

1 THE COURT: Mr. Walsh?

2 MR. WALSH: The State calls Dale  
3 Stobaugh.

4  
5 DALE STOBAUGH,

6 being called as a witness on behalf of the State and  
7 after having been duly sworn, was examined and testified  
8 as follows:

9 DIRECT EXAMINATION

10 BY MR. WALSH:

11 Q State your name.

12 A Dale Stobaugh.

13 Q How are you employed?

14 A Supervisor of the Questioned Documents Section of  
15 the Texas Department of Public Safety Crime Lab in  
16 Austin.

17 Q How long have you been employed in that capacity?

18 A Approximately ten years.

19 Q How long have you worked for the Department of  
20 Public Safety?

21 A Approximately ten years.

22 Q What are the duties of your job there at the DPS?

23 A Our function of the lab involves identification by  
24 handwriting comparison, typewriting examination,  
25 ink analysis, paper analysis, restoration of

1 obliterations, and generally proper treatment of  
2 any kind of a document which might help reveal the  
3 truth in a criminal case.

4 Q Do you work full time or part time?

5 A Full time.

6 Q What special training have you had that qualifies  
7 you to hold the position that you hold?

8 A The Department requires a one-year training program  
9 where you work under experienced examiners and read  
10 30-odd books on the topic of forensic document  
11 examination. And I have attended forensic schools  
12 put on by the FBI, the Forensic Science Foundation,  
13 and various other seminars as funds were available.

14 Q Is there a theory that exists whereby a person can  
15 look at a known writing sample of one person and  
16 compare that with an unknown writing and come to a  
17 conclusion whether the same person wrote both  
18 instruments?

19 A Yes, sir.

20 Q Would you explain that theory?

21 A Briefly, it can be summarized in that we learn to  
22 write in our grade school years. We all possess  
23 about the same amount of manual dexterity, and we  
24 learn to copy styles or pattern that have been put  
25 around the classroom for us or out of a copy book.

1 Over the years, as our capabilities develop and we  
2 start learning to write more adeptly and fastly,  
3 individualistic characteristics enter into our  
4 handwriting. And that is not the case when we are  
5 first learning to write because our skills are very  
6 limited, and we are copying a style that has  
7 already been put in front of us. It is on those  
8 individualistic characteristics that we develop  
9 after a number of years and experience a lot of  
10 handwriting that handwriting identification or  
11 elimination is based upon.

12 (Whereupon State's Exhibit  
13 Nos. 74 through 78 were marked  
14 for identification by the  
15 Reporter.)

16 Q (By Mr. Walsh) Mr. Stobaugh, without going into any  
17 of the contents contained in any of these exhibits,  
18 I'll ask you if you can identify State's Exhibits  
19 74, 75, 76 and 77 and 78, if you can identify those  
20 exhibits.

21 A Yes, sir, I can.

22 Q I also hand you what has been marked as State's  
23 Exhibit 16, which has been admitted into evidence,  
24 and ask if you can identify that exhibit.

25 A Yes, sir.

1 Q I hand you what has been marked as State's Exhibit  
2 14 and ask if you can identify this exhibit.

3 A Yes, sir, I can.

4 Q I show you what have been marked as State's  
5 Exhibits 28 through 73 and ask if you can identify  
6 those exhibits.

7 A Yes, sir, I can identify all of them.

8 Q Let's start first with what has been admitted into  
9 evidence as State's Exhibit 16, and then what has  
10 not been admitted but has been marked as State's  
11 Exhibit 77.

12 MR. WALSH: Your Honor, may we go off the  
13 record so I can speak to the Court Reporter here?

14 THE COURT: You may.

15 (Whereupon, there was a discussion  
16 between counsel and the Court  
17 Reporter, after which proceedings  
18 continued as follows:)

19 MR. WALSH: We were in error awhile ago  
20 on our markings. We'll start at the beginning.

21 Q (By Mr. Walsh) This is State's Exhibit 16,  
22 State's Exhibit 74 which you have previously  
23 identified, State's Exhibit 75 which you have  
24 previously identified, State's Exhibit 76 which  
25 you have previously identified --

1 A (Witness nods)

2 Q -- State's Exhibit Number 77 which you have  
3 previously identified, and State's Exhibit 78 that  
4 was marked 77 awhile ago but is corrected to 78.

5 I would like for you to assume that  
6 portions of these exhibits that I have just  
7 referred to and showed you are the known  
8 handwriting samples of individuals; okay?

9 A Yes, sir.

10 Q Assume that. Have you compared the handwriting in  
11 these exhibits with starting off State's Exhibit  
12 Number -- Exhibits 28 through 73?

13 A Yes, sir, I have.

14 Q As a result of the comparisons that you have made  
15 between these assumed-known handwritings and  
16 certain endorsements under the name of Henry Lucas  
17 on these exhibits, do you have a conclusion as to  
18 whether the same person whose handwriting is  
19 contained in these exhibits is the same person who  
20 endorsed these checks?

21 A Yes, I do.

22 Q Would you explain to the jury your conclusions.

23 A It's my opinion that based on the examination of  
24 the known handwritings submitted in the name of  
25 Henry Lee Lucas and the checks or these instruments

1 here were all endorsed by the writer of the known  
2 standards, with the possible exception of Check  
3 Number 4414.

4 MR. HIGGINBOTHAM: 44 what?

5 THE WITNESS: 14.

6 Q (By Mr. Walsh) This exhibit you're referring to?

7 A Yes, sir.

8 Q And that has been marked as State's Exhibit 60.

9 A Correct.

10 Q Turning next to State's Exhibit 14, have you  
11 compared the writing contained in that matchbook  
12 with the writing contained in these samples here?

13 A Yes, I have.

14 Q And what opinion do you have, if any, concerning  
15 whether or not the same person who wrote the things  
16 in these exhibits wrote the numbers in that  
17 matchbook?

18 A I cannot identify or eliminate the writer of the  
19 known standards as having done any of the writing  
20 on the matchbook marked as State's Exhibit Number  
21 14.

22 Q So you don't know one way or the other on that one.

23 A No, sir.

24 MR. WALSH: Pass the witness.

25 THE COURT: Mr. Higginbotham.

1 MR. HIGGINBOTHAM: May I approach the  
2 witness, Your Honor?

3 THE COURT: Yes, you may.  
4

5 CROSS-EXAMINATION

6 BY MR. HIGGINBOTHAM:

7 Q If I understand correctly, Mr. Stobaugh, you said  
8 that you have checked and you have looked at the  
9 exemplars that you talked about and then at these  
10 checks, the State's Exhibits 28 through 73, I  
11 believe. Was that your direct testimony?

12 A Yes, sir.

13 Q Okay. And you say that the person -- in your  
14 opinion, the person that wrote those exemplars is  
15 the same person that endorsed these checks. And I  
16 understood you to say except possibly Check 4414.

17 A Yes, sir.

18 Q Are you able to say for certainty that Henry Lee  
19 Lucas didn't endorse Check 4414?

20 A No, sir.

21 Q But you are able to say that the other checks, in  
22 your opinion, he did endorse.

23 A Yes, sir.

24 Q Okay. Now as to what has been marked as State's  
25 Exhibit 14, which is the matchbook we're talking

1 about?

2 A Yes, sir.

3 Q And it is your testimony that you cannot either  
4 identify Henry Lee Lucas as having written those  
5 numbers on that matchbook, nor can you eliminate  
6 him as having written those numbers on the  
7 matchbook.

8 A That's correct.

9 Q That is your testimony.

10 A Yes, sir.

11 Q And I think the prosecutor said succinctly, you  
12 just can't tell us one way or the other.

13 A That's correct.

14 Q Did you have an occasion -- I'm going to show you  
15 this now; it has been marked as State's Exhibit  
16 Number 29. Do you recall having seen that check?  
17 Did you -- let me put it a different way. Did you  
18 analyze the endorsement on the back of that check?

19 A Yes, sir, I did.

20 Q Now, that has two signatures on the back, or it has  
21 what purports to be two signatures on the back.

22 A My report stated an opinion regarding the primary  
23 endorsement, the first one.

24 Q Your report?

25 A It appears to be the second one below a number.

1 Q The secondary endorsement, did you make any report  
2 concerning that?

3 A No, sir.

4 Q Only the primary endorsement?

5 A Yes, sir.

6 Q Did you have any opinion as to the secondary  
7 endorsement?

8 A No, sir.

9 Q You can't tell me from what you have who may have  
10 written the secondary endorsement.

11 A No, sir.

12 Q But you did have a report about your findings?

13 A I do, yes, sir.

14 Q Did you submit that to the District Attorney?

15 a I did.

16 Q Do you know when you submitted that to the District  
17 Attorney?

18 A It was written on March the 14th and should have  
19 gone out on or thereabouts the same date.

20 Q Of this year?

21 A Yes, sir.

22 MR. HIGGINBOTHAM: May we see that report  
23 under Gaskin?

24 If I may, Your Honor, have just a minute.

25 THE COURT: Yes, you may.

1 Q (By Mr. Higginbotham) Do you have a copy of your  
2 report in front of you, sir?

3 A Yes, sir.

4 Q I direct your attention to page 2(a).

5 A Yes, sir.

6 Q Am I correct in saying that your report says that,  
7 "It has been determined that the writer of the  
8 Henry Lee Lucas standards" -- I presume that means  
9 those exemplars you have -- "wrote the endorsements  
10 appearing on the Labor, Inc., checks 4583 and 4644."  
11 Is that your findings?

12 A Yes, sir.

13 Q For the record, those checks, 4587 and 4644,  
14 correspond to what State's exhibits?

15 A 28 and 29.

16 Q And what dates, respectively?

17 A 10-24-79, 11-1-79.

18 Q So then it is your testimony that checks 4583 which  
19 has been marked as State's Exhibit 28 showing a  
20 date of 10-24-79, and Check Number 4644 which has  
21 been marked as State's Exhibit Number 29 which  
22 bears a date of 11-1-79, it's your opinion that the  
23 primary endorsements on these checks were signed by  
24 Henry Lucas.

25 A Primary, or the endorsements in the name of Henry

1 Lee Lucas were signed by the writer of the standard  
2 writing submitted in the name of Henry Lucas.

3 Q So you're assuming it. I think the assumption was  
4 that those writings you were working from were done  
5 by Henry Lucas.

6 A Yes, sir.

7 MR. HIGGINBOTHAM: Pass the witness.

8

9

REDIRECT EXAMINATION

10 BY MR. WALSH:

11 Q One thing I forgot to ask you on the matchbook,  
12 State's Exhibit 14 --

13 A Yes, sir.

14 Q -- that was delivered to the -- to you by Sheriff  
15 Jim Boutwell; is that correct?

16 A That's correct.

17 Q Do you have the date he delivered that exhibit?

18 A It was submitted to my office on March the 7th,  
19 1984.

20 Q And what do your records show as to when it was  
21 delivered to someone else outside your lab?

22 A It was returned to the submitting agency March  
23 16th, 1984.

24 Q Would that have been to Ray Hardison?

25 A Yes, sir, it was.