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MARY JACKMAN,

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

DIRECT EXAMINATION

BY BY MR. MOODY:

Q. Would you state your name, please?

A. Mary Jackman.

Q. How are you employed, ma'am?

A. I'm an analyst with the New Mexico state police crime laboratory.

Q. How long have you worked there?

A. Approximately four years.

Q. What is your educational background?

A. I have a bachelor's degree in biology and a master's degree in forensic science.

Q. And do you have any additional related training?

A. Yes, sir, I do.

Q. What is that?

A. I have three training courses from the FBI in Quantico, Virginia, in serology, hairs and fibers, and paint analysis, and I have one course from North Carolina State University in the microscopic

1 identification of fibers.

2 Q. Now, are you member of any professional
3 organizations?

4 A. Yes, sir.

5 Q. Which ones?

6 A. The American Academy of Forensic Sciences,
7 the Microbeam Analysis Society, the Southwest
8 Association of Forensic Scientists and the
9 Electromicroscopic Society of America.

10 Q. I would like to draw your attention back to
11 the, I guess it would be, the 9th day of August, 1983,
12 and ask you if you were involved in the seizure of
13 evidence from a 1973 Pontiac automobile in Tucumcari,
14 New Mexico?

15 A. Yes, I was.

16 Q. All right. And do you remember where that
17 search was conducted and who conducted it?

18 A. It was conducted in the sally port of the
19 Quay County Sheriff's office in Tucumcari. It was
20 myself and another analyst, Gene Theade, that did the
21 collection.

22 THE COURT: I didn't -- Gene who?

23 A. Theade.

24 THE COURT: Is that a lady?

25 A. No, sir, it's a gentleman.

1 THE COURT: Thank you.

2 Q. (BY MR. MOODY) What was the purpose of that
3 examination --

4 THE COURT: Wait a minute, Bill. Spell
5 that, please.

6 A. T H E A D E.

7 THE COURT: Thank you.

8 A. You're welcome.

9 Q. (BY MR. MOODY) Now, what was the purpose of
10 your search there in Tucumcari that late afternoon
11 and early evening?

12 A. We were requested to search the car and
13 collect any and all possible evidence that could be
14 used in connection with a homicide investigation from
15 the state of California.

16 THE COURT: Mr. Moody, let me interrupt you.
17 Look around. Do you see anybody in this court that
18 is going to testify? Are these gentlemen involved in
19 this, Ms. Sipes?

20 MS. SIPES: I beg your pardon?

21 THE COURT: Are any of these gentlemen your
22 witnesses?

23 MS. SIPES: No, they are not.

24 MR. JEWKES: No, Your Honor.

25 THE COURT: Okay. Thank you. You know, I

1 don't see many gentlemen come in with coats and ties
2 and that's the reason I'm asking, because most of
3 them that come in are witnesses that are wearing the
4 coats and ties. I just didn't want anybody to be
5 disqualified.

6 Q. (BY MR. MOODY) Now, did you then proceed to
7 seize various items from the vehicle?

8 A. Yes, sir.

9 Q. All right. And let me show you what has
10 been marked for identification purposes --

11 MR. MOODY: I guess we will now mark --
12 Would you mark this bag, please, and this bag?

13 (State's exhibits marked, S-62 and S-63.)

14 Q. (BY MR. MOODY) I show you what's been
15 marked for identification purposes as State's
16 Exhibits 62 and 63. Can you identify, first of all,
17 State's Exhibit 62?

18 A. Yes, sir.

19 Q. What is that?

20 A. That's a paper bag bearing -- Do you want me
21 to read it?

22 Q. Yes.

23 A. "Under front seat, passenger side," has my
24 initials, the item number, the vehicle license plate
25 number. And should have our case number on it, too.

1 Yes.

2 Q. And, in fact, do your initials appear on
3 that particular bag?

4 A. Yes, sir.

5 Q. And did you take an inventory of the items
6 that were placed in what you-all mark as Q-9 and we
7 are calling State's Exhibit 62?

8 A. Yes, sir, I did.

9 Q. And were two of those items, this piece of
10 paper with Chastity Say and a piece of -- looks like
11 United Playland toy money, \$20 --

12 A. May I consult my inventory list?

13 Q. Yes, you may.

14 A. My inventory list includes two items that
15 have the same descriptions as those two items.

16 Q. All right. And so, then, the actual items
17 that were placed in bag Q-9 by yourself and by Mr.
18 Theade, the individual items were not marked by
19 you-all?

20 A. No, sir, they weren't.

21 Q. But what occurred was you marked the bag and
22 then you listed the inventory so you would know what
23 was in there?

24 A. That's correct.

25 Q. And the purpose for not marking these

1 particular pieces of evidence with your initials or
2 Mr. Theade's is what?

3 A. Well, a number of the items that we
4 collected we anticipated that they would be processed
5 for latent prints in California, and whenever that is
6 the case, we don't risk contaminating the evidence or
7 possibly covering up a latent print by putting our
8 initials on it.

9 Q. Okay. And then in regards to this bag here,
10 which is the bag marked State's Exhibit 63 which is
11 called bag Q-6, okay, could you refer to that -- this
12 in your notes and does that bag also bear your-all's
13 evidence tags, your initials?

14 A. Yes, sir.

15 Q. And it also bears where it came from?

16 A. Yes, sir. That's my writing. It says,
17 "Material" -- The bag is ripped. "Material removed
18 from front floorboard, passenger side," with the
19 license plate number on it.

20 Q. All right. And were two of those items
21 eight-track stereo tapes, one Lou Reeves, "Sally
22 Can't Dance," and the other Moe Bandy, "It's a
23 Cheating Situation"?

24 A. My inventory lists does include two items
25 with that description.

1 Q. Now, once these items were seized by you-all --
2 Well, first, let me go to Q-2, though. I have to go
3 back to that.

4 Q-2, is this also another bag which bears
5 your-all's -- your initials?

6 A. Yes, it does.

7 Q. Bears your-all's evidence tag?

8 A. Yes, sir.

9 Q. State's Exhibit 60, these were not items
10 seized by you, were they?

11 A. No, sir, they are not.

12 Q. Where did these items -- In fact, on the bag
13 it says where these items came from, does it not?

14 A. Yes, sir.

15 Q. Where was that?

16 A. "Evidence collected by the sheriff's
17 department personnel from the vehicle in question."

18 Q. All right. And did you inventory the items
19 that were placed in this bag?

20 A. No, sir.

21 Q. All right. These bags were -- All three of
22 these bags were brought back to your New Mexico
23 laboratories. Is that correct?

24 A. That's correct.

25 Q. And then they were -- What was done with

1 them?

2 A. They were prepared for shipping.

3 Q. All right. Was anything added to the bags
4 or taken from the bags?

5 A. No, sir.

6 Q. Were they tampered with in any way?

7 A. No, sir, they were sealed.

8 Q. All right. And then they were sent to
9 California?

10 A. That's correct.

11 Q. Then is it your testimony, then, that these --
12 the contents of these bags that we have discussed, in
13 particular the tapes and the piece of paper and the
14 play money were items seized by yourself and Mr.
15 Theade on this August 9th, '83, search?

16 A. They certainly fit the description of the
17 items and the outer bags are, in fact, our bags.

18 Q. All right.

19 MR. MOODY: Pass the witness.

20

21 CROSS-EXAMINATION

22 BY MS. SIPES:

23 Q. Under what authority did you make this
24 search, please, ma'am?

25 A. We were requested by the Tehama, California,

5083

1 County Sheriff's office to assist them in this search.

2 Q. Under what authority did you proceed to make
3 a search of that vehicle?

4 A. Are you referring to legal authority to
5 search?

6 Q. Yes, ma'am.

7 A. I believe we had a consent to search. We
8 were given to believe there was a consent to search.

9 Q. Okay. Who gave you that --

10 A. Well --

11 Q. -- impression?

12 A. I don't know exactly who it was. We had an
13 assistant district attorney there plus a local
14 sheriff's office personnel that had been involved
15 with obtaining the consent.

16 Q. Okay. And I believe you referred to a case
17 number on one of the sacks. What case does that
18 refer to?

19 A. It's our case number.

20 Q. You say it's your case number. What
21 particular investigation are you referring to, to the
22 murder that took place in Red Bluff, California, or
23 to some event that purportedly took place in New
24 Mexico?

25 A. The -- We were requested to assist with

1 regard to the investigation of the homicide in
2 California. It was my understanding that there was
3 also a possible homicide in the Tucumcari area, but
4 the case was issued based on the California case.

5 Q. Did you ever view the consent to search?

6 A. I don't know.

7 Q. Okay. Do you know whether or not that
8 consent to search had any restrictions upon it?

9 A. I don't know.

10 Q. When you first viewed the Pontiac automobile
11 there in Tucumcari, New Mexico, was the automobile
12 sealed?

13 A. I don't remember.

14 Q. Did you take any photographs of that
15 automobile prior to searching it?

16 A. Yes, we did.

17 Q. And where are those photographs?

18 A. Some of them -- Well, they are not actually
19 photographs. They are photographic slides. And I do
20 have them with me, although they are not in the room
21 with me right now.

22 Q. Could I ask you to obtain those for us,
23 please? Do you mind?

24 A. No.

25 MS. SIPES: Thank you. With the Court's

1 permission.

2 THE COURT: Go right ahead.

3 (An off-the-record discussion was held.)

4 (Defense exhibit marked, D-81.)

5 MS. SIPES: With the Court's permission,
6 Your Honor, I'll go ahead.

7 Q. (BY MS. SIPES) It's your testimony, then,
8 that you made certain slides of the automobile before
9 you proceeded to search it. Is that correct?

10 A. Well, technically Mr. Theade took the slides,
11 but I was there.

12 Q. And of those slides, you have given one of
13 those slides to Mr. Bill Moody of the El Paso
14 district attorney's office?

15 A. That's correct.

16 Q. And you gave that to him today?

17 A. I think I gave it to him yesterday.

18 Q. Yesterday, okay. And I show you what has
19 been denominated Defense Exhibit Number 81 and ask
20 you if those are copies that you -- of those slides
21 which you brought with you here today with the
22 exception of the one which you gave to Mr. Bill Moody?

23 A. These aren't copies. These are the actual
24 slides. There aren't any duplicates.

25 Q. These are the actual slides?

1 A. Yeah.

2 Q. Do you have any objection to those being
3 introduced into evidence before this Court?

4 A. Only that we would like to request to get
5 them back at the termination of this case.

6 Q. If we have that agreement, would it be
7 permissible with you, then, if we were to keep those
8 or if we made some copies of them and returned them
9 to you?

10 A. Yes.

11 Q. Thank you.

12 THE COURT: Do you have any objection to
13 that, Mr. Moody?

14 MR. MOODY: No, Your Honor.

15 THE COURT: All right. I'm going to suggest
16 you make copies of them, Ms. Sipes, and return them.

17 MS. SIPES: Thank you. We would like to
18 offer that Exhibit Number 81 into evidence for
19 purposes of this hearing only, Your Honor.

20 MR. MOODY: No objection.

21 THE COURT: Be admitted.

22 Q. (BY MS. SIPES) Do you have any idea of what
23 type of security this particular automobile had been
24 placed in since the time that Mr. Henry Lee Lucas
25 abandoned or left the automobile in San Jon, New

1 Mexico?

2 A. I have no personal knowledge of that.

3 Q. Okay. The first time you viewed it, then,
4 was in a sally port in Tucumcari, New Mexico, the
5 sheriff's office or police department?

6 A. Well, actually it was a little bit before
7 that. I watched it being towed into the area and
8 then it was placed in the sally port.

9 Q. Were there lots of beer cans in that
10 automobile?

11 A. I'd have to consult my inventory list. If
12 there were beer cans, we would have collected them.

13 Q. Would you consult that, please?

14 A. Yes. In our item Q-4, I list one 12-ounce-
15 size can labeled Budweiser, parenthesis, empty. That
16 appears to be the extent of the beer cans that we
17 collected.

18 Q. Okay. You were aware that this had been
19 taken into police custody on June 9th of 1983, the
20 '73 Pontiac?

21 A. No.

22 Q. And your examination took place on August
23 the 9th of 1983?

24 A. That's correct.

25 Q. And you're not aware of any type of security

1 being provided for the automobile or its contents
2 during that intervening time, are you?

3 A. I don't know one way or another.

4 Q. And from that automobile you participated in
5 the taking of certain items. Is that correct?

6 A. On August 9th, that is correct.

7 Q. On August 9th of 1983. And did you make an
8 inventory of the items that you took from that
9 automobile on that evening of August 9th, 1983?

10 A. That's correct.

11 Q. And that was made on the spot?

12 A. Yes, it was.

13 Q. And do you have that with you?

14 A. Yes, I do.

15 Q. Okay.

16 A. Do you want me to get it out?

17 Q. Yes, ma'am, I would like to examine it.

18 Q. And were your initials or other identifying
19 marks placed upon any of the items?

20 A. The initials or identifying marks were
21 placed on the outside containers with the exception --
22 possible exception of a rearview mirror.

23 Q. Okay. The question is did you place your
24 initials or other identifying mark on any of the
25 items themselves, yes or no?

1 A. I'd have to see the mirror.

2 Q. Any -- Did you place your initials or any
3 other identifying mark on any of the other items save
4 and except possibly a rearview mirror?

5 A. I'm not quite sure. The items -- We are not
6 only dealing with paper bags full of individual items.
7 We also had some plastic bags, I believe, with some
8 hair in them. And, of course, we are not going to
9 label the hairs, but the bag containing the hair
10 would be initialed, of course.

11 Q. Okay. What other items would you have
12 placed your identifying mark upon?

13 A. There were four plastic bags containing
14 vacuum collections that we would have labeled the bag,
15 and that would have contained only one type of unit
16 as opposed to the paper bag that had several
17 different units in them.

18 Q. Let me ask you this. Have you gone over
19 with Mr. Moody or any other member of the district
20 attorney's staff the bags that were brought here
21 before the Court today?

22 A. Have I looked at them?

23 Q. Yes, ma'am.

24 A. Yes, I have.

25 Q. Have you seen your initials upon any items

1 that were contained in these evidence bags?

2 A. Not in the ones I looked at, no.

3 Q. Which ones did you look at? Did you look at
4 the contents of a bag that is denominated State's
5 Exhibit 63 and marked Q-X -- I mean, Q-6?

6 A. Partial contents, yes.

7 Q. Do your initials appear upon any of those
8 items?

9 A. No, ma'am.

10 Q. And in regard to State's Exhibit Number 62,
11 have you examined prior hereto the contents of this
12 particular bag?

13 A. Partial contents.

14 Q. Partial contents?

15 A. I didn't examine everything that was in the
16 bag, just a few items.

17 Q. Okay. Would you care, too, to see if your
18 initials appear on any of those items?

19 A. They would not appear on the items that I
20 looked at.

21 Q. And I believe it was your testimony earlier
22 that you had nothing to do with State's Exhibit 60?

23 A. We did not collect those items, no.

24 MS. SIPES: Okay. Are there any other bags
25 here?

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May I?

MR. MOODY: Sure.

Q. (BY MS. SIPES) I hand you what has not been marked as an exhibit, but it's identified as Q-17, "Material removed from trunk of TX GWX-484," and ask you if you examined the contents of this bag today?

A. I don't believe I have.

Q. Have you ever examined this bag?

A. Yes, that is my bag with my initials on it.

Q. Dated 8-9-83?

A. That's correct.

Q. And do your initials, are they contained on this Coca-Cola can?

A. I don't see them. And there again it's highly unlikely since that was designated for latent print processing.

Q. I notice that the date 8-24-83 appears upon that. Do you know who would have made that mark?

A. No, ma'am.

Q. Had these items been sent from your office to any other jurisdiction by August 24th of '84?

A. According to my records, on August 19th of 1985 they were sent by registered mail to the Tehama County Sheriff's office.

Q. Okay. Excuse me. What date was that?

1 A. I said '83. I think you said '84.

2 Q. Okay.

3 A. August 19th.

4 Q. August 19th. Does this can appear to have
5 the date '84 on it, or '83? Can you tell?

6 A. Looks like '83.

7 MS. SIPES: May I have this marked, please?

8 (Defense exhibits marked, D-82 and D-83.)

9 Q. (BY MS. SIPES) I have now had this
10 particular exhibit marked Defendant's Exhibit 82, and
11 this is the same bag we were speaking of earlier,
12 Q-17. Attached to it is a pink sheet which indicates
13 that Q-17 should contain three items, a -- is this
14 correct, a clear bottle with screw top labeled
15 Coca-Cola containing a small amount of clear fluid, a
16 12-ounce-size can labeled Coca-Cola, empty, and one
17 yellow comb labeled unbreakable. Is that correct?

18 A. It looks like it.

19 Q. And do your initials or other identifying
20 marks appear upon that pink sheet?

21 A. Yes, ma'am, I filled that out.

22 Q. And does this bag contain all of those items?

23 A. No, it doesn't.

24 THE COURT: Are you almost through, Ms.
25 Sipes?

1 MS. SIPES: Yes, Your Honor.

2 Q. (BY MS. SIPES) I hand you what has been
3 denominated Defendant's Exhibit Number 63 and ask you
4 if you can identify this particular bag for me,
5 please?

6 A. I cannot identify this bag.

7 Q. Have you ever seen it or its contents before?

8 A. Well, I don't recognize the bag. And there
9 is something in there that quite possibly was
10 collected from the vehicle, but it does not have any
11 initials on it.

12 MS. SIPES: Before I finish up, Mr. Moody,
13 it's my understanding that you will provide us with a
14 copy of the slide. Is that correct?

15 MR. MOODY: Yeah.

16 MS. SIPES: Thank you.

17 THE COURT: Do you have copies of the slides
18 or actual photos?

19 MR. MOODY: No. No, we just have that one
20 that I looked at the other day because it had the
21 tapes.

22 THE COURT: What are all these photos? Are
23 these photos of that car?

24 MR. MOODY: No, these are photos from our
25 case in chief.

1 THE COURT: All right.

2 MR. MOODY: I have to go back up and get
3 them.

4 Q. (BY MS. SIPES) And you cannot with definity
5 say that the items which Mr. Moody showed to you,
6 that being the piece of paper with script writing,
7 the paper contained in State's Exhibit 62, say that
8 that came out of the automobile, can you?

9 A. No, ma'am.

10 Q. And neither can you with definity identify
11 this piece of paper money as having come out of the
12 automobile --

13 A. No, ma'am.

14 Q. -- on August the 9th of 1983?

15 A. No, ma'am.

16 MS. SIPES: Thank you. I pass the witness.

17

18 REDIRECT EXAMINATION

19 BY MR. MOODY:

20 Q. Did you handle this evidence any differently
21 than you would normally handle evidence in any other
22 case?

23 A. Only to the extent that it wasn't analyzed
24 in our laboratory. It was sent away.

25 Q. But in other words, in the New Mexico courts,

1 you have -- you mark evidence like the way we have
2 done it here?

3 A. Oh, yes, sir.

4 Q. In clear bags. You do not mark the
5 individual items?

6 A. That's correct.

7 Q. And --

8 A. If they are designated for latent print work.

9 Q. If they are designated for latent print work.
10 That's what you understood the piece of paper money,
11 the Moe Bandy tape -- I mean, the two tapes and the
12 other -- Let's see. What else was it?

13 A. The lined paper.

14 Q. -- the lined paper were being designated for
15 latent print identification. Isn't that correct?

16 A. Yes.

17 Q. And in your normal cases in New Mexico you
18 do that; that's your standard operating procedure?

19 A. Yes, sir.

20 Q. And you don't have any problems in getting
21 it introduced into evidence in New Mexico, do you?

22 A. I haven't had before.

23 THE COURT: Are you-all through?

24 MS. SIPES: Your Honor, I would like to have
25 copies of this original inventory that she made at

1 the scene of the search.

2 THE COURT: All right.

3 MS. SIPES: I don't believe I have this. If
4 I did --

5 THE COURT: We will make you copies of that.

6 Let me tell you what I would like for you to
7 address for me tomorrow morning, Mr. Moody. And the
8 thing that bothers me most about all of this
9 testimony at this point -- it's not the only thing
10 that bothers me, but it does get my attention. It's
11 my understanding that a court -- Where was the judge
12 that signed the order that Lucas was not to be talked
13 to?

14 MS. SIPES: I believe he was in Denton
15 County, Your Honor.

16 THE COURT: I want you to get a certified
17 copy of the order. Here's what bothers me. A judge
18 in Denton County, I assume, signed an order that Mr.
19 Lucas was not to be talked to any more about this
20 particular case.

21 Secondly, at the time that this consent or
22 permission to search was filed, Mr. Lucas had two
23 lawyers in Georgetown who were representing him in a
24 capital murder case. This is dated August the 8th of
25 '83. Those lawyers were appointed at that time,

1 weren't they.

2 MR. MOODY: I --

3 THE COURT: Well, let's assume that they
4 were. Let's assume this, that at that time when this
5 search warrant or when this permission to search was
6 issued, if Mr. Lucas did not have a lawyer, Mr. Lucas
7 should have been told that he had the right to have a
8 lawyer.

9 I have heard no one say that in this
10 courtroom that he had that right. I'm a little
11 worried about it because if Mr. Lucas did have a
12 lawyer and that lawyer was not consulted, might have
13 a problem with it. If Mr. Lucas did not have a
14 lawyer, then I want to know why. And I would also
15 like to know why the order signed by the judge in
16 Denton was not carried out.

17 Those are the things that I need to find out
18 before I can rule on this. There are other problems
19 as I see it, but those are the main problems.

20 MR. MOODY: Well, you know, it's difficult
21 for me to --

22 THE COURT: We need that order. I
23 understand that. I don't know what that order said
24 we have been talking about.

25 MR. MOODY: And, of course -- Yeah.

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THE COURT: Ms. Sipes, you get on the phone and see if you can't get the clerk down in Denton to get us a copy of that order.

MR. PONTON: Yes, Your Honor. I believe we have one in our files.

THE COURT: All right. We will talk about that tomorrow morning. Thank you-all. See you at 9:00.

(An evening recess was taken.)