have any  
3 bearing on the number of footprints in relation ---

4           Q           Oh, you just used that as an indication that  
5 there were footprints in this area?

6           A           Right.

7           Q           Okay. Okay. You are not saying there were  
8 four footprints?

9           A           No I am not saying there was four, and I am not  
10 saying that three was either. Just that this area shows the  
11 footprints.

12          Q           You picked a bad number. (Laughter in the  
13 courtroom) Would it be possible for you to wipe out one of  
14 the footprints on that particular sketch in order to accurately  
15 reflect and match the previous sketch which I showed you?

16          A           Yes.

17 MR. RACICOT: With that stipulation, Your Honor, we would  
18 move for the admission of State's Exhibit number 28 and in  
19 that respect it would accurately and correctly show to scale  
20 reflect the measurements shown in State's Number 27, is that  
21 correct?

22          A           Yes.

23 MR. MOSES: Could I examine the exhibit?

24                       THE COURT: This one is to scale?

25          A           Yes.

1 THE COURT: Well some of the things  
2 on number 27 are not on 28, is that  
3 right?

4 MR. RACICOT: Some of the things not to scale, Your Honor,  
5 on 27 is included on 28, but not everything. We didn't want  
6 to clutter 28, but submit just what we wanted to submit.

7 MR. MOSES: May I inquire of this witness?

8 THE COURT: Yes.

9 VOIR DIRE by Mr. Moses:

10 Q Are you an engineer?

11 A I am a technician.

12 Q Okay. And you have done, I take it, in your  
13 work, you have done considerable platting for roads and things  
14 of that kind?

15 A The drawing of roadway plans?

16 Q Sure?

17 A Yes, topography.

18 Q Topography, yes, a great deal?

19 A Yes.

20 Q And you have gone out, and -- what do they do,  
21 they take measurements with a transit, use a transit and  
22 measure distances?

23 A In topography, they don't use a transit.

24 Q Well how do you measure distances from this point  
25 on the road, down to where the blood is found, if you don't

1 measure it with a tape measure to determine that distance?

2 A There was a base line established on that on a  
3 right angle prism used.

4 Q Where was the base line established?

5 A It runs north and south along the edge of the  
6 bank there on the river.

7 Q The edge of the bank then is what you call a  
8 base line?

9 A No, it is off to the side of the edge of the  
10 bank and it is approximately about four foot.

11 Q Did you have a place of beginning, a marker,  
12 like a quarter section corner mark?

13 A Yes there is an iron pin.

14 Q An iron pin?

15 A Yes.

16 Q Now where is the iron pin located so that each  
17 of these things depicted on the map could be shown in  
18 relationship other things? Does the iron pin appear?

19 A There is a place of beginning and there is the  
20 place that it ends.

21 Q Now how far is it from the iron pin then, if you  
22 started at the iron pin -- is that a quarter section marker?

23 A No it was just an iron pin that I drove for my  
24 reference.

25 Q Did you put some distance from the bridge or any

1 other known point rather than just going out into the field  
2 and pounding in an iron pin?

3 A For this drawing, just the general area was  
4 made so that there was a base line established that would  
5 have included that whole area.

6 Q Well from this iron pin, how far was it up to  
7 the car, up to the front corner of the car?

8 A From that iron pin, going up the base line there,  
9 and then measure over at right angles.

10 Q Do you have it marked there?

11 A No sir.

12 Q Do you know how far it is?

13 A Yes sir.

14 Q How far is it?

15 A I don't have my notes.

16 Q But it is not on the plat, that is what I am  
17 getting at?

18 A No.

19 Q How far as the blood spots from each other?

20 A From the drawing that I obtained there were  
21 quite a few so depending on which one you wanted to use. I  
22 am just showing there was blood marks on the bank and going  
23 down the bank.

24 Q Well if you had this thing drawn to scale, I  
25 take it then that those blood spots are simply representative



1 of the general location of those blood spots?

2 A Within a half a foot.

3 Q Did you personally measure when determining  
4 the location of the vehicle from any known part?

5 A I used the distance on the little sketch there  
6 that was 257 feet and I had a 300 foot steel tape and with  
7 the pictures that was taken at the scene, we parked the  
8 pickup there at 257 feet back along a radius that looked like  
9 it could angle off, going down that road there.

10 Q With respect to the footprints, and I am not  
11 concerned that you have four of them, are they to scale?

12 A No it is kind of hard to see a footprint.

13 Q There were just four of them here?

14 A They were for the benefit to whoever was looking  
15 at it from a distance.

16 Q To be able to measure where the footprints  
17 existed in relationship to any known object ---

18 A This was just done this last spring.

19 Q I am not concerned with that, when it was done.  
20 I am concerned if you have any source of information in which  
21 you could say, "I can establish that the footprints that we  
22 are concerned about is right here, at this spot, and the rest  
23 of them is right here at this spot and the third one is right  
24 here at this spot". Is there anything on this map or any  
25 information that you have where you can locate the footprints  
as they existed?



1           A           No sir.

2           Q           Okay. I take it these dotted lines;-what do  
3 they represent?

4           A           Those were more or less trails along that river  
5 there.

6           Q           Are those done to scale so that you actually  
7 went out there and shot from your base line, shot the angle  
8 to make this accurate as to where these lines, those dotted  
9 lines are?

10          A           Yes sir.

11          Q           You actually did that?

12          A           Yes sir.

13          Q           Did you use a transit then?

14          A           No sir.

15          Q           How did you do that?

16          A           With a prism.

17          Q           What kind of an istrument is that?

18          A           Well it allows you to see down the base line  
19 and then to the left and to the right.

20          Q           Well when you get up here to a corner ---

21          A           You are looking down the base line ---

22          Q           I understand that.

23          A           Okay, and you're looking in it and it allows  
24 you to see to the left and to the right so that a person can  
25 be accurate standing on this point with a tape measured out to

1 that point, and you put him in the middle of the prism and  
2 then measure the distance.

3 Q And then he would go on to the next point?

4 A Yes sir.

5 Q And then how does he do that on a curve?

6 A You can go around a curve if you want to.

7 Q Okay, so that you would take it from the base  
8 line wherever that is on this map and mark in all of the  
9 roadways that appear, is that right?

10 A Yes.

11 Q Who told you of what items to show in this  
12 document?

13 A Mr. Wilson did.

14 Q He specifically told you to put in the footprints,  
15 that is what I am getting at?

16 A Yes.

17 Q And he specifically told you to put in the  
18 blood and specifically told you to put in the purse and the  
19 jacket?

20 A Yes.

21 Q And the drag mark?

22 A Yes.

23 Q Now did you have a way of determining where the  
24 drag marks began or ended, in drawin this map?

25 A No.

1 Q So that when you have on the map here, "drag  
2 mark" you did not have anything to show whether it was narrow  
3 at one place and wider at another, nothing of that kind?

4 A No.

5 Q So that the fact that the drag marks at some  
6 places there are narrower than the other, and some places had  
7 a curve to them, has no significance?

8 A No, just to show there were drag marks that  
9 long.

10 Q And so that was done to get a distance from the  
11 vehicle down to the bank, right?

12 A Yes.

13 Q Okay. Finally, when you say the edge of the  
14 bank, did you measure the hair that you found, or that was  
15 found 195 feet from the river bank, did you measure that at  
16 right angles to the river bank or right angles to the base  
17 line?

18 A Right angles to the base line.

19 Q How did you determine the edge of the bank was  
20 in relationship to the base line?

21 A How can I tell where the edge of the river bank  
22 is at?

23 Q Yes?

24 A By looking through the right angle prism.

25 Q Well it appears the edge of the bank is angled  
in places, right?

1           A           Yes.

2           Q           But the base line is straight across?

3           A           Right.

4           Q           Did you measure from the known point to where

5 you have "hair" to get a 195 feet?

6           A           That 195 feet is from the base line, not from

7 the bank.

8           Q           Well it says from river bank, so that if that

9 is wrong, it is from the base line then?

10          A           Yes.

11          Q           It should be from the base line, right?

12          A           Yes. It does not show every nook and cranny

13 of this river bank.

14          Q           What you are -- that is what the problem is,

15 so that if you have it at right angles, from the base line

16 and go down the river bank it might be indented back out

17 close to the river and that is why you have got 195 feet from

18 the river bank?

19          A           Is that on the other drawing?

20          Q           I don't know, I am asking you the question. Do

21 you know how you arrived at that?

22          A           It was on the other drawing.

23          Q           Was it from the river bank or was it from the

24 base line that you've marked as 195 feet?

25          A           I used the measruements off that other drawing.

1 Q Okay, now how did you -- who told you where  
2 the hair was, in relationship -- so that you could measure  
3 down from that base line down the river bank?

4 A Mr. Wilson and I went out and measured it.

5 Q How did you arrive at this point, was there a  
6 stake at that point to say that is where the hair was?

7 A Was there a stake there?

8 Q Yes, how did you determine where the hair was?

9 A We measured to that spot where he said, this is  
10 where the hair is.

11 Q That this is the spot where the hair was?

12 A Yes.

13 Q Did it have any marker like a stake, and say  
14 this is where we found the hair, this is the approximate area?

15 A I don't recall whether there were photographs  
16 that showed where the hair was or not.

17 MR. MOSES: Your Honor, I do have some objections to this  
18 exhibit and I think it should be done outside the hearing of  
19 the jury.

20 THE COURT: All right, the jury will  
21 remain seated. We will be right back.

22 IN CHAMBERS outside the hearing of the Jury, with all counsel  
23 and the Defendant present:

24 THE COURT: Go ahead and state your  
25 objections, Mr. Moses.

1 A short off-the-record discussion was had between counsel  
2 and the court, and thereafter, all parties returned to the  
3 courtroom.

4 IN THE COURTROOM with all persons present:

5 THE COURT: You may proceed.

6 MR. MOSES: Are you offering this exhibit then for  
7 illustrative purposes only?

8 MR. RACICOT: Yes, if you are going to mark it up, yes.

9 MR. MOSES: Fine.

10 THE COURT: Fine, it will be -- number  
11 28 will be admitted for illustrative  
12 purposes only.

13 MR. MOSES: Nothing further.

14  
15 REDIRECT EXAMINATION

16 By Mr. Racicot:

17 Q Would you come down here and change this exhibit  
18 to show three footprints, are you able to do that?

19 A Yes.

20 MR. MOSES: Your Honor, just for the record, so that the  
21 record is clear, let it show that I have no objection for the  
22 use of this exhibit for illustrative purposes and I have no  
23 objections to pointing out, or removing I should say, one of  
24 the footprints so that it will be admitted as a diagram that  
25 has been made by Mr. Lambert and be in accordance to the diagram

1 made by Mr. Murray, and with that I have no examination of  
2 this witness.

3 MR. RACICOT: We have no further examination, but we would  
4 ask that he remain here and change that on that exhibit.

5 THE COURT: All right. Can you wipe  
6 out that one footprint?

7 A Yes.

8 AT THIS TIME, the witness did erase or blot out one of  
9 the footprints, which left three footprints on the said  
10 exhibit instead of four as was shown thereon.

11 THE COURT: Fine, you've done that now?

12 A Yes.

13 AT THIS TIME, the Jury is allowed to examine State's  
14 Exhibit Number 28.

15 THE COURT: It is now 5:10 and so we  
16 will recess now until tomorrow morning  
17 at nine o'clock A.M.

18 (Court admonishes the Jury)

19 COURT IS RECESSED until 9:00 o'clock A.M., on the 11th day  
20 of April, 1984.

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