

1 call Mrs. Clincher and then recall Red Wilson.

2 THE COURT: Okay, anything else at
3 this time?

4 MR. RACICOT: That is it.

5 THE COURT: I guess we can go into
6 Court then, after we get the jury
7 in the jury box.

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9
10 IN THE COURTROOM - 9:15 o'clock A.M.

11 AT THIS TIME, at the request of the Court, the Clerk of
12 Court held a roll call of the jurors present, and all
13 being present in the Jury box, the following proceedings
14 were had:

15 THE COURT: All right, let the record
16 show that the Defendant and his
17 counsel, Mr. Moses is here, and that
18 Mr. Racicot and Mr. McCann are also
19 present. You may call your next
20 witness.

21 MR. RACICOT: The State would now like to call Ted Nees
22 to the stand please.

23 WHEREUPON,

24 MR. HAROLD TED NEES

25 having been called as a witness by the State of Montana, and

1 having been first duly sworn upon his oath, testified as
2 follows:

3
4 DIRECT EXAMINATION

5 By Mr. Racicot:

6 Q Could you give us your name please?

7 A Harold Ted Nees.

8 Q Ted, are you the father of Kimberley Ann Nees?

9 A Yes.

10 Q Would you tell us how old Kimberley Nees was
11 at the time she was killed?

12 A Seventeen.

13 Q And did she just graduate from highschool?

14 A Yes.

15 Q And when would she have been eighteen?

16 A August 2nd.

17 Q Now, Ted, after you were notified of this
18 particular incident, and I would like to direct your attention
19 to the point in time when you eventually received your pickup
20 truck back from the law enforcement authorities, -- that was
21 kept for awhile by the law enforcement officials?

22 A Yes it was.

23 Q And do you recall how long after the day that
24 Kim died, that you received that pickup truck back?

25 A No I don't. I received the stuff out of the

1 pickup shortly afterwards, but they kept the pickup for
2 several months.

3 Q Okay, now when you received the personal
4 property out of the pickup, did that include your tools that
5 you had in the pickup?

6 A Yes, it did.

7 Q And did you at that point in time, determine
8 that all of your tools that were in that pickup truck were
9 there when you received them?

10 A No, there was some stuff missing.

11 Q And do you recall what kind of things were
12 missing?

13 A Particularly a crescent wrench, a twelve inch
14 crescent wrench.

15 Q And would you describe what kind of a crescent
16 wrench it was, was it brand new?

17 A Yes it was, it was proto-chrome plated crescent
18 wrench.

19 Q And it was a twelve inch crescent wrench?

20 A Yes.

21 Q I am handing you what has been marked as State's
22 Exhibit Number 24 for illustrative purposes, and I would ask
23 if that wrench is similiar to the one from your pickup truck
24 that was missing?

25 A Other than brand new, yes, it is the same.

- 1 Q Excuse me?
- 2 A Other than brand new, yes.
- 3 Q And it was exactly like this one?
- 4 A Yes.
- 5 Q And how long before the day that Kim died, that
6 you purchased that wrench?
- 7 A Just a few weeks.
- 8 Q And you kept it where in your pickup truck?
- 9 A Normally in the tool box.
- 10 Q Now did you also have any tire irons and lug
11 wrenches in your truck?
- 12 A Yes I did.
- 13 Q And what were they?
- 14 A I had a standard GMC type tire wrench which comes
15 with the pickup and also a cross lug wrench.
- 16 Q Ted, I show you what has been marked as State's
17 Exhibit Number 25 for illustrative purposes and ask you if
18 this is in fact similiar to the one of the lug wrenches that
19 you had in your pickup truck?
- 20 A Yes it looks identical to the one that I had.
- 21 Q Did you receive this lug wrench, or one like it
22 from the Sheriff's office?
- 23 A I didn't remember it being missing, so I don't
24 remember whether I did or not.
- 25 Q Did you mention the fact that a crescent wrench

1 was missing from the items that you got back from the
2 Sheriff's office?

3 A Yes I did.

4 MR. RACICOT: I have no further questions.

5

6 CROSS EXAMINATION

7 By Mr. Moses:

8 Q I am Timer Moses and I am the attorney f r Mr.
9 Beach and I am from Billings, Montana and I get to ask you
10 some question, you understand that, do you not?

11 A Yes.

12 Q All right. Would you describe the pickup for
13 us, what kind of vehicle it was?

14 A 1977 GMC.

15 Q What color was it?

16 A It was kind of an acqua-blue.

17 Q And when you say you had some tools, what kind
18 of tools did you have in the pickup?

19 A Just a general set of tools.

20 Q Was there a tool box or something in which
21 these tools were placed?

22 A Yes.

23 Q Was that in the cab or in the back?

24 A The tool box was in the back.

25 Q Was it locked?

- 1 A No I don't believe so.
- 2 Q What kind of a tool box was it?
- 3 A A full width pickup type tool box that sits
4 behind the cab.
- 5 Q All right, something like four feet wide and
6 perhaps eight to twelve inches deep and maybe eighteen inches
7 wide, something like that?
- 8 A Approximately yes.
- 9 Q And the tools were regularly kept in there?
- 10 A Yes.
- 11 Q As far as you know?
- 12 A Yes.
- 13 Q Now I take it that law enforcement authorities
14 may have impounded the pickup for whatever purposes they had
15 in mind and that they wanted to keep the pickup to take
16 fingerprints or whatever?
- 17 A Yes.
- 18 Q That was your understanding?
- 19 A My understanding, yes.
- 20 Q And then you got the pickup back how long later,
21 I had trouble hearing you on that?
- 22 A The pickup itself was several months later.
- 23 Q How about the tool box?
- 24 A I got that within a month, I believe.
- 25 Q Okay, and was there-- when you got the tool

1 box back, was there some sort of inventory that you received
2 and signed for?

3 A No, I don't think so.

4 Q They just delivered them to you?

5 A I don't think I signed anything when I got it
6 back.

7 MR. MOSES: All right, thank you very much, Mr. Nees.

8 MR. RACICOT: We have no further questions of Mr. Nees and
9 ask that he be excused.

10 MR. MOSES: No objections to that.

11 WHEREUPON, this witness was EXCUSED.

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