

1 MR. PONTON: We have nothing, Your Honor.

2 THE COURT: All right. Thank you, Mr. Perez.
3 You have been a great help to us this morning. Call
4 your next witness.

5 MR. MOODY: That was all the witnesses we
6 had --

7 MR. PONTON: Harold Bittinger.

8 MR. MOODY: -- on the -- all the witnesses
9 we had on the search.

10 THE COURT: Would you please raise your
11 right hand, sir?

12

13

HAROLD G. BITTINGER,

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

17

18

DIRECT EXAMINATION

19

BY MR. PONTON:

20

Q. Please state your name.

21

A. Harold G. Bittinger.

22

Q. How are you employed?

23

A. Yes, sir, I am.

24

Q. How are you employed?

25

A. I'm employed with the New Mexico state

5120

1 police.

2 Q. Did you have occasion in June of 1983 to
3 assist in the execution of a search warrant?

4 A. Yes, sir, I did.

5 Q. And was that a warrant issued in a
6 magistrate court of Quay County, New Mexico?

7 A. Yes, sir, it was.

8 Q. I want to show you State's Exhibit 56. Does
9 that appear to be a correct -- true and correct copy
10 of the search warrant issued on June 29th, 1983, to
11 search a 1973 Pontiac?

12 A. Yes, sir, it does.

13 Q. And what license plate number is listed
14 there in that affidavit for the search warrant?

15 A. Okay. The license plate number listed on
16 the search warrant is Texas Victor, William, X-ray,
17 484.

18 Q. And let me show you State's Exhibit 64 and
19 if you could, please tell the Court what that license
20 plate number is.

21 A. That is Texas Union, William, X-ray, 484.

22 Q. So it's a U on that license plate, not a V.
23 Is that correct?

24 A. Yes, sir, it is.

25 Q. Now, in June of 1983 had you become aware of

5121

1 the existence of this vehicle prior to the issuance
2 of that search warrant?

3 A. Yes, sir, I did.

4 Q. And how was that?

5 A. I believe it was the first part of May
6 Deputy Gene Ross went to a truck stop in the San Jon
7 area to investigate a subject that was acting wierd.
8 It was a call -- It was a complaint called in.

9 Q. Uh-huh.

10 A. And the subject had this vehicle here.

11 Q. And do you know what subsequently happened
12 to that subject?

13 A. I believe he was arrested in Texas.

14 Q. And what happened with his vehicle?

15 A. Marlin Terry, the wrecker service, towed the
16 vehicle from the truck stop to his place of business.

17 Q. Okay. The -- Marlin Terry's place of
18 business has been described as a wrecking yard to
19 this Court. Could you please describe it a little
20 bit further to the Court as far as the way -- where
21 Mr. Terry lived, where the cars were, the kind of way
22 that was done?

23 A. Okay. Mr. Terry lived right near the
24 highway known as old U.S. 66. The wrecking yard part
25 of it was to the back of his house and to the sides.

5122

1 He had a garage that was also on U.S. 66 about a
2 quarter of a mile east of his house, so from a
3 quarter mile east of his house to his house and most
4 of the land in the back he put the wrecked cars on.

5 Q. Would it basically be just a large open
6 field behind his house?

7 A. Yes, sir, it is.

8 Q. With no particular fence or security?

9 A. No, sir, there is none.

10 Q. No security light or anything like that?

11 A. I think there is one near the house, but
12 there is none in the yards out there.

13 Q. Now, when -- Did you go out to help Dennis
14 Smart execute this search warrant?

15 A. Yes, sir, I did.

16 Q. You were the affiant on the search warrant,
17 were you not?

18 A. Yes, sir, I was.

19 Q. I want to ask you a couple of things about
20 the information in the search warrant and you can
21 look at your copy there.

22 The search warrant states that Deputy Ross
23 contacted the sheriff in Bowie, Texas, who informed
24 Ross that Lucas was under suspicion for murder. Did
25 you ever receive any information regarding that

5123

1 yourself?

2 A. Yes, from Deputy Ross.

3 Q. From Deputy Ross?

4 A. Yes, sir.

5 Q. Then further it says that Martha Walker had
6 been identified by Texas law enforcement authorities
7 as possibly one of Lucas' victims. Do you know where
8 that information came from?

9 A. I believe that came out of a newspaper, but
10 I'm not really sure on that.

11 Q. Do you know if that came out of any teletype
12 or anything like that?

13 A. No, sir. It wasn't on teletype, I know that.

14 Q. The affidavit goes on to state that Lucas
15 had told your sheriff there in Quay County that Lucas
16 had killed over 100 women. Did the sheriff tell you
17 that?

18 A. Yes, sir. He went to Texas to interview Mr.
19 Lucas.

20 Q. And after the sheriff received information
21 that Lucas -- from Lucas that Lucas had killed a girl
22 in Deming and dumped out her body somewhere between
23 Las Cruces and Alamogordo, did the sheriff talk with
24 the Dona Ana County Sheriff's officials regarding
25 their inability to find that body?

1 A. Yes, sir. He called them several times.
2 They called us several times wanting a specific
3 location, and we really couldn't give them any more
4 than what we had there.

5 Q. The affidavit says that they have requested
6 that you-all obtain a search warrant. So from what
7 you say here, you were searching this car for the
8 Dona Ana County Sheriff's Department. Is that
9 correct?

10 A. Yes, I guess that would be correct.

11 Q. Do you have any knowledge regarding Henry
12 Lucas leading law enforcement officials to six bodies?

13 A. No, sir, not personally.

14 Q. Did you obtain that from Deputy Sheriff
15 Smart?

16 A. From Smart?

17 Q. Yes, sir.

18 A. Either him or Sheriff Garnett told me.

19 Q. Okay. Now, when you went to search that car,
20 was it locked?

21 A. The trunk was locked, yes, sir.

22 Q. Were the doors locked?

23 A. No, sir, the doors were not locked.

24 Q. Was the car -- Where was the car in relation
25 to this field and the house?

1 A. On this particular day, I believe it was
2 sitting directly behind Marlin Terry's house.

3 Q. Were the windows up or down?

4 A. I believe they were up then.

5 Q. And you took some photographs of the car?

6 A. Yes, sir, we did.

7 Q. Before you pulled any items out of it?

8 A. Yes, sir.

9 Q. And then you -- Did you then do a thorough
10 search of the car?

11 A. Yes, sir, we searched the car.

12 Q. And I believe the last page of that would be
13 the inventory, the last page of State's Exhibit 56.

14 Now, on that inventory list, the last page
15 of State's Exhibit 56, do you find listed any
16 eight-track tapes?

17 A. No, sir, I don't.

18 Q. Do you find listed any play money?

19 THE COURT: Any what?

20 MR. PONTON: Play money.

21 THE COURT: All right.

22 A. No, sir, I don't.

23 Q. (BY MR. PONTON) When you did this search,
24 did you -- your search warrant says that you were
25 looking for any form of identification including but

5126

1 not limited to human blood, personal effects of a
2 woman and latent prints.

3 When you were doing the search, were you
4 trying to engage in a thorough search of the car?

5 A. We were looking for items from a woman, yes,
6 sir.

7 Q. And when you did the search, do you recall
8 seeing any eight-track tapes in the car?

9 A. I really don't recall, no, sir.

10 Q. Do you recall observing any and looking at
11 them and then placing them back down on the
12 floorboard or anything like that?

13 A. To tell you the truth, I really can't
14 remember whether they were in there or not.

15 Q. Do you think that might have been an item
16 you might have picked up or remembered if it had been
17 there?

18 A. I would say yes.

19 Q. Do you think that there would be any item
20 that could be of any importance as evidence that
21 would have been left in that car after your search?

22 A. There could have been, yes, sir.

23 Q. But you were trying to conduct a thorough
24 search for that, for any items like that at that time,
25 weren't you?

5127

1 A. Yes, sir, we were looking for small items,
2 something from a woman.

3 Q. Were you present when the car was searched
4 in August?

5 A. That was by California?

6 Q. Yes.

7 A. Yes, sir, I was.

8 Q. That was in the next search of the car?

9 A. I believe so, yes, sir.

10 Q. The car was brought to the sheriff's
11 department for that search?

12 A. Yes, sir, it was put in the sally port.

13 Q. Please describe for the Court the condition
14 of the car in August two months after this first
15 search.

16 A. I believe it was all intact at that time and
17 had all the wheels, the dashboard, the windows and
18 all that stuff.

19 Q. Were the windows up or down at that time?

20 A. I really don't remember them.

21 Q. Were the seats weathered?

22 A. The seats appeared to be a little weathered,
23 yes, sir.

24 Q. Was it dusty inside the car at that time?

25 A. Yes, sir, it was a little dusty.

5128

1 Q. When the California authorities searched the
2 car, were -- did all the items they recovered come
3 from the car or did some of their items that they
4 recovered come from you-all's initial search of the
5 car?

6 A. Okay. When California came over there, they
7 actually did not do the search. The New Mexico state
8 crime lab did the search on the vehicle. They took
9 what was left in the vehicle, California did, and
10 also the items that we took into inventory as
11 evidence.

12 Q. All right. Was there much left in the car,
13 do you remember, at the time they searched it?

14 A. Yes, sir. I believe there was a carton -- a
15 carton that was a Budweiser carton at one time.
16 There were a few cans in there, some newspaper, and I
17 believe the crime lab did a vacuum on the front -- in
18 the front and in the back.

19 Q. Do you recall them picking up at that time
20 any eight-track tapes or play money?

21 A. Not really, no, sir.

22 Q. Was the car -- The car was searched about a
23 year later by a Louisiana detective, wasn't it?

24 A. Yes, sir, it was.

25 Q. Between that August search by the California

1 authorities and the 1984 search by Ed McGeehee, was
2 the car searched any time between those two times?

3 A. Not to my knowledge, no.

4 Q. Did the car go back to Terry's Wrecking Yard
5 after the search at the sheriff's office?

6 A. Yes, sir, it did.

7 Q. When Ed McGeehee searched that car, were you
8 present?

9 A. Yes, sir, I was.

10 Q. He is the detective from St. Tammany Parish,
11 Louisiana?

12 A. Yes, sir.

13 Q. Please describe the condition of the car to
14 the Court at that time, the summer of 1984.

15 A. I believe the tires were missing from the
16 vehicle then. It had weathered quite a bit more. I
17 think that was all that was missing was the tires.

18 Q. Was the -- When you say, "weathered," was
19 the interior weathered?

20 A. Yes, sir, it was, quite a bit.

21 Q. Had the windows been left down?

22 A. Yes, sir, they had.

23 Q. A lot of dust and debris inside?

24 A. Yes, sir.

25 THE COURT: Mr. Ponton?

5130

1 MR. PONTON: Yes, Your Honor.

2 THE COURT: Did you pinpoint when Mr.
3 McGeehee searched the car?

4 MR. PONTON: I think I've got that.

5 THE COURT: I didn't get that.

6 MR. PONTON: Yes, sir.

7 THE COURT: I didn't -- Well, if you didn't,
8 that's fine. I just wondered if I overlooked it.

9 MR. PONTON: Well, you haven't. I haven't
10 pinned it down because I didn't have that search
11 warrant in front of me at the time I was asking the
12 question, but I have it here.

13 Q. (BY MR. PONTON) 20th day of July, 1984,
14 does that sound about right for Ed McGeehee's?

15 A. Yes, sir, it was in the summertime.

16 Q. Do you recall that his search warrant was
17 issued by Judge Bronson Moore, the same judge who
18 issued the search warrant on June 29th, 1983?

19 A. Yes, sir, it was.

20 Q. Is he the same judge who issued the search
21 warrant in August for the California authorities?

22 A. I believe he was, sir. I never did see
23 their search warrant.

24 Q. Okay. The McGeehee search warrant, did he
25 telephone any of that information in to you or the

1 judge regarding the probable cause for the issuance
2 of the warrant?

3 A. Yes, sir. Mr. McGeehee contacted me by
4 telephone and he wanted to search the car. I advised
5 him it had already been searched a couple of times
6 already. He said he still wanted to go through with
7 the search.

8 So I told him if he will give me the
9 information, I'll go ahead and have the judge type up
10 the affidavit for the search warrant and you can come
11 sign it when you get here and everything will be
12 ready to go when you get here. So that's what we did.

13 MR. PONTON: Okay. If I could have just a
14 moment, Your Honor.

15 THE COURT: Yes, sir.

16 MR. PONTON: May I approach the Court
17 Reporter, Your Honor?

18 THE COURT: Yes, sir.

19 (Defendant's exhibit marked, D-84.)

20 Q. (BY MR. PONTON) I want to show you what's
21 been marked for --

22 MR. PONTON: Just a second. Let me show it
23 to the district attorneys.

24 THE COURT: Why don't you staple it together
25 or something?

1 MR. PONTON: I will, Judge.

2 Q. (BY MR. PONTON) Sir, I want to show you
3 Defendant's Exhibit 84, which is a three-page
4 typewritten inventory prepared by the Tehama County,
5 California, Sheriff's Department regarding items
6 seized from that 1973 Pontiac. Can you recognize
7 some of those items as being items that you seized on
8 June 29th, 1983, as reflected in the inventory list
9 on the last page of State's Exhibit 56?

10 A. Yes, sir, the empty Pall Mall cigarettes. I
11 remember the sander belt. It wasn't on my inventory,
12 but I didn't take it out of the car. But I remember
13 it was in the car.

14 Q. For instance, here Number 34, the matchbooks
15 from Oklahoma motel, that's on your inventory?

16 A. Yes, sir. The legal forms, they were on the
17 inventory, the pack of Marlboro Lights cigarette
18 package.

19 Q. The cigarette package?

20 A. The Marlboro package.

21 Q. Sack of earring hangers?

22 A. Sack -- Matchbook.

23 Q. Those are all items that are on their
24 inventory list that were also on your inventory list.
25 Is that correct?

5133

1 A. Yes, sir.

2 Q. Now, if they listed those items on their
3 return of their search warrant and those items were
4 also listed on the return from your search warrant,
5 would they have received those items from a sack or
6 box or something of evidence there at your sheriff's
7 department rather than actually physically getting
8 them from the vehicle?

9 A. Yes, sir, they would have, because we had
10 them logged into the evidence area at the sheriff's
11 office.

12 Q. Was that where they got most of their
13 evidence in August? Do you have any recollection of
14 that?

15 A. I believe quite a bit of our evidence as
16 listed here is what we took out of there. I know the
17 Budweiser -- or I don't know what you call it,
18 whatever the cardboard is that covers the 12-pack or
19 whatever, we didn't take that out of there. They did.
20 They also took some, like I say, some vacuum
21 sweepings out of it. And the items that were in the
22 trunk, they were all dusty and we didn't take any of
23 those, so I believe they took those.

24 Q. Okay. And were you present when the car was
25 fingerprinted in June of '83?

5134

1 A. Yes, sir, I was.

2 Q. Were any usable fingerprints found?

3 A. No, sir, we couldn't obtain any kind of
4 fingerprints off of the vehicle.

5 Q. Was it already dusty inside by that time?

6 A. Well, it was starting to get dusty, yes, sir.

7 Q. Does it make it difficult to get good
8 fingerprints?

9 A. Well, it had been out there in the hot sun
10 for a month or better so that doesn't help, either.

11 Q. Did you-all try to get any additional
12 fingerprints in August?

13 A. No, sir, we didn't.

14 Q. The photographs that you mentioned earlier,
15 were those photographs taken in your presence in June
16 of '83?

17 A. Yes, sir, they were.

18 Q. And had not -- I previously requested you
19 bring those, but there was some mixup in
20 communication, wasn't there?

21 A. Yes, sir, there was.

22 Q. Would you please send the photographs to the
23 Court, the photographs that were taken either by you
24 or Deputy Ross in June of '83 of the car?

25 A. It would be Deputy Smart.

5135

1 Q. Deputy Smart. Excuse me. Would you do that?

2 A. Yes, we will.

3 Q. You-all have those photographs there in your
4 file at the sheriff's office?

5 A. The sheriff's office has them and I'll
6 contact them and tell them to send them to you.

7 Q. You looked at those recently, did you not?

8 A. Yes, sir, about three weeks ago.

9 Q. And did you notice any eight-track tapes in
10 those photographs?

11 A. No, sir, I really didn't.

12 MR. PONTON: We pass the witness, Your Honor.

13

14 CROSS-EXAMINATION

15 BY MR. MOODY:

16 Q. But there were numerous items left in the
17 vehicle after your search in June of '83?

18 A. Yes, sir, there was.

19 Q. And did you secure the vehicle in any way
20 after your-all's search? You locked it up?

21 A. I told the wrecker driver to go ahead and
22 put it somewhere where nobody could get to it. His
23 wife and him had a big flareup and got a divorce and
24 the car never made it to a secure place, I guess.

25 Q. Okay. You're not saying that the

5136

1 eight-track tapes were not in there in your June
2 search; you're just saying you don't remember. Is
3 that correct?

4 A. I really don't remember, no, sir.

5 Q. Just like you don't remember if there was a
6 piece of play money in the car?

7 A. No, sir, I don't remember play money, either.

8 Q. Were you-all acting in good faith when you
9 went to get the search warrant?

10 A. Yes, sir, we were.

11 Q. You were acting on the basis of your search
12 warrant on information that had been passed on to you
13 by other law enforcement officials either in your
14 office or from Las Cruces or from Texas?

15 A. Yes, sir, we were.

16 Q. You had no reason to suspect that those
17 people were not giving you correct information, did
18 you?

19 A. No, sir, it was the sheriff and the deputy.

20 MR. MOODY: No further questions.

21 MR. PONTON: That's all we have, Your Honor.

22 THE COURT: Officer, thank you very much.

23 May he go back to his duties?

24 MR. PONTON: He may, Your Honor.

25 MR. MOODY: Yes, sir.

5137

1 THE COURT: Thank you, sir. You may go back,
2 and I appreciate the candor and honesty in which you
3 answered these questions.

4 A. Thank you.

5 THE COURT: We have had lots of officers
6 here that when the questions were asked them they --
7 for some reason they forget it. They can't remember.
8 But you remembered everything and I appreciate that.

9 A. Thank you, sir.

10 THE COURT: Helps our case. Helps our cause
11 here.

12 MR. PONTON: Judge, I wanted to inquire from
13 Your Honor regarding the scheduling of witnesses,
14 what witnesses we have left for this morning.

15 THE COURT: How long is it going to take?

16 MR. PONTON: Well, that's what I want to get,
17 the sense of what the Court wishes. Because we have
18 11 grand jury witnesses --

19 THE COURT: My God, what are they going to
20 talk about?

21 MR. PONTON: They are going to talk about --
22 I mean, they are going to be asked questions -- not --
23 I don't imagine the direct questioning of each of
24 them would take longer than five or ten minutes.
25 They will be asked about whether or not exculpatory

5138

1 evidence was presented to them.

2 THE COURT: Well, don't tell me that. Just
3 let's get on with it.

4 MR. PONTON: I wanted to find out if Your
5 Honor wanted to take a break this afternoon or --
6 because I could have some more come back this
7 afternoon or tomorrow and have them come --

8 THE COURT: Mr. Ponton, let me get through
9 with these. You know, I don't know why they are here.
10 Just let me try to get through with these. Call them.

11 MR. PONTON: Yes, Your Honor.

12 THE COURT: Would you please raise your
13 right hand, sir?

14 Have a seat.

15

16 ARTURO SEPULVEDA GARCIA,

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

20

21 DIRECT EXAMINATION

22 BY MR. PONTON:

23 Q. Would you please state your name?

24 A. My name is Arturo Sepulveda Garcia.

25 Q. Were you a member of the September 1984

5139