

1 MORNING SESSION, TUESDAY, OCTOBER 14, 1986

2 (The defendant and counsel as previously noted were
3 present, and the following proceedings were had:)

4 JOE DON WEAVER,

5 having been first duly sworn by the Court to tell the truth,
6 the whole truth, and nothing but the truth, was examined and
7 testified as follows:

8
9 DIRECT EXAMINATION

10 BY MR. PONTON:

11 Q. Would you please state your name.

12 A. Joe Don Weaver.

13 Q. How are you employed, sir?

14 A. I'm self-employed.

15 Q. Where do you live?

16 A. Nocona, Texas.

17 Q. How long have you been a resident of Montague
18 County, Texas?

19 A. All my life, 43 years.

20 Q. Are you married?

21 A. Yes, sir.

22 Q. Where do you live?

23 A. In Nocona, Texas.

24 Q. And I want to direct your attention back to 1982 and
25 1983. Were you living in Montague County at that time?

1 A. Yes, sir.

2 Q. And at that time how were you employed?

3 A. Well, I don't remember the exact date I got laid
4 off from the machine shop, but I was working at the County
5 office and self-employed, too, at that time.

6 Q. And when you say you were working at the County
7 office, how were you working there?

8 A. Jailer.

9 Q. Jailer at the Montague County Jail?

10 A. Yes, sir.

11 Q. When did you start working as a jailer at the
12 Montague County Jail, approximately?

13 A. Approximately October I guess.

14 Q. Of '82?

15 A. Yes.

16 Q. When you were working there in October of 1982,
17 do you remember when Henry Lucas was arrested and brought to
18 the jail?

19 A. Oh, yes.

20 Q. And do you recall that he stayed in jail there for
21 about three weeks?

22 A. Yes, sir.

23 Q. Do you recall what the charge was that he was
24 arrested under in October of 1982?

25 A. The first time?

1 Q Yes, the first time.

2 A It seemed like it was a warrant, car theft warrant
3 or something out of another state.

4 Q Did you ever see that warrant?

5 A No, sir.

6 Q Did you ever talk to anybody who had seen that
7 warrant?

8 A No. I just heard rumors.

9 Q Were you working at the jail in June of 1983?

10 A Yes, sir.

11 Q Were you working at the jail when Henry Lucas was
12 arrested in June of 1983?

13 A Yes, sir.

14 Q And do you remember when he was arrested?

15 A I remembered when. I don't remember a specific
16 date or time.

17 Q I believe the record would show that it was June
18 11, 1983.

19 A Okay.

20 MS. PENNOCK: Excuse me, Your Honor. Is that
21 microphone on? Or perhaps the witness could be closer. I'm
22 having a difficult time hearing.

23 THE WITNESS: Sorry.

24 MS PENNOCK: Thank you.

25 Q (By Mr. Ponton) Were you aware as a resident of

1 Montague County about the disappearance and suspected death
2 of Kate Rich?

3 A. I was aware of the disappearance of Kate.

4 Q. She lived in Nocona, didn't she?

5 A. Ringgold.

6 Q. How far is Ringgold from Nocona?

7 A. Six, seven miles.

8 Q. During the period of time that you were working
9 there as a jailer, before Henry Lucas's second arrest, were
10 you aware that Sheriff Conway was investigating Henry Lucas
11 for the death -- or for killing Kate Rich?

12 A. For the disappearance or whatever, yes. I remember
13 quite a bit of talk, yes.

14 Q. Did you hear talk among the sheriff or Texas Ranger
15 Phil Ryan and others at the jail about their suspicions that
16 Henry Lucas had something to do with the disappearance of
17 Kate Rich?

18 A. Yes.

19 Q. There was a lot of talk about that, wasn't there?

20 A. Oh, yes.

21 Q. Was there any other active murder case going on
22 at the time in Montague County?

23 A. An old one.

24 Q. Real old one?

25 A. Yes.

1 Q What steps are you aware of that Sheriff Conway
2 took to investigate Henry Lucas for Kate Rich's disappearance
3 during that period of time --

4 THE COURT: What does that have to do with what
5 we're here about, Mr. Ponton?

6 MR. PONTON: Your Honor, it has to do because I
7 can tie it up to the fact that Henry Lucas, I believe the
8 record would show, was illegally arrested on June 11 and that
9 the treatment he received prior to his initial confession
10 on June 15 --

11 THE COURT: Well, let's get to it, if you can do it.

12 MR. PONTON: Yes, Your Honor.

13 Q (By Mr. Ponton) Was Sheriff Conway surveilling or
14 watching Henry Lucas between October and June of 1982 and
15 '83?

16 A Yes, sir, I believe he was.

17 Q Did you hear that -- Sheriff Conway talk to you
18 about going out to stakeouts at the House of Prayer?

19 A Yes, sir.

20 Q And did this happen after Henry's first arrest and
21 before his second arrest in June?

22 A Yes, sir.

23 Q Did this happen several times?

24 A Yes, sir.

25 Q Did you talk to Sheriff -- to Texas Ranger Phil

1 Ryan about him doing similar things?

2 A. No, sir.

3 Q. Do you know whether or not Sheriff Conway was taking
4 other steps to watch for Henry Lucas prior to Henry's arrest
5 on June 11, such as talking to people at the House of Prayer,
6 anything like that?

7 A. Yes, sir.

8 Q. What was that that you are aware of, sir?

9 MS. PENNOCK: Excuse me, Your Honor. I'm going to
10 object on the ground of hearsay. This question was preceded
11 with, "Now, did you hear a lot of talk? Who all --" you know,
12 "Was it between the sheriff and a lot of other people
13 around?"

14 And before this witness proceeds to testify on the
15 basis of general talk in the community, I would require that
16 there be a predicate laid that this witness has personal
17 knowledge of the facts he's testifying to.

18 THE COURT: Go ahead. I'll sustain the objection.

19 Q. (By Mr. Ponton) Did you engage in any conversations
20 with Sheriff Conway regarding the Moores or anyone else at
21 the House of Prayer being told to keep their eye on Henry
22 Lucas?

23 A. I know -- It's small, and there's not many people,
24 and I know that sitting around the table I know I've heard
25 it from Sheriff and from several different officers around

1 there that Rueben was supposed to call, a few things, you
2 know, to keep his eye on Henry.

3 Q Were you aware of -- that such a call was made by
4 Rueben Moore to the sheriff?

5 A Yes, sir, I'm aware of it.

6 Q And are you aware that that call was made shortly
7 prior to Henry's arrest in June of '83?

8 A Yes, sir.

9 Q Do you remember Henry Lucas's arrest in June of
10 1983, June 11?

11 A Yes, sir.

12 Q Were you at the jail when he was brought in?

13 A It's been so long I don't remember if I was on duty
14 or I wasn't. It's been such a conglomeration of everything
15 then. I don't remember truthfully.

16 Q What was he arrested for?

17 A Possession of an illegal weapon I believe.

18 Q And how long was he in jail before his first
19 confession to the murder of Kate Rich?

20 A He was in there a while, but I don't really remember
21 how long it had been.

22 Q During the period of time that he was there in jail
23 before he confessed to Kate Rich, do you recall whether or
24 not he was kept in an isolation cell or a separate cell?
25 I don't know how you all called it there.

1 A. Yes, he was.

2 Q. What cell was that, sir?

3 A. It was the cells that were used for women personnel,
4 women prisoners.

5 Q. Was anybody else in that cell?

6 A. No, sir.

7 Q. Did that cell have a thermostat problem?

8 A. Yes, sir.

9 Q. Please tell me what that was.

10 A. Thermostat didn't work. It was cold.

11 Q. And the thermostat on the air conditioning?

12 A. Yes, sir.

13 Q. Would it just stay blowing cold all the time?

14 A. Yes, sir.

15 Q. Did Henry Lucas ever complain about that cell being
16 cold?

17 A. Considerably.

18 Q. Would you consider that cell cold?

19 A. Yes, sir.

20 Q. Very cold?

21 A. Very uncomfortable.

22 Q. For instance, if you ever opened up the bean hole
23 or the food hole, would you ever notice any cold air coming
24 in?

25 A. Yes, sir.

1 Q How would that feel?

2 A Cold.

3 Q During the period of time before Henry's first
4 confession, was there ever anything done about that air
5 conditioner?

6 A Not that I remember.

7 Q Were the complaints about that cold air referred on
8 to the sheriff?

9 A Yes, sir.

10 Q But nothing was done?

11 A No, sir.

12 Q While Henry was prisoner there, do you recall him
13 being given some prescribed medicine?

14 A Yes, sir.

15 Q What do you recall him being given?

16 A Henry called it downers, and I don't remember,
17 Thorazine or something like that. I believe that's what it
18 was.

19 Q And did Henry complain about being given those
20 drugs?

21 A Yes.

22 Q What kind of complaints did he relay to you?

23 A That it made him nervous.

24 Q Did you notice a difference in his behavior on
25 those drugs? Was he a little different?

1 A. Not really.

2 Q. At the time that Henry was arrested for the gun
3 charge, were you aware that Sheriff Conway and Texas Ranger
4 Ryan were still intensively investigating Henry for the
5 possible involvement in the death of Kate Rich?

6 A. Yes.

7 Q. Did you feel that was the real reason that they had
8 arrested him?

9 A. Yes.

10 Q. When you took -- Henry gave you that first
11 confession that he wrote out, didn't he?

12 A. Yes, sir.

13 Q. When -- that was that three page handwritten
14 confession on legal paper?

15 A. On yellow legal pad.

16 Q. Where Henry said that he killed Kate and Becky?

17 A. Uh-huh.

18 Q. Now, do you know if Henry had been interrogated any
19 prior to that by Conway or Ryan?

20 A. Conway stayed away from him. Phil talked to him.

21 Q. Several times?

22 A. Seemed like he did. I know Phil talked to Henry
23 quite a bit, you know, especially afterwards. They pretty
24 well stayed away from him. W. F. stayed away from it.

25 Q. Do you remember Phil Ryan talking to Henry after

1 Henry's arrest and before Henry's first confession?

2 A. I can't say specifically that I remember, if it was
3 before or after.

4 Q. Do you think he may have talked to Henry before the
5 first handwritten confession?

6 A. Do I think? Yeah, probably.

7 Q. In Henry's confession, it's in evidence --

8 MR. PONTON: May I come around by the court
9 reporter, Your Honor?

10 THE COURT: Go right ahead, Mr. Ponton. I would
11 love to see you get to the matter before this Court.

12 MR. PONTON: May I approach the witness, Your Honor?

13 THE COURT: Go right ahead.

14 Q. (By Mr. Ponton) I want to show you what's been
15 admitted into evidence as Defendant's Exhibit 25, Mr. Weaver,
16 and there that second set of underlined -- that second
17 underlined sentence there. Could you please read that?

18 You'll have to speak up into the microphone, sir.

19 THE COURT: Mr. Weaver, turn around here and talk
20 to us. Don't turn your back to us.

21 A. "I'm not allowed to contact anyone. I'm here in
22 my cell and still can't talk with a lawyer on this."

23 Q. (By Mr. Ponton) And you were the one that Henry
24 handed the original of that statement to. Do you recognize
25 that statement?

1 A. I recognize it as reading it later. I didn't read
2 it when I picked it up.

3 Q. Does this look like a true and correct copy of the
4 statement that Henry Lucas handed to you on the evening of
5 June 15, 1983?

6 A. Yes, sir.

7 Q. When Henry writes in there that he still can't
8 talk to a lawyer, do you recall him making requests for a
9 lawyer between June 11 and June 15?

10 A. During that period of time, the first arrest, the
11 second arrest, I remember Henry -- I don't remember specifically
12 as before or after. I remember him asking for a lawyer.

13 Q. Do you know if he was given any lawyer after his
14 arrest and prior to him giving that statement?

15 A. I don't remember truthfully.

16 Q. When Henry gave that statement to you, how did
17 that come about? Did you get a message from a trustee?

18 A. Yes, sir.

19 Q. And about what time of the day was this? Do you
20 recall?

21 A. In the evening.

22 Q. And what did the trustee tell you?

23 A. Trustee told me that Henry wanted to talk to me,
24 it was important.

25 Q. And what did you do then?

1 A. I went back to see what he wanted.

2 Q. And did you go into Henry's cell to talk to him?

3 A. No, sir.

4 Q. You just talked to him through the --

5 A. Through the feed hole, the bean hole.

6 Q. That's the slot where you put the trays of food in?

7 A. Yes, sir.

8 Q. Do you have to bend over to talk through that?

9 A. Yes, sir.

10 Q. And what did Henry tell you at that time?

11 A. He looked at me and said, "I've done some bad

12 things, Joe."

13 Q. And what did you tell Henry?

14 A. I told him if it's what I thought it was, because

15 there was a few more words said in there. I said, "If it's

16 what I think it is, you'd better get on your hands and knees

17 in the corner and pray to God, because he's the only one that

18 can forgive you. Man can't."

19 Q. Did he tell you -- at that time did you then go

20 to call the sheriff?

21 A. Not immediately, no, because Henry started telling

22 me this stuff.

23 Q. Did he start telling you about the fact that he

24 might have been involved with the death of Kate and Becky?

25 A. Yes, sir.

1 Q When Henry was telling you this, did you stop and
2 tell him what his Miranda rights were, those formal warnings
3 that you might be aware of?

4 A No, I didn't read the Miranda warning.

5 Q And how long did that conversation between you and
6 Henry go on there in his cell or through the bean hole?

7 A Probably a good ten minutes. I mean, I didn't
8 keep time, but it was several minutes.

9 Q And at the conclusion of that conversation, what
10 did you do next?

11 A I told Henry I had to call the sheriff to notify
12 him.

13 Q Did you tell Henry that you would have to tell the
14 sheriff anything Henry told you?

15 A Yes, sir.

16 Q Did you then go call the sheriff?

17 A Yes, sir.

18 Q And what did the sheriff tell you to do?

19 A Sheriff told me that, get a legal pad. Get some
20 paper and pen and take it back and see if he wanted to fill
21 out a statement.

22 Q Did you do that?

23 A Yes, sir.

24 Q Did you tell Henry what the sheriff had said?

25 A Yes, sir.

1 Q Did you tell Henry that the sheriff told -- had
2 said that Henry could fill out a statement if he wanted to?

3 A Yes, sir.

4 Q At the time you handed that legal pad to Henry
5 Lucas, did you give him those Miranda warnings at that time
6 or his formal warnings from the Texas Code of Criminal
7 Procedure?

8 A Not formal, huh-uh.

9 Q Did you tell him that if he wrote something out
10 that you'd have to tell the sheriff what it was?

11 A I told Henry that anything he said I'd have to tell
12 the sheriff, and if he wrote something out and if he gave it
13 to the sheriff, then it would be bad for him, you know, it
14 would be used against him.

15 Q But you didn't give him any other kind of warnings
16 other than that, did you?

17 A No, sir.

18 Q How long did it take Sheriff Conway to come to the
19 jail after you gave Henry the legal pad and pencil?

20 A Probably a good hour, between an hour, hour and
21 a half.

22 Q Did you talk to Henry Lucas any during that period
23 of time?

24 A No. I took the legal pad back and gave it to him,
25 and I set away from him to give him time to write out what he

1 wanted to write.

2 Q And when the sheriff got to the jail, what happened
3 next?

4 A The sheriff was with him, Phil Ryan, the Texas
5 Ranger. He had went and picked him up, and they asked if I
6 had the statement, and I said, "No, I haven't been back there,"
7 you know.

8 And he said, "Well, go see if Henry wants to give
9 it to us."

10 Q And did you go back and get it from Henry?

11 A Yes, I went back and asked him.

12 Q And did he have the original of Defendant's Exhibit
13 25 at that time?

14 A Yes, sir.

15 Q And did he hand that to you?

16 A Yes, sir.

17 Q And when he handed that to you, did you at that time
18 tell him his formal warnings or his Miranda warnings or anything
19 of that nature?

20 A No, sir.

21 Q And did you have any conversation with Henry Lucas
22 at that time?

23 A No, sir. I had a conversation -- I said, "Do you
24 want to give that to the sheriff and to Phil Ryan?" And a
25 few words was said.

1 He said, "What do you want me to do?"
2 I said, "Well, it's up to you, Henry."
3 And he said, "Well, I'll give it to them." So he
4 handed it to me.
5 Q Did you take it to the sheriff?
6 A I took and handed it to the Texas Ranger.
7 Q Phil Ryan?
8 A Yes, sir.
9 Q And what happened next?
10 A They asked me then to go -- well Phil Ryan glanced
11 at the statement and asked me to go see if Henry wanted to
12 talk to them.
13 Q And did you go do that?
14 A Yes, sir.
15 Q And did Henry want to talk to them?
16 A Yeah. He said, "I'll talk to them."
17 Q Then when did you -- did you bring Henry out of his
18 cell then?
19 A So I took Henry out of his cell and took him to
20 the sheriff's office, took him in there. They were sitting
21 there. They told him, "Have a seat." And then the sheriff
22 looked at me and said, "That will be all," and I walked
23 out and shut the door behind me.
24 Q So you don't know what happened inside that inter-
25 view room.

1 A. No, sir.

2 Q. And inside that interview room was Henry, Phil
3 Ryan, and W. F. Conway.

4 A. Yes, sir.

5 Q. Do you know if that interview was taped?

6 A. I don't know.

7 Q. During the time that Henry was an inmate there at
8 Montague County Jail, did there ever come a time when he would
9 refuse some of the drugs being given to him?

10 A. I came and relieved one of the jailers one night,
11 the chief deputy one night, and he said that he had refused
12 to take his medicine.

13 Q. What had the chief deputy done in response to Henry
14 Lucas refusing to take his medicine?

15 A. He said, "I took his cigarettes away from him."

16 Q. How important were cigarettes to Henry Lucas, based
17 upon your experience with him at the jail?

18 A. Pretty important. He liked them.

19 Q. His cigarettes and his coffee were the most
20 important things in his life probably, weren't they?

21 A. In jail he didn't have much of a life, so yeah,
22 cigarettes and coffee. If you drink coffee and smoke
23 cigarettes, they're pretty important I guess.

24 Q. After the chief jailer took Henry's cigarettes away
25 from him, did Henry start taking his medicine again?

1 A. Yeah, I believe he did.

2 Q. When Henry was kept in that women's cell with the
3 busted thermostat, do you know if there was ever a time when
4 his blankets were taken away from him?

5 A. I would say two or three times they were probably
6 taken away from him. I would come in. He'd say he was cold.
7 I know they took his blankets away a couple times I imagine.

8 Q. And is it possible that one of those times was
9 before his initial confession given to you there as Defendant's
10 5?

11 A. I think they were after. I don't remember
12 specifically, but I believe they were after.

13 Q. Is it possible one of them was before?

14 A. Oh, yeah, it's possible.

15 Q. And when Henry was in that cell without a blanket
16 and with that busted thermostat, did he ever complain about
17 being cold?

18 A. Oh, yeah.

19 Q. And was it very cold in there?

20 A. Yeah.

21 Q. Cold enough to where you would need a blanket to
22 sleep with?

23 A. It would have been for me.

24 Q. Prior to Henry's arrest on June 11 of 1983, do you
25 recall any conversations with Sheriff Conway or Texas Ranger

1 Ryan regarding them surveilling Henry Lucas or keeping an
2 eye out on him or otherwise keeping track of his whereabouts?

3 A. Before?

4 Q. Say, the month or so before his arrest.

5 A. No, sir.

6 Q. Were you aware that they were doing that all
7 during that period of time?

8 A. Before his arrest?

9 Q. Before his second arrest.

10 A. The second arrest, yeah. I was aware they were.
11 I mean, Henry's name come up.

12 Q. Almost daily?

13 A. Oh, well, I wasn't there daily.

14 Q. Well, as often as you were there, was it almost
15 every time you were there?

16 A. Oh, yeah. There was a lot of discussions about
17 him. There are discussions about all cases, you know, anything
18 major, any case.

19 Q. And any time Kate Rich's case came up in discussion,
20 was Henry Lucas's name mentioned as the suspect in her
21 disappearance?

22 A. Yes, sir.

23 Q. Including the period of time, say, within the last
24 month or so before his second arrest?

25 A. Well, it kind of quieted down, I guess, in a sense

1 there, but I mean, he was still under suspicion for it.

2 Q Do you know of any other inmate there at the
3 Montague County Jail that ever had his cigarettes taken away
4 from him during that period of time?

5 A Oh, yeah. I've seen cigarettes taken away from
6 other prisoners.

7 Q What about other prisoners kept in that cold cell?

8 A Well, when the other section of the jail would get
9 full, then you'd use those cells down there. I mean -- or
10 if there was women in jail, then you'd put the women down
11 there.

12 MR. PONTON: Can I have a moment, Your Honor?

13 THE COURT: Go ahead.

14 MR. PONTON: Pass the witness.

15

16 CROSS EXAMINATION

17 BY MS. PENNOCK:

18 Q Mr. Weaver, I believe you indicated that you were
19 self-employed.

20 A Yes, sir.

21 Q What is it that you do?

22 A I have a home improvement company.

23 Q How long have you had that company?

24 A Four years.

25 Q I believe you testified that you started working as

1 a jailer in approximately October of 1982.

2 A. I don't remember. I just came and brought that word
3 up, what month. After I got laid off from the National
4 Supply. That's where I worked as a machinist. You could
5 say June, anytime.

6 Q. So it could have been as early as --

7 A. February, March or whatever, you know. I don't
8 remember when it was.

9 Q. Do you recall how long a period of time you worked
10 there as a jailer?

11 A. Probably two years.

12 Q. And when did you leave approximately?

13 A. Election time.

14 Q. Okay. Election time would be more than one time
15 of a year?

16 A. I'd say about November.

17 Q. Of '84?

18 A. Of '83 probably, yeah, probably of '83.

19 Q. Okay. While you worked there as a jailer, what
20 were your job responsibilities?

21 A. My job responsibilities were overseeing the trustee,
22 seeing the prisoners were fed, booking in, fingerprinting,
23 keeping a watch on the prisoners, after four o'clock on
24 weekends running the teletype, answering the phone, involved
25 in all aspects of it.

1 Q Were you responsible in any way for investigations?

2 A No, ma'am.

3 Q Were you responsible for going out and arresting
4 people?

5 A No, ma'am.

6 Q Were you responsible for serving warrants?

7 A No, ma'am.

8 Q Did you generally see the warrants on the prisoners?

9 A Oh, yes, we saw -- well, you'd see them laying on
10 a desk or something like that, or the deputies would lay
11 them on a coffee table or something like that. I mean, you
12 know. I was not responsible for seeing the warrants at all
13 anytime.

14 Q So in other words, occasionally you'd see a warrant
15 laying around, being handled by someone who had served it,
16 but it wasn't part of your responsibility.

17 A No, ma'am.

18 Q To check it or to know what it was for or anything
19 like that.

20 A No, ma'am.

21 Q When you testified that you thought maybe it was a
22 car theft warrant that the defendant was arrested on in
23 October of '82, but you never saw it, that's nothing unusual.

24 A No.

25 Q Now, you testified about hearing the sheriff and

1 other people talking about keeping an eye on the defendant;
2 is that correct?

3 A. Yes, ma'am.

4 Q. Were you, yourself, in any way responsible for
5 keeping an eye on the defendant outside of the jail?

6 A. No, ma'am.

7 Q. Were you ever involved in any kind of a stakeout?

8 A. No, ma'am.

9 Q. Were you aware of any ongoing plan where there was
10 a routine that the defendant was going to be watched all the
11 time and so and so was responsible for these hours, and
12 somebody else was responsible for these hours?

13 A. No, ma'am.

14 Q. Basically what you heard was just people saying
15 they're going to keep an eye on the defendant from time to
16 time; is that correct?

17 A. Yes, ma'am.

18 Q. And that hopefully if he took off, Rueben Moore was
19 going to call.

20 A. Yes, ma'am.

21 Q. Now, you testified in regards to that thermostat
22 in the cell.

23 A. Yes.

24 Q. In the cold cell. This wasn't something that was
25 arranged or done to or for this defendant; is that correct?

1 A. I don't believe so.

2 Q. Was that thermostat broken when you came to work
3 there?

4 A. The thermostat had been broken a long time.

5 Q. Was it repaired before you left?

6 A. I really don't remember.

7 Q. Had you kept a number of prisoners in there from
8 time to time?

9 A. Once in a great while, very seldom, though.

10 Q. Did anybody ever get sick and die because you had
11 put them in that cell?

12 A. No.

13 Q. Did anybody get sick from being in that cell to your
14 knowledge?

15 A. No, ma'am.

16 Q. In June I believe you said that when the defendant
17 was placed in that cell was in June; is that correct?

18 A. No. In June he was placed in a different cell. In
19 June he was in a juvenile cell. That's the first time he
20 was arrested, right? The first time he was arrested.
21 The first time he was arrested he was originally put in what
22 they call a juvenile cell, which is up by the day room and
23 the kitchen.

24 I don't remember if he was moved back there before
25 he was released after that first arrest or not, but I know

1 he was in the juvenile cell to start with.

2 Q Okay. That's when he was first arrested the first
3 time.

4 A Yes, ma'am.

5 Q Okay. The second time he was arrest, when was that?

6 A I don't remember. It was the second time he was
7 arrested.

8 Q Okay. And that's when he was placed in what you've
9 talked about the cold cell.

10 A Yeah, the described cold cell.

11 Q The women's cell.

12 A The women's cell.

13 Q About how long was he in that women's cell?

14 A He was in there the whole time until I left.

15 Q Okay. Now, did that air conditioner just run
16 year around, including the wintertime?

17 A That air conditioner, the thermostat -- I mean it
18 wasn't hit or broke or something like that. You'd turn it,
19 and it would cut off or on, and it would run. You could flip
20 the deal on and put it on heat, I believe. I don't remember
21 for sure. I know mine at my house I can.

22 When you start talking about thermostat, you think
23 about all thermostats. I know I couldn't turn the cold down
24 because it was cold.

25 Q But you could turn it off or to heat.

1 A. No, I couldn't turn it off.

2 Q. Okay. You couldn't turn it down.

3 A. No, the thermostat did not work.

4 Q. Do you recall what the weather was like outside
5 when the defendant was in his cell?

6 A. No, I don't recall.

7 Q. Do you recall what if any kind of clothing the
8 defendant had?

9 A. He had regular jail clothes that they wore.

10 Q. Was he ever kept naked in that cell?

11 A. I know -- do you want to hear hearsay?

12 Q. No, I don't want to hear hearsay. I want to know
13 what you personally observed or know about when you were
14 there.

15 A. Okay. I know that when he -- when I was on duty he
16 was never naked.

17 Q. To your knowledge did he have a blanket?

18 A. Yes, ma'am.

19 Q. I believe you testified on direct that you couldn't
20 recall for sure whether or not the defendant had had an
21 attorney visit him prior to writing that document, Defense
22 Exhibit No. 25.

23 Do you recall whether the defendant ever had a
24 lawyer visit him there while he was in your custody?

25 A. Yes, ma'am.

1 Q Once? Twice? Many times? Can you give me an idea?

2 A I can't recall because the shifts we worked, we
3 work 12 hour shifts. Didn't work but, what, eight, ten
4 days, you know. We'd work three days on, four days off, and
5 such as that, but I did see his attorney from Wichita
6 Falls come down several times.

7 Q Okay. Now, again, I'm not asking you hearsay, what
8 happened when you weren't there, but just in regards when
9 you were on duty you saw the attorney several times; is that
10 correct?

11 A Yes, ma'am.

12 THE COURT: Just for the record, why don't you tell
13 us that attorney's name?

14 THE WITNESS: Talking to me? Maxwell.

15 THE COURT: Maxwell. Do you have a first name?

16 THE WITNESS: I don't remember.

17 THE COURT: All right.

18 MS. PENNOCK: Pass the witness.

19

20 REDIRECT EXAMINATION

21 BY MR. PONTON:

22 Q Mr. Weaver, when Henry Lucas was arrested the
23 second time, was that jail full?

24 A No, sir.

25 Q Was Henry put into that cold cell at your

1 instructions? Would you put him there, or did somebody
2 tell you to put him there?

3 A. I believe somebody else put him there. I don't
4 believe I was on duty when they arrested him.

5 Q. Do you know who it was who put him there?

6 A. No, sir.

7 Q. Do you know if he was put there at the
8 instructions of Sheriff Conway?

9 A. I don't know for sure.

10 Q. Is that why, based upon your knowledge of the way
11 that jail was run, why somebody would be put in that cell?

12 A. If I'm speaking out of turn, you can stop me, but
13 if you've got anybody in jail on a suspicion of a serious
14 charge or something, you know, a serious charge, then you
15 would put him in a -- you would kind of isolate him.

16 Q. Mr. Lucas was in jail there on an arrest warrant
17 for possessing a gun away from where he lived.

18 A. Uh-huh.

19 Q. When you talk about the serious charge, are you
20 referring to the suspicion that he might have been involved
21 in the murder of Kate Rich?

22 A. Yes.

23 Q. Who else do you know was placed in that cold cell?

24 A. Oh, whenever the rest of the jail was full, then
25 you used that for your overflow, the women's section, and

1 then the juvenile section.

2 Q Can you think of any other person who was placed
3 in that cold cell when the jail wasn't full? Any other male
4 prisoner who was placed in that cold cell when the jail
5 wasn't full?

6 A Oh, yes. It's hard to say. I can remember people
7 being in the cell, for what reasons, I mean, I don't know
8 truthfully. The cells weren't used all that much.

9 Q Sir, is it correct that the attorney that you were
10 referring to in answer to the Court's question, was that
11 Don Maxfield, an attorney from Wichita Falls?

12 A Yes.

13 Q Henry Lucas -- or Don Maxfield was appointed to
14 be Henry Lucas's lawyer after Henry Lucas gave this confession
15 which is in evidence as Defendant's Exhibit 25, wasn't it?

16 MS. PENNOCK: Excuse me, Your Honor. It sounds
17 like the defense attorney is testifying. I think this witness
18 has already testified that he didn't know if it was before or
19 after that confession.

20 THE COURT: I'll overrule the objection. I'm going
21 to let him answer the question, if he knows the answer to it.

22 Q Is it true that Don Maxfield was appointed to be
23 Henry Lucas's lawyer after Henry Lucas gave that confession
24 in front of you in his cell and then to W. F. Conway and
25 Phil Ryan?

1 A. Don Maxwell or Maxfield, whatever his name is,
2 from Wichita Falls, now he was appointed by the court up there
3 as Henry's lawyer after he confessed, but as far as the other
4 lawyers or anything, I don't know anything.

5 Q. When you say he was appointed by the court --

6 A. Now, that's speculation on my part. I wasn't
7 there when they appointed him or anything, but I know he was
8 Henry's lawyer. He came and saw him.

9 Q. Do you know if he was appointed to be Henry's lawyer
10 before Henry Lucas gave that confession?

11 A. I don't know.

12 Q. Did you ever see any lawyer with Henry Lucas before
13 Henry Lucas gave that confession?

14 A. Not when I was on duty.

15 Q. Who would know whether or not Henry Lucas was ever
16 naked in his cold cell?

17 A. The person on duty.

18 Q. Who was the person on duty that you might have
19 heard that from? Do you recall?

20 A. The best one to ask would be probably the chief
21 deputy, Jesse Ramos, and I don't remember who was on duty.
22 If there was, then he would probably know.

23 Q. Did you hear from him that Henry was kept without
24 clothes in his cell?

25 A. Hearsay?