

# **Elder ‘mountain man’ says shooting was in self-defense**

Bob Anez

July 11, 1985

VIRGINIA CITY (AP) — “Mountain man” Don Nichols admitted Wednesday he kidnapped a woman biathlon star and fatally shot a rescuer, but he claimed the killing was self-defense.

“I shot him. I just pulled it (a rifle) around and shot him. He went down real fast,” Nichols testified in state district court here on the third day of his trial.

Nichols, 54, is charged with kidnapping Kari Swenson, 23, of Bozeman last July and with deliberate homicide in the killing of Alan Goldstein, one of two searchers who found the mountain camp where she was chained to a log. He also is accused of aggravated assault for using his rifle to threaten the second searcher.

The defense is expected to call a series of character witnesses Thursday and may also call as a witness Nichols’ 20-year-old son, Dan, who was convicted of kidnapping and assault but acquitted of deliberate homicide in a separate trial in May.

In his opening statement, assistant defense attorney Michael Lilly asked the jury to convict Nichols of a lesser charge of unlawful restraint, not kidnapping.

“There is no excuse — legal or moral — for his restraint of Kari Swenson,” Lilly said. Nichols and his son merely “tried to befriend her and show her their way of life” in the mountains, he added.

With an unemotional and matter-of-fact manner, Nichols said he fired his .222-caliber rifle at Goldstein when the man was pointing a pistol at him from behind a tree.

Nichols said he never took time to aim his scoped rifle and, instead, shot from the hip.

“I would have been stupid as hell to sight that rifle,” he said under questioning by defense attorney Don White. “I would have been shot right now” by Goldstein.

Nichols said he had picked up his rifle and put a shell in the chamber only after he saw Goldstein had a weapon. “You’re covered,” the 36-year-old resort worker allegedly told Nichols.

Nichols testified he told Goldstein to “put down the gun” and showed his rifle, hoping its size would discourage Goldstein from firing.

When Goldstein repeated, “you’re covered,” Nichols fired and the -velocity bullet struck Goldstein in the face.

Nichols, calling the incident a “completely impossible stalemate,” said he had for Goldstein’s chest. “I thought, ‘I gotta miss that damn tree’ and so I raised it (the rifle). But I guess I raised it too much.”

He conceded the kidnapping was a “mistake” and said he was “very sorry” about Goldstein’s death, but he added: “I no more caused his death than he did.”

A pathologist told the court Wednesday that Goldstein had drowned in his own blood within five minutes, but could have survived if he had received some help immediately.

Nichols testified he and his son had kidnapped Swenson on a mountain trail July 15 in hopes she would be willing to live permanently with them in the wilderness.

The elder Nichols said he was looking for “a girl that likes the mountains, with no deep roots in society — one that’s mixed up, doesn’t know what she wants.” When he saw Swenson jogging on the trail, “I was thinking ‘I hope this is that kind of girl,’ ” Nichols added.

He said he told Swenson if she did not like the mountain lifestyle the Nicholases embraced, she would be freed. “I didn’t see why she wouldn’t believe it,” he said.

Nichols also recalled telling Swenson he would guide her to within sight of civilization again and not abandon her in the mountains. Swenson testified Tuesday she was told she would be left to find her own way out of the mountains.

“I said we’ll go where it’s safe for you and safe for us. You go in that direction and we’ll go this way,” Nichols claimed.

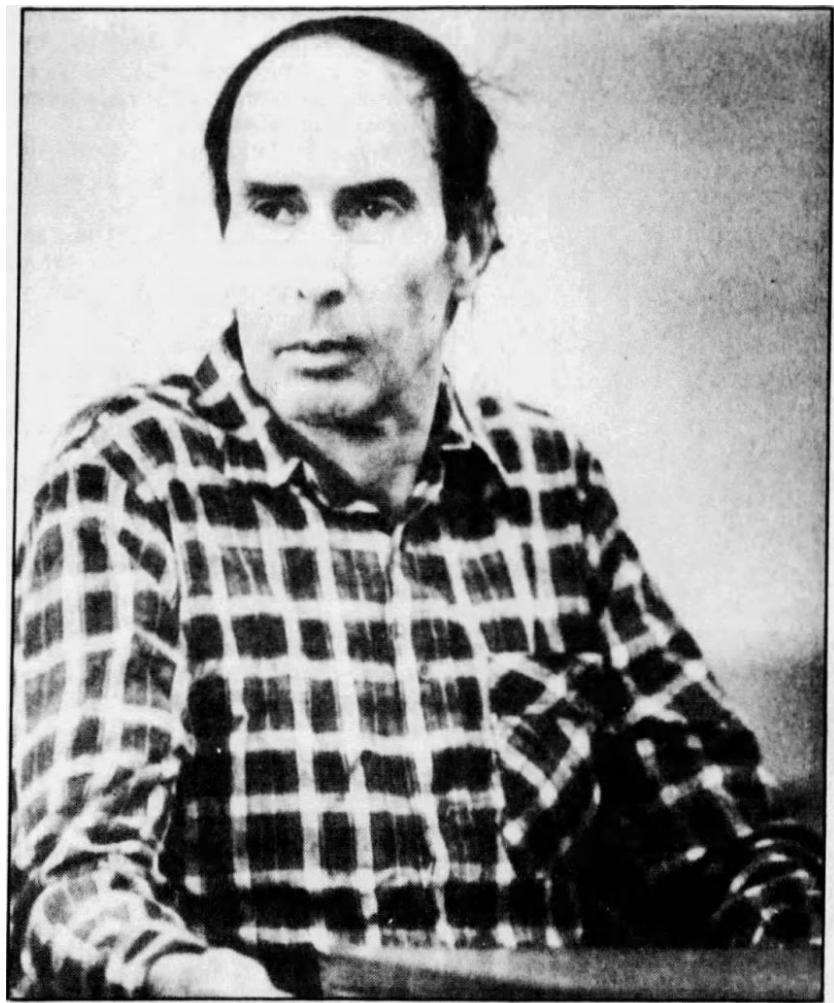
Nichols said he could not recall having pointed his rifle at the second searcher, Jim Schwalbe.

“I had no reason to,” he said. “I wasn’t afraid of Schwalbe. He didn’t have a gun. He acted too nonchalant and non-aggressive.”

However, Nichols admitted he was later prepared to shoot Schwalbe, who ran toward him after Goldstein was shot. Nichols said he loaded a second bullet in his rifle chamber and Schwalbe ran off.

“If he would have kept coming, I would have shot him. You damn right,” he said.

Under cross-examination, Nichols said he could not remember or he denied the account of events by Schwalbe and Swenson. He said he neither knocked Swenson to the ground nor repeatedly promised to kill anyone looking for her.



AP Photo

Don Nichols waits in the Madison County courtroom in Virginia City during his trial for the murder of Alan Goldstein.

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See NICHOLS, 2-A

## Nichols

From 1-A

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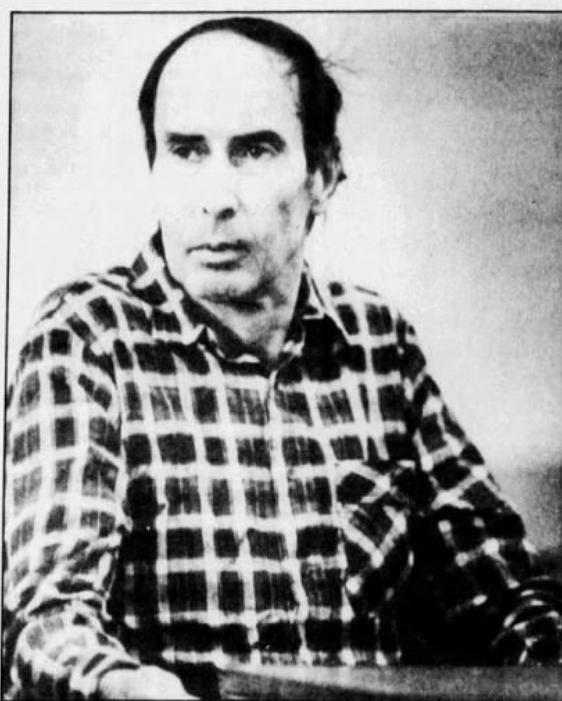
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The Ted K Archive

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