

## Crown concludes its presentation

# Diver, Gerow trial continues in Supreme Court at Barrie...

BARRIE — Murder victim Elizabeth Whelan died as a result of a stab wound to the chest, associated with multiple stab wounds and blunt force injuries to her head and body.

This was the opinion expressed by regional pathologist Dr. Hans Sepp who performed an autopsy on the 14 year-old on June 10, 1979.

Sepp also told the court that the five foot five inch, 138 pound teenager was a virgin at the time of her death.

It took the Toronto pathologist two hours to tell the jury of the injuries sustained by the Penetanguishene girl on the night of her death. Neil Gerow and Garrold Diver of Midland have pleaded not guilty to charges of first degree murder in connection with the incident. The Supreme Court trial is now in its fifth week.

Dr. Sepp told the jury of multiple abrasions, gaping stab wounds and lacerations revealed by his examination. "Her scalp showed four lacerations on the left side, and six on the right side," he said.

Some of the scalp lacerations showed a slight curve. "They were blunt force injuries," said the doctor, "and the curved outline leads me to believe that there had to be a curve in the instrument...which might have hit the skull in that particular area." There was also a small fracture at the front of the skull.

He described more bruises and puncture marks on other parts of the girl's body, and told

the jury that he had noted bruising on the voice box and in the throat area.

"There was no evidence of a ligature mark, but one might think of a hand, a foot, a knee or an elbow," he said.

The young girl's clothed body was found June 9, 1979 pinned under an automobile registered in the name of Garrold Diver's wife.

Several witnesses have testified that there were burns on the girl's thighs, although forensic scientist Sherman Brown had testified that there were no burn marks on the jeans she wore at the time. Later the Toronto expert told the jury, "It is beyond my field to determine the amount of heat that was there. In my opinion the temperature could well have been of a level that could pass through the fabric, but which could damage the skin underneath."

Brown offered further dramatic testimony about clothing given police by the two accused, and said to be that worn the night the girl died. The shirt and blue corduroy trousers obtained from Neil Gerow were clean. "They showed no signs of soil from wear," said Brown. "They appeared not to have been worn since laundering."

Another pair of blue jeans which had been obtained later from the Gerow household, damp, showed areas of staining. "I identified human blood in the discoloured areas," said Brown, who added that the jeans had been

recently washed, and thus it was not possible to identify a blood grouping.

The jeans and shirt which had been obtained from Garrold Diver the day after the incident were similarly examined and Brown told court that there was no evidence of blood, semen, hair or any particular evidence of soil on the items. Shoes given to police by Gerow and Diver and purported to be those worn on the night of the girl's death showed no evidence of blood. Soil samples taken from the shoes of both Diver and Gerow showed no similarity to soil samples taken from the Curry Road site.

Dr. Frederick Smith of Barrie took the stand on Friday morning and told the jury about injuries he had observed on Garrold Diver on June 22.

When Diver had returned from Florida to the Barrie jail, he had complained of injuries he said he'd received at the hands of "bikers" in the Broward County jail.

"There were a number of bruises to the chest wall and upper abdomen," said Dr. Smith who estimated that the bruising was no older than 48 hours.

Under questioning by A.J. Bickerton, counsel for Diver, Smith admitted that some bruises on the upper arms which were of a slightly different colour may have been made a little earlier. He identified the bruises from coloured photographs shown to him by Bickerton.

The Crown completed its presentation of evidence on Friday and defense attorneys A.J. Bickerton, Barry Swadron and S. G. Himel began their presentation this week. Court was recessed

early on Friday because of the sudden illness of John Murphy, Crown counsel.

Cynthia Diver, the 20-year-old wife of Garrold Diver was led from the witness stand in tears yesterday morning after persistent questioning from Crown Attorney John Murphy.

Mrs. Diver was placed in the witness box by Alan Bickerton, counsel for Garrold Diver.

Under Bickerton's questioning, Cynthia Diver described the events of the night of June 9 (1979):

"Gerry and Neil picked me up at my mom's house...we went back to our house...they

played pool, drank beer and smoked pot...Gerry had about 10 or 12 bottles of beer, I think."

She told the jury the two accused had left the house at 12:15 a.m. in her car, although they appeared to be "drunk and stoned."

She testified that Diver had come home at about 3:15 a.m. and had told her that the car had been stolen.

In her testimony to police on the 10th of June (1979) Mrs. Diver had said that Gerry was shaking all over and looked pale when he told her about the car. She then called police.

Under questioning by Susan Himel, assistant attorney for Neil Gerow,

Mrs. Diver said that Neil Gerow and Garrold Diver had been friends since public school and that they had seen a lot of each other since she and Garrold Diver had married in 1978.

"Every time Neil was over at our house," said Mrs. Diver, "he was smoking pot."

"They were always drinking beer." She added that Neil was quiet and shy and never talked much.

She carried a card with her into the witness box which she said had been provided to her by Bickerton.

The note carried the words to the effect that she could refuse to answer questions on the

grounds of incrimination. She referred to the note several times.

The girlish auburn-haired witness was visibly nervous as she gave her testimony frequently looked over to her lawyer for reassurance.

Later Mr. Justice Lerner directed her not to continue looking over at Mr. Bickerton when she was being questioned by the Crown.

Mrs. Diver after cross-examination from the Crown broke down again as she told the jury that Sunday, June 10, (1979), the day after Elizabeth died was her first anniversary.

## July court date in attempted murder case

A 41-year old Penetanguishene woman, charged with the attempted murder of her husband, has had her court case remanded until July 28, when a trial date will be set.

Blanche Ladouceur of Robert Street West, Penetang, was charged by town police on

Tuesday of last week, after her husband, Patrick Ladouceur, was taken to hospital by Penetang police.

Police allege a type of drug in the form of pills may have been involved.

Mrs. Ladouceur was released on \$5,000 bail at a hearing in Barrie last week.

## Some headway made on servicing

Town of Midland is a step closer to developing a servicing policy which if approved could help the Highland Motel begin its expansion program.

Council has been locked in a difference of opinion over whether the town should foot part of the bill for a trunk sewer project to the motel's property on King Street South.

The project, to cost more than \$30,000, would have originally seen the motel paying one-third of the trunk sewer or about \$10,000.

At an earlier meeting of council, Alderman Jack Gerow suggested the motel pay for the entire cost "up front" and that the town buy back the services as the expansion came on stream and each phase was completed.

Monday night, after a great deal of wrangling, it was finally agreed the town's technical committee would be given 30 days to prepare a draft policy council could tackle taking into consideration all the legal ramifications.

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