

1 notebook of the pretrial motions in this cause.

2 And I wanted to go into that because of the
3 fact that that was not filed by Ms. Sipes and me, and
4 at this time on the record, Ms. Sipes and I would
5 like to state that we did not file that and we do not
6 wish it filed and we do not wish to pursue it and we
7 formally withdraw that motion for change of venue
8 here on the record.

9 I would also like to ask a couple of
10 questions of the defendant regarding that, with Your
11 Honor's permission.

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

13
14 HENRY LEE LUCAS,
15 having been first duly sworn by the Court to tell the
16 truth, the whole truth, and nothing but the truth,
17 was examined and testified as follows:

18
19 DIRECT EXAMINATION

20 BY MR. PONTON:

21 Q. Mr. Lucas, do you understand that Gary
22 Richardson when he represented you filed a motion for
23 change of venue on this case?

24 A. Yes, I do.

25 Q. Do you understand that that's a motion that

5212

1 asks the Judge to move the trial to some other
2 location?

3 A. Yes.

4 Q. Do you wish to have this trial of this
5 indictment pending against you held here in El Paso
6 County?

7 A. Yes, I do.

8 Q. Do you wish to be tried here in the county
9 in which the crime occurred?

10 A. Yes, I do.

11 Q. Do you feel that you can receive a fair
12 trial in El Paso County?

13 A. I can receive as fair a trial here as I
14 could anywhere.

15 Q. And if you filed -- you previously filed an
16 affidavit stating that you couldn't get a fair trial
17 here. Do you wish to withdraw that affidavit at this
18 time?

19 A. Yes, I do.

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

21 MR. PONTON: That's all I have of Mr. Lucas
22 at this time, Your Honor. He did state on the record
23 that if he had previously filed an affidavit that he
24 didn't think that he could get a fair trial here he
25 now thinks he can and he wishes to withdraw that

1 affidavit.

2 THE COURT: Is that agreeable with the
3 state?

4 MR. MOODY: Yes, Your Honor. We have no
5 problem with that. However, I would like to ask just
6 a few questions.

7 THE COURT: Go right ahead, Mr. Moody.

8

9

CROSS-EXAMINATION

10 BY MR. MOODY:

11 Q. Mr. Lucas, nobody -- has anybody forced you
12 in any way whatsoever to withdraw your affidavit for
13 a change of venue?

14 A. No, they haven't.

15 Q. Has anybody promised you anything in
16 exchange for it?

17 A. No, they haven't.

18 Q. All right. And this -- You're doing this
19 freely and voluntarily?

20 A. Yes, I am.

21 Q. And you are of sound mind today?

22 A. Yes, sir.

23 Q. Do you feel good?

24 A. I don't feel good, but I've got a sound mind.

25 Q. All right. And your attorneys have

5214

1 explained to you all the -- what right you are giving
2 up?

3 A. Yes, sir.

4 Q. That you do have a right to have a trial in
5 a county apart from El Paso County?

6 A. Yes, sir.

7 Q. And do you understand that there has been
8 extensive pretrial publicity about this case here in
9 this county?

10 A. I know in this county and every other
11 county, too. So it don't make no difference.

12 Q. All right. And I mean, have you read --
13 have you kept up with the newspaper and television
14 accounts of your case?

15 A. Yes, I have.

16 Q. I mean, you're aware that for many weeks you
17 have been a high visibility person in El Paso, Texas?

18 A. Yes.

19 Q. And probably a lot of people we call in will
20 have heard of you and heard some of the good things
21 about you and some of the bad things?

22 A. Yep.

23 Q. And knowing all that you still want to waive
24 the -- or withdraw your affidavit to change the
25 venue?

5215

1 A. Right.

2 Q. You are satisfied with your counsel, that
3 they are doing a good job for you? You appreciate
4 the job they are doing for you?

5 A. Yes, sir.

6 Q. You don't have any complaints about them at
7 all?

8 A. No, sir.

9 Q. They have advised you that -- Do you feel
10 they have advised you adequately on this point and
11 all other points?

12 A. They have.

13 MR. MOODY: Thank you.

14 THE COURT: All right.

15 MR. PONTON: That's all we have on that
16 matter, Your Honor.

17 The -- Regarding any other evidence to be
18 heard on defendant's motions, we have two witnesses
19 who will be here Friday morning. They will each be
20 fairly brief and that will be all the witnesses that
21 the defense plans to bring to testify at these
22 pretrial hearings.

23 THE COURT: Well, all right. So --

24 MR. PONTON: Subject -- Except for Dawn
25 Russell's deposition and testimony, whichever it

1 turns out to be.

2 THE COURT: Well, you make your decision
3 concerning that young lady. I -- I'm not -- Whatever
4 you want to do. But let's -- We might as well just
5 bring her in here and put her on that witness stand.
6 She is going to answer the questions. Let's just get
7 it over with.

8 MR. PONTON: We will do that, then, Your
9 Honor. And so then those three witnesses. And
10 barring anything else unforeseen, that would be the
11 end of the witnesses that we would call for purposes
12 of this hearing or these hearings.

13 THE COURT: I suppose you're going to take a
14 deposition tomorrow. Is that right?

15 MR. PONTON: If it can be arranged. Your
16 Honor, I'm trying -- my office is trying to see if
17 those arrangements can be made at this very moment.

18 THE COURT: Well, the reason for that
19 question is that I have set a hearing for tomorrow
20 morning at 9:00 in another case. Can I go on with
21 that hearing?

22 MR. PONTON: Yes, Your Honor. We have no
23 way of -- We have no plans to bring any testimony
24 before Your Honor tomorrow morning.

25 THE COURT: All right, then. Right now

5217

1 we're waiting on the policeman.

2 Who -- Have you made -- You-all are talking
3 about depositions. Have you-all made arrangements --
4 Is this an out-of-town witness, Mr. Moody?

5 MR. MOODY: This is Sheriff Conway,
6 Monahans.

7 THE COURT: So you-all have made
8 arrangements, then, for a reporter down there?

9 MR. MOODY: We're trying to make those
10 arrangements right now. We may not be able to get it
11 done tomorrow. If not, we can get it done Tuesday,
12 Wednesday, Thursday of next week, one of those days
13 early on.

14 THE COURT: But you don't need my Court
15 Reporter? My Court Reporter can keep working on
16 these transcripts?

17 MR. MOODY: Yes, Your Honor.

18 THE COURT: And --

19 MR. MOODY: We intend to take another
20 reporter.

21 THE COURT: That's fine. I'm happy to hear
22 that.

23 MR. PONTON: She was telling me earlier,
24 Your Honor, that she didn't think that there would be
25 electricity up there, anyway, for her fancy