

# Slain motorist's friends take the stand

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SANTA CRUZ — The prosecution in David Turturici's murder trial offered a kinder, gentler, happier portrayal Tuesday of slain motorist Rick Foster.

Before then, court testimony from defense witnesses had focused largely on Foster's angry outbursts, his drinking habits and his depression over break-ups, first with his ex-wife three years ago then with his fiance just a few weeks before he was killed Feb. 8 on Highway 1 in Capitola.

Turturici, 42, of Aptos, who claims he shot Foster in self-defense, described Foster as a "crazed" driver who chased him for miles all the way from Highway 17 in Los Gatos.

But two of Foster's friends, called to the stand Tuesday as rebuttal witnesses by Chief Deputy District Attorney Jon Hopkins, said Foster, a 38-year-old Summit area resident, did not sound depressed earlier on the night he was killed.

In separate phone conversations they each had with Foster that evening, they said, Foster sounded "normal." They said he did not sound intoxicated — Foster's body had a blood alcohol level of .13 (legal driving limit is .08) when found — and that he did not talk about plans to go out drinking that evening.

The friends said Foster was making plans for the three to make a trip together. Pat Olson, one of the friends, said Foster still expressed hope he would be able to get back together with

his fiance from Colorado.

"He didn't sound depressed at all," Olson said.

In addition, the friends said Foster was careful about not drinking and driving and that he was "non-violent," although he would sometimes yell, get angry, and use foul language at others.

They said that they would be surprised if the version of the freeway dispute told by Turturici were true. If Foster indeed chased Turturici at high speeds for 20 miles, "I would have to think that something triggered that, something more than just a highway dispute," Olson said.

The prosecution also called Turturici's brother, Doug, to discuss what Turturici had told him about the shooting the day it happened. The brother could

not recall whether Turturici said then that Foster's hands were on the gun when he fired, but "it's a possibility" he could have said that, Doug Turturici said.

Earlier in the trial, Turturici testified that he fired after Foster fell back for a moment while the two were wrestling for the gun.

Tuesday, the defense also tried to submit evidence that Foster occasionally used cocaine when visiting his fiance in Colorado, but Judge Tom Kelly denied his motion, saying the information could "substantially prejudice or mislead the jury."

There is no evidence that Foster had used cocaine the night he was killed.

Trial testimony is expected to conclude today.