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A P P E A R A N C E S

FOR THE STATE:

WILLIAM MOODY
First Assistant District Attorney
City-County Building
El Paso, Texas 79901

RICHARD JEWKES
Assistant District Attorney
City-County Building
El Paso, Texas 79901

CAROL PENNOCK
Assistant District Attorney
City-County Building
El Paso, Texas 79901

FOR THE DEFENDANT:

ROD PONTON
Attorney at Law
Suite 505
Caples Building
El Paso, Texas 79901

DORIS SIPES
Attorney at Law
1011 North Mesa
El Paso, Texas 79901

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EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>MARKED</u>	<u>IDENTIFIED</u>	<u>OFFERED</u>	<u>RECEIVED</u>
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IN THE DISTRICT COURT OF EL PASO COUNTY, TEXAS

120TH JUDICIAL DISTRICT

THE STATE OF TEXAS)
)
V.) Cuase No. 43314-120
)
HENRY LEE LUCAS)

 BE IT REMEMBERED that on the 17th day of October,
1986, beginning at 9:30 a.m., came on to be heard the
continuation of pretrial motions in the above styled and
numbered cause, before the HONORABLE BRUNSON D. MOORE, Judge
Presiding in and for the 120th Judicial District Court, and
that the same was reported by Teri L. Yee, C.M., Registered
Professional Reporter and Certified Shorthand Reporter in and
for El Paso County, Texas, and that the following proceedings
were had, to-wit:

1 MORNING SESSION, FRIDAY, OCTOBER 17, 1986

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

4 THE COURT: Please be seated, ladies and
5 gentlemen.

6
7 CYNTHIA MCADAM,

8 having been first duly sworn to tell the truth, the whole
9 truth, and nothing but the truth, was examined and testified
10 as follows:

11
12 DIRECT EXAMINATION

13 EY MS. SIPES:

14 Q Would you state your name for the record, please,
15 ma'am.?

16 A Cynthia McAdam.

17 THE COURT: I didn't hear that. Yeah, if you don't
18 mind, sit up towards the mike. See if that mike is on.

19 A Hello. Cynthia McAdam.

20 THE COURT: Cynthia?

21 THE WITNESS: Yes, sir.

22 Q (By Ms. Sipes) Speak into it so that the Judge can
23 hear you. Where do you reside, Ms. McAdam?

24 A 5776 Sweetwater.

25 Q That's here in El Paso?

1 A Yes, ma'am.

2 Q And how long have you lived in El Paso? How long
3 have you lived in El Paso, Texas?

4 A Well, I just moved back from California, so I've
5 lived here about three months.

6 Q And before that how long did you live in El Paso?

7 A Eleven years.

8 Q I'll ask you if you were ever employed at the
9 Chevron Truck Stop here in El Paso, Texas?

10 A Yes, ma'am.

11 Q And how were you employed at the Chevron Truck Stop?

12 A I was a cashier.

13 Q Okay. I'll ask you if you are acquainted with an
14 individual by the name of Kelly McMurray?

15 A Yes, ma'am.

16 Q And would you briefly tell the Court what your
17 relationship was with Kelly McMurray?

18 A We were very good friends, and she lived with us
19 her senior year.

20 Q Okay. And you went to high school together; is that
21 correct?

22 A Yes, ma'am.

23 Q And you worked together; is that correct?

24 A Yes, ma'am.

25 Q At the Chevron Truck Stop, and you lived together?

1 She lived in the home, your parents' home?

2 A. Yes, ma'am.

3 Q I will direct your attention to the year 1983 and
4 ask you if you have had occasion to go back and review
5 whether you were working at the Chevron Truck Stop in the
6 spring, May of 1983, and June.

7 A. Yes, ma'am.

8 Q And do you recall whether Kelly McMurray was living
9 with you and your parents there in May of 1983?

10 A. Yes, she was.

11 Q And would you describe for the Court, please, what
12 the living arrangements were there at the home?

13 A. Me and her shared a bedroom.

14 Q Okay. And where would she store items, her
15 belongings?

16 A. In the closet.

17 Q Okay. Did she have any other place to store her
18 belongings?

19 A. Well, she could have stored it in the shed, but
20 she didn't have that many things.

21 Q Okay. Do you recall when Kelly McMurray moved out
22 of the home there?

23 A. I think it was in June.

24 Q Okay.

25 A. Or July.

1 Q And do you recall what particular date or can you
2 approximate it for us?

3 A Around the 11th.

4 Q Of June?

5 A Between the 8th and the 11th.

6 Q Of June 1983?

7 A Yes, ma'am.

8 Q Prior to that time did you ever see Kelly McMurray
9 bring a vacuum cleaner and or a crock pot into the home that
10 she shared with you and your family?

11 A No.

12 Q Did you ever see a crock pot or vacuum cleaner in
13 any automobile that she drove?

14 A No, ma'am.

15 Q Did she have her own automobile?

16 A Her and her boyfriend shared it.

17 Q And did she ever speak to you regarding the purchase
18 of a crock pot and a vacuum cleaner?

19 A No.

20 Q Okay. I'll ask you whether or not Kelly McMurray
21 later moved to California.

22 A Yes.

23 Q And did she come back to El Paso and phone you here
24 in El Paso?

25 A Uh-huh.

1 Q After her move. Would you tell the Court about the
2 time that she came back to El Paso? Yeah, just tell the
3 Court. She came back to El Paso, and she called you from the
4 police station here, did she not?

5 A Uh-huh, because I had been out there on vacation,
6 and she came back here, and she called me and asked me to
7 pick her up down at the police station.

8 Q And did you get in your car and go down to the
9 police station and pick up Kelly McMurray?

10 A Yes, ma'am.

11 Q Did you ask her what she was doing here, and further
12 what she was doing at the police station?

13 A Yes.

14 Q Were you curious?

15 A Uh-huh.

16 Q What, if anything, did she tell you?

17 A She said that they told her that she -- that Henry
18 Lucas said that he wanted to kill her.

19 Q And that -- what else did she tell you? Do you
20 remember anything else?

21 A No, because we didn't discuss it very much because
22 she had her daughter with her, and we were more interested
23 in seeing friends.

24 Q And when you got over to your home, did she tell
25 you whether or not she felt that her trip was necessary?

1 A No.

2 Q Do you recall whether or not she told you that --
3 whether she could identify Henry Lee Lucas or not?

4 A She said that she didn't know if she did any good,
5 that she didn't feel that she really helped.

6 Q Okay. And did she express an opinion as to whether
7 she could identify a person that she had purportedly seen
8 over a year back at the truck stop? Did you all discuss that?

9 A She said that she didn't know if she could. She
10 wasn't -- I think -- See, I don't remember that well.

11 Q Do you recall a conversation in my office when you
12 were speaking about this?

13 A Uh-huh.

14 Q And do you recall what you told me on that date,
15 what Kelly McMurray told you?

16 A I'm nervous. They showed her the picture, and
17 she identified it from the picture.

18 Q Okay. And did she --

19 A But I know later she didn't know if it was that or
20 the influence on her.

21 Q Okay. And did the two of you then discuss how
22 impossible it would be to identify one of the customers at
23 a truck stop close to two years prior thereto?

24 A Yes.

25 Q And?

1 A It's very difficult.

2 Q And how long did you work at the Chevron Truck Stop?

3 A For two and a half years.

4 Q And can you tell the Court whether or not it would
5 be an unusual happening for an individual to come into the
6 truck stop and offer to sell different goods or items to the
7 employees there?

8 Would that be unusual, or would it be a normal
9 occurrence?

10 A It would be a normal occurrence.

11 Q And during your two and a half years you saw that?

12 A Quite a bit.

13 Q Quite a bit, and did you ever purchase items at
14 the truck stop?

15 A Yes, occasionally, a necklace or a coat, a
16 Mexican poncho thing.

17 Q Okay. Thank you.

18 MS. SIPES: I pass the witness.

19

20

CROSS-EXAMINATION

21 BY MS. PENNOCK:

22 Q Ms. McAdam, I think I missed maybe the first couple
23 of things you testified to. I didn't hear how old you are.
24 I don't know if you were asked that.

25 A I'm 21.

1 Q Now, I believe you indicated that you just came back
2 from California about three months ago; is that correct?

3 A Uh-huh.

4 Q Are you living with your mother now?

5 A Yes, ma'am.

6 Q And your father is deceased, I believe?

7 A Yes, ma'am.

8 Q Where were you living in California?

9 A You want the address?

10 Q Just city is fine.

11 A San Diego.

12 Q Were you living anywhere near Kelly?

13 A Uh-huh.

14 Q What was your address in San Diego?

15 A 4446 Park Boulevard.

16 Q Were you living with --

17 A Yes, ma'am.

18 Q -- Kelly?

19 A For about six of those months that I lived there.

20 Q How long did you live in California?

21 A A year.

22 Q So you spent six of those months with Kelly.

23 A Uh-huh.

24 Q Where did you spend the other six months?

25 A Um, with some other friends.

1 Q Who were they?

2 A They were Kelly's father and then her cousin.

3 Q Okay. Are you also friends with Kelly's ex-boyfriend,

4 Richard?

5 A Uh-huh.

6 Q What's Richard's last name?

7 A Drake, D-r-a-k-e.

8 Q Do you happen to know his address?

9 A No, but I could take you there.

10 Q I wish I could go there.

11 A He lives, oh, near Gansett, and I don't know how

12 to spell that.

13 Q Do you know Richard's sister Teresa Drake?

14 A I've met her. I haven't seen her in probably four

15 years.

16 Q Do you know where she is now?

17 A No, ma'am.

18 Q Richard has a couple of friends by the name of

19 James and Byron. Do you know their last names?

20 A I don't know James's last name, and if I thought

21 about it long enough I might think of Byron's.

22 Q Okay. Think about it.

23 A Okay. But he's in California, too.

24 Q Yeah, he's also in San Diego, isn't he?

25 A Uh-huh.

1 Q Do you know his address or where he lives?

2 A No, he lives with his girlfriend. I understand he
3 just got married.

4 Q Okay. Do you know her name?

5 A No.

6 Q Okay. I understand you went to high school with
7 Kelly McMurray; is that correct?

8 A Yes, ma'am.

9 Q Where did you two go to high school?

10 A Address.

11 Q What year did you graduate?

12 A In '82.

13 Q When did you start working at the Chevron Truck
14 Stop?

15 A About a month after I had graduated.

16 Q Okay. And how long did you work there? Well, you
17 said about two years, but do you remember when you quit?

18 A I quit in about I think July of '84. Let's -- so
19 I guess it was just two.

20 Q Okay. Now, how long did Kelly live with your
21 family?

22 A She lived her senior year, and then after we
23 graduated she moved to Colorado. And then she moved back in
24 with us probably for about two or three months.

25 Q Let's tie this down a little bit. Was her senior

1 year the same as yours?

2 A. Yes, ma'am.

3 Q. So you both graduated in 1982?

4 A. Uh-huh.

5 Q. How long after graduation did she leave?

6 A. Maybe a month, not probably even that long.

7 Q. I didn't understand the last sentence.

8 A. Probably not even a month after we graduated she
9 moved to Colorado with Richard.

10 Q. Okay. Now, when she moved back from Colorado, did
11 she move in with you right away?

12 A. Uh-huh.

13 Q. Okay. When was that?

14 A. I think it was around right after Christmas.

15 Q. What year?

16 A. Of '83.

17 Q. It would be Christmas of '82, but the first of
18 the year '83. Is that what you mean?

19 A. Yeah, first of '83.

20 Q. Okay. Then she lived there with you for a period
21 of time. Did she live with you all of that time until the
22 summer of 1983?

23 A. Uh-huh.

24 Q. And then I think in the summer of 1983 she moved
25 in with James and Byron for a while; is that correct?

1 A. Yes. Doesn't seem to me she lived with us that
2 long, though. I don't remember.

3 Q. Well, it's pretty important how long she lived with
4 you.

5 A. Is it?

6 Q. Yeah, so I mean, if you don't know, that's okay,
7 but just try to think and give us your best answer.

8 A. Yeah, that would be it I guess because it was
9 right after Christmas.

10 Q. Okay. So you think she lived there from the first
11 of the year 1983 to June or July of 1983, which would be
12 six or seven months.

13 A. Yeah.

14 Q. Do you think it might have been less than six or
15 seven months? Does that seem too long?

16 A. Yeah, it seems too long, so maybe it was around
17 February or March that she moved back.

18 Q. Okay. Then when she moved out, she moved in with
19 James and Byron for a while; is that right?

20 A. Uh-huh.

21 Q. Do you remember how long she lived with James and
22 Byron?

23 A. No. We were in a big fight, and we weren't talking.
24 But I know right after she quit the truck stop she moved
25 back to California.

1 Q Okay. So you don't remember how long she lived with
2 James and Byron because you were fighting.

3 A It was about two months I think.

4 Q Okay. Were you aware of the fact that after living
5 with James and Byron she moved in with Teresa Drake for a
6 while?

7 A No.

8 Q Okay. Now, I believe when she moved out, there
9 were maybe several things going on. It was about that time
10 that your father left; is that correct?

11 A Uh-huh.

12 Q Was that a very stressful time for everybody in
13 your family?

14 A Yes.

15 Q Do you recall if she moved out first or if your
16 father moved out first?

17 A She moved out first. It was like two days later
18 my dad moved out.

19 Q Okay. Now, your fighting, your period of disagree-
20 ment with your friend, did that happen before she moved out
21 or after she moved out?

22 A It was why she moved out.

23 Q That was why she moved out. Okay. Tell us what
24 that was about.

25 A Because I didn't -- she was always crying to me

1 about the way Richard treated her, but she wouldn't break
2 up with him and get away from him, and I got mad.

3 Q Where was Richard living at that time?

4 A I thought he was living with Byron and James, but
5 he might have been living at home because at that time
6 Richard and I weren't friends at all because he was a real
7 jerk.

8 Q Okay. I guess now you both think he's a real jerk.

9 A He's all right to me now.

10 Q Okay.

11 A Did she say the same thing?

12 Q Now, she and Richard, okay, I guess had moved back
13 from Colorado, had gone to Colorado. Did she move back
14 together?

15 A Uh-huh.

16 Q Okay. So they were still seeing each other during
17 that time period.

18 A But fighting.

19 Q And fighting, okay. And you're not sure if Richard
20 was living at home or at Byron and James or could have been
21 staying both places; is that correct?

22 A (Witness nods.)

23 Q Now, I'm not asking these questions, okay, just to
24 dig into somebody's personal life, but I'm trying to fix some
25 very important events in time, and try to figure out what

1 kinds of things might affect how you remember them, okay?
2 So that's why I'm asking these questions.

3 A. Yeah.

4 Q. Was Kelly at that point sometimes spending nights
5 with Richard or someplace other than at your house?

6 A. I don't remember.

7 Q. Of course she was also working some nights also.

8 A. Because she was working at the truck stop then, too,
9 and then I was working in the morning.

10 Q. So even though she was living with you, because
11 she was working nights and you were working mornings, you
12 wouldn't necessarily be sleeping in the room at the same
13 time; is that correct?

14 A. Yeah.

15 Q. And you wouldn't necessarily know if she was at work
16 that night or spending the night with Richard that night.

17 A. Yeah, because I didn't see her very often.

18 Q. Okay. Did you see her every day?

19 A. For a brief time. If not at home, at work because
20 we had to change drawers.

21 Q. So you wouldn't necessarily even see her at home
22 every day, even though you were both living there.

23 A. Yeah.

24 Q. Now, you mentioned a storage shed just in passing.
25 I think Ms. Sipes asked you, you know, if she stored her

1 things in your closet, and you said, "Yes, or she could have
2 stored some things in a shed."

3 A Well, there was a storage shed out back that we
4 had like camping equipment in and some of my dad's chests,
5 foot lockers and things like Christmas ornaments and stuff
6 like that.

7 Q Was it like a building or one of those metal
8 buildings that you put up?

9 A It's a metal building.

10 Q Okay. Was it kept locked?

11 A Part of the time because we had our bikes in there,
12 too, and a lot of times my brothers would forget to lock it.

13 Q It must have been a good sized one if you were able
14 to get bikes in it.

15 A Yeah, it had everything arranged just right.

16 Q Was it like a padlock that you kept it locked
17 with?

18 A Just a regular lock, yeah, padlock.

19 Q Okay. And where were the keys kept, I mean, if
20 people got their bikes in and out?

21 A Next to the phone in the kitchen.

22 Q So basically if Kelly had had some property that
23 she wouldn't have been needing to use right then because she
24 was living with you, like a vacuum or crock pot or any other
25 kind of household goods that she might have had from, say,

1 Colorado --

2 A. Uh-huh.

3 Q -- she could have kept them in the storage shed or
4 she could have kept it at Bryon and James' or any number of
5 places that could have been; is that correct?

6 A. Uh-huh. She didn't have very many things, you know,
7 boxes that I know of.

8 MS. PEINOCK: Pass the witness.

9

10 REDIRECT EXAMINATION

11 BY MS. SIPES:

12 Q Ms. McAdam, I would ask you to examine what has been
13 denominated Defense Exhibit No. 54 and ask you if you've ever
14 seen that particular item.

15 A. No, ma'am.

16 MS. SIPES: I have nothing further, Your Honor. I
17 pass the witness. Just one more question, Your Honor.

18 Q (By Ms. Sipes) How much time have you spent with
19 investigators on this case?

20 A. Investigators?

21 Q. Yes, ma'am.

22 A. Like who?

23 Q From the district attorney's office or from my
24 office.

25 A. What was it, an hour that I spent at your office?

1 Q Uh-huh.

2 A At that time.

3 Q How much time have you spent with the district
4 attorney's office?

5 A None.

6 Q None? How much time have you spent with the police
7 department?

8 A None.

9 Q You've never talked with any of those individuals,
10 ever talked with an investigator from the D.A.'s office?

11 A No, ma'am.

12 Q Okay. Do you know if your mother has or not?

13 A I don't think so.

14 Q Thank you.

15 MS. PENNOCK: No further questions, Your Honor.

16 THE COURT: Can this young lady --

17 MS. SIPES: Be excused.

18 THE COURT: All right, Ms. McAdam, you may be
19 excused. Thank you very much for coming down. I'm sorry
20 that you got so nervous. You were a delightful witness.

21 MR. PONTON: Your Honor, the district attorney's
22 office had told me that he wanted to recall Mr. Lucas to the
23 stand at this time for his further redirect and further
24 cross-examination. However, Mr. Lucas tells me this morning
25 that he's in great pain, that he was taken off his pain

1 medication yesterday, that his back is not only not getting
2 better but it's either staying the same or getting worse,
3 that he's continuing to have quite a bit of pain in his legs,
4 localized in his thighs and knees extending down into his
5 calves.

6 He tells me that he has some pretty intense localized
7 pain right down at the base of his spine so that he has a pain
8 in his back that's not generalized as a sore back, but
9 localized in a particular spot down here at the base of his
10 spine. And as I told the Court yesterday, he first manifested
11 these symptoms a week ago.

12 THE COURT: Well, has he seen the doctor today?

13 MR. PONTON: He has not seen the doctor today, Your
14 Honor. He tells me he saw the doctor at the jail on Monday
15 of this week and on Wednesday of this week.

16 THE COURT: Well, he saw the doctor yesterday
17 because I talked to the doctor yesterday. The doctor
18 yesterday told me --

19 MR. PONTON: Okay. He says he saw him yesterday.

20 THE COURT: Told me that Mr. Lucas was having pain
21 and that maybe a couple days rest or two or three days rest
22 might get him over the pain. He told me that X rays wouldn't
23 show anything.

24 I asked him if he had taken them. He said, no, he
25 didn't take any because it wouldn't show anything. You can't

1 show sore muscle in an X ray.

2 And I thought, well, you know, not being the doctor,
3 I'm not going to get into that with him. But Mr. Ponton,
4 I don't think there's any question that the man is having
5 some type of discomfort in his back, so we'll just call it
6 off. We'll let him go back over to his jail cell.

7 But now, let me explain something to you. It's
8 my understanding that he is laying on the floor of the jail.
9 Now, tell me about that. Why is that? Why can't we lay on
10 the bed or that might help his back?

11 MR. PONTON: As explained to me, Your Honor, the
12 jail mattress, the jail cot sags too much, and it causes
13 him a great deal of pain to lay in his mattress on the jail
14 cot. What Mr. Lucas does is he takes the mattress off the
15 cot springs and places the mattress on the concrete floor,
16 which gives him a firmer bed and firmer support for his
17 back so that he can rest.

18 He's not laying on the floor. He's putting his
19 mattress on the floor and laying on it like that because
20 it's too painful to him to lay in the cot on the cot springs
21 that the jail has.

22 THE COURT: Well, Mr. Ponton, why is it that it's
23 my belief that there are no springs on those cots? I'm to
24 understand that the cots in the jail are metal, that they are
25 flat slabs of metal with sides on them about 6 inches high,

1 and that there are no springs, that the mattress lays
2 directly on this metal slab just like the floor would be.

3 MR. PONTON: That may be right, Your Honor. I may
4 have a misconception. I have not been in this jail to sleep
5 in it.

6 THE COURT: But I mean it may be different than
7 what I'm thinking. That's what I thought it was.

8 MR. PONTON: I'm sure before this case is over
9 I'll have that opportunity, but I don't know, Judge. I'll be
10 glad to let Mr. Lucas answer any questions Your Honor has.

11 THE COURT: Well, I'm not interested in talking
12 to Mr. Lucas, but you know, I'd like to get this case moving.

13 MR. PONTON: Only as a suggestion, Your Honor.

14 THE COURT: Let's take him back to the jail. If
15 necessary I'll order that he be taken down to Thomason and
16 taken an X ray just to see if his back -- what the problem
17 is, if he needs -- I know he's getting some type of pill.

18 MR. LUCAS: Not now. They took me off of it.

19 THE COURT: So let's see what the problem is, and
20 we'll try to treat it. We have got to keep this thing going,
21 you know. We're just on a slow train here, and we need to
22 keep moving. Let's take him back over there, and you all
23 find out what the situation is and let me know, and if
24 necessary, I'll call the sheriff or see if we can't get
25 something done.

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We're adjourned until Monday morning at nine o'clock.

MS. PENNOCK: Monday morning at nine o'clock, not noon?

THE COURT: I don't know what to do with it, but I know we need to get him back up. This thing has got to go on for another three or four months. We've got to keep him in shape. Well, as I understand it, our jail has swimming pools, running tracks, and all types of things. Maybe we want to put him in the gym up there for a day or two, work him out.

(Hearing concluded at 10:10 a.m. for the day.)

