

1 THE COURT: Mr. Walsh, are you ready
2 to proceed?

3 MR. WALSH: Yes, Your Honor. The State
4 calls Jim Boutwell.

5
6 THE COURT: Sheriff, I remind you, you
7 are still under oath.

8 THE WITNESS: Yes, sir.

9
10 SHERIFF JIM BOUTWELL

11 was recalled as a rebuttal witness by the State and,
12 being first duly sworn, was examined and testified on
13 his oath as follows:

14
15 DIRECT EXAMINATION

16 BY MR. WALSH:

17 Q You are Jim Boutwell?

18 A Yes, sir.

19 Q And for the record, you are the same Jim Boutwell
20 who has testified earlier in this cause?

21 A Yes.

22 Q Sheriff, I'll show you what has previously been
23 marked as State's Exhibit 91, an exhibit you have
24 previously identified, is that correct?

25 A Yes, it is.

- 1 Q For the record, again, what is that State's
2 Exhibit 91?
- 3 A This is an interview that I had with Henry Lee
4 Lucas on November 10th, 1983.
- 5 Q And that was on the way back to Williamson County
6 from Denton?
- 7 A Yes, sir.
- 8 Q I hand you what has been marked as State's Exhibit
9 97 and ask if you can identify that exhibit?
- 10 A This is a copy of the same interview that was
11 just mentioned. This copy has been somewhat
12 edited.
- 13 Q Are the edited portions on this copy accurate
14 recordings of some of the original conversations
15 on State's Exhibit 91?
- 16 A Yes, they are.
- 17 Q And State's Exhibit 97, this edited copy, contain
18 portions of that interview that the jury has
19 not heard yet?
- 20 A That's correct.

21
22 MR. WALSH: Your Honor, we offer State's
23 Exhibit 97 in evidence.

24 MR. PARKER: Your Honor, we renew our
25 objections that we made a few minutes ago

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

to State's Exhibit 97.

THE COURT: Objection is overruled.

State's Exhibit 97 is admitted into evidence.

(Whereupon, State's Exhibit No. 97, after being offered into evidence, was admitted by the Court.)

MR. WALSH: May I play this for the jury?

THE COURT: Yes, you may.

(Whereupon, State's Exhibit No. 97 was played in open court in the presence of the jury, after which time the proceedings continued as follows:)

Q (By Mr. Walsh) Sheriff, at this point in time a portion of the tape is edited out, is that correct?

A Yes, sir.

MR. WALSH: We'll resume with the rest

1 of the tape.

2
3 (Whereupon, State's Exhibit
4 No. 97 resumed playing in
5 open court in the presence of
6 the jury, after which time
7 the proceedings continued
8 as follows:)

9
10 Q (By Mr. Walsh) Sheriff, at this point some more
11 is edited out of the interview, is that correct?

12 A Yes, sir.

13
14 (Whereupon, State's Exhibit
15 No. 97, the videotape, resumed
16 playing in open court in the
17 presence of the jury, after
18 which time the proceedings
19 continued as follows:)

20
21 Q (By Mr. Walsh) Those are all the portions of
22 the conversations that are on this particular
23 tape, is that correct, Sheriff?

24 A Yes, sir.

25 Q Coming back from Denton on November the 10th when

1 this conversation took place, did you know
2 anything about a foreman named Mack?

3 A No, sir, that's the first time I have ever heard
4 of him.

5 Q After that you learned some more about Mack, is
6 that right?

7 A Yes, I did later.

8 Q Prior to picking Lucas up there in Denton at some
9 date prior to that, you did become aware that
10 these work records existed in Florida, is that
11 correct?

12 A Yes, that's correct.

13 Q Sheriff, on December the 30th of 1983, did you
14 and some other officers have an interview with
15 Henry Lee Lucas and Ottis Toole in Jacksonville,
16 Florida?

17 A Yes, we did.

18 Q I'll hand you what has been marked as State's
19 Exhibit 98 and ask if you can identify that
20 exhibit?

21 A This is the original videotape of an interview
22 with Henry Lee Lucas and Ottis Toole made
23 December 30th, 1983, in Jacksonville, Florida.

24 Q Sheriff, I'll hand you what has been marked as
25 State's Exhibit 100 and ask if you can identify

1 that exhibit?

2 A State's Exhibit 100 is an edited copy of the
3 interview of December 30th, 1983, the one I
4 just mentioned.

5 Q Now, Sheriff, there is some deletions on State's
6 Exhibit 100 of both audio and video, is that
7 correct?

8 A Yes.

9 Q But are the portions that are on State's Exhibit
10 100 accurate recordings of the interview recorded
11 on State's Exhibit 98?

12 A Yes, they are.

13 Q Sheriff, the original recording, State's Exhibit
14 98, was this recording -- is this an electronic
15 recording?

16 A Yes, it is.

17 Q It is a videotape?

18 A Yes.

19 Q And both video and audio are on that tape?

20 A Yes.

21 Q Sheriff, prior to this interview on tape, was
22 the Defendant warned of his constitutional rights?

23 A Yes, he was.

24 Q Are all of those warnings contained on this tape?

25 A Yes.

57

1 Q Was the recording device that recorded State's
2 Exhibit 98 capable of making an accurate
3 recording of that interview?

4 A Yes, it was.

5 Q Was the operator of the videotape camera a
6 competent operator?

7 A Yes.

8 Q And is this State's Exhibit 98 an accurate
9 recording of the interview?

10 A Yes, it is.

11 Q Are all voices on the recording identified?

12 A Yes.

13 Q Sheriff, did you promise the Defendant anything
14 in return for getting him to participate in
15 this interview?

16 A No, sir.

17 Q Did you threaten him in any way in order to
18 get him to participate in this interview?

19 A No, sir.

20 Q Did you deny any requests he may have made
21 concerning anything he may have wanted prior
22 to or during this interview?

23 A No, sir.

24

25

MR. WALSH: Your Honor, we offer State's

1 Exhibit 100 in evidence.

2 MR. PARKER: Your Honor, we renew our
3 objections at this time to this exhibit.

4 THE COURT: Objection is overruled.
5 State's Exhibit 100 is admitted.

6
7 (Whereupon, State's Exhibit
8 No. 100, after being offered
9 into evidence, was admitted
10 by the Court.)

11
12 MR. WALSH: May I play this to the jury,
13 Your Honor?

14 THE COURT: Yes, sir.

15
16 (Whereupon, State's Exhibit
17 No. 100, the videotape, was
18 played in open court in the
19 presence of the jury, after
20 which time the proceedings
21 continued as follows:)

22
23 THE COURT: Was everybody in the jury able
24 to hear and understand that? Does anybody
25 need to see it again? Anyone request to

1 see it again?

2
3 Q (By Mr. Walsh) Sheriff, as you look at the
4 screen of that tape, the gentleman seated -- the
5 person seated next to Henry Lee Lucas is Ottis
6 Toole, is that correct?

7 A Yes, that's correct.

8 Q Where is Ottis Toole right now?

9
10 MR. PARKER: Your Honor, we object. It's
11 not relevant right now and not relevant to
12 any matter in this case.

13 MR. WALSH: Your Honor, it is very
14 relevant and Your Honor knows why it's
15 relevant.

16 THE COURT: Approach the bench, Mr. Walsh.

17
18 (Whereupon, a discussion was
19 had at the bench, between
20 Court and counsel, out of
21 the hearing of the jury,
22 after which the proceedings
23 continued as follows:)

24
25 MR. WALSH: Strike that last question.

1 Q (By Mr. Walsh) Sheriff, I'll hand you what has
2 been marked as State's Exhibit 101 and ask if
3 you can identify that exhibit?

4 A State's Exhibit 101 is an interview with Henry
5 Lee Lucas made February 16th, 1984.

6 Q Sheriff, I will show you what has been marked as
7 State's Exhibit 102 and ask if you can identify
8 that exhibit?

9 A State's Exhibit 102 is a videotape copy, an
10 edited copy of the interview made on February
11 16th, 1984.

12 Q It is an edited copy of State's Exhibit 101
13 which is the original?

14 A Yes, that's correct.

15 Q And is this edited copy an accurate copy of
16 certain conversations that are on this original
17 tape?

18 A Yes, it is.

19 Q Sheriff, the interview contained on State's
20 Exhibit 101, I want to ask you some questions
21 about that. Was this interview electronically
22 recorded?

23 A Yes.

24 Q It was by a videotape, both video and audio?

25 A Yes.

1 Q Prior to the interview being given, was the
2 Defendant given his constitutional rights?

3 A He was.

4 Q Are all of those rights contained on the
5 interview tape?

6 A Yes.

7 Q Was the recording device capable of making an
8 accurate recording?

9 A Yes.

10 Q Was the operator of the video equipment a
11 competent operator?

12 A Yes.

13 Q Does this tape reflect that the Defendant was
14 advised before this interview began that it
15 was being tape recorded?

16 A Yes.

17 Q Are all voices on the recording identified?

18 A Yes, they are.

19 Q Did you threaten the Defendant in any way in
20 order to get him to submit to this interview?

21 A No, sir.

22 Q Did you promise the Defendant anything in order
23 to get him to give this interview?

24 A No, sir.

25 Q Did you deny any requests at all that he may have

1 had prior to or during this interview?

2 A No, sir.

3

4 MR. WALSH: Your Honor, we offer State's
5 Exhibit 102 into evidence.

6 MR. PARKER: Your Honor, we renew our
7 objections to State's Exhibit 102.

8 THE COURT: Objection is overruled.
9 State's 102 is admitted.

10

11

(Whereupon, State's Exhibit
12 No. 102, after being offered
13 into evidence, was admitted
14 by the Court.)

15

16

MR. WALSH: May I play this tape to the
17 jury?

17

18

THE COURT: Yes, sir.

19

20

(Whereupon, State's Exhibit
21 No. 102, the videotape, was
22 played in open court in the
23 presence of the jury, after
24 which time the proceedings
25 continued as follows:)

21

22

23

24

25

1 Q (By Mr. Walsh) Sheriff, I'm going to interrupt
2 this tape at this point. What Lucas just said
3 was that he would go from place to place. He did
4 not say he would commit a murder and go to another
5 place, did he?

6 A No, sir.

7 Q I think the tape may be not that audible and I
8 want to make that point, that he is in no way in
9 this particular segment is he making reference
10 to murders.

11 A No, sir.

12

13 MR. WALSH: I want to back this up,
14 Your Honor, just a minute.

15 Pass the witness.

16

17 CROSS EXAMINATION

18 BY MR. PARKER:

19 Q Sheriff Boutwell, I believe the first tape that
20 we heard took place on November 10, 1983, is
21 that correct?

22 A Yes, sir.

23 Q Is this your -- in your automobile?

24 A Yes.

25 Q And where did you pick up Henry on that day?

- 1 A At Denton, Texas.
- 2 Q Had he just received a life sentence on that day?
- 3 A Yes, he had.
- 4 Q And I notice that it says on the tape that
5 location where you evidently turned on your
6 recorder was just south of Fort Worth on
7 Interstate 35, is that correct?
- 8 A That's correct.
- 9 Q That's about 30 or 40 miles from Denton, is that
10 correct?
- 11 A Yes, that's correct.
- 12 Q So, you and Henry had been in the car at least
13 30 or 40 minutes before you turned on the tape,
14 is that correct?
- 15 A Yes.
- 16 Q Sheriff, when did you first learn about these
17 employment records in Jacksonville, Florida?
- 18 A That would have been in October, 1983.
- 19 Q All right, approximately a month before you
20 had this conversation with Henry Lee Lucas?
- 21 A Yes, sir.
- 22 Q Did you find out about these records from, I
23 guess it would be your Deputy Hardison?
- 24 A No, sir, I did not find out about the records
25 from Hardison.

1 Q All right. From whom did you find out about the
2 records?

3 A We were in a conference in Monroe, Louisiana, and
4 it was at that time I found that information out
5 from a detective, Buddy Terry.

6 Q Did your Detective Hardison, I guess his name is,
7 Investigator Hardison, did he ever go to Florida
8 to check on these records?

9 A Yes, he did.

10 Q And when did he go to Florida?

11 A It was in 1983, probably late October, or,
12 correction, it would have been -- it would have
13 been about the time that -- around the 10th of
14 November, 1983.

15 Q All right. Would it have been before you had
16 this conversation with Henry Lucas?

17 A He left prior to that time, yes.

18 Q And he already had gone to Florida before you
19 had talked to Henry on this date?

20 A Yes, he was en route there.

21 Q Had he reported back to you or stated anything
22 to you about his investigation in Florida before
23 you talked to Henry on November 10th, 1983?

24 A No, sir.

25 Q I take it that somewhere from the time you

1 picked Henry up in Denton until you turned on
2 the tape recorder that you had had some discussion
3 with Henry about those work records?

4 A I don't recall whether we had discussed work
5 records or not prior to turning on the tape
6 recorder. It's possible, but I'm not saying for
7 sure.

8 Q Had you discussed these work records with him at
9 any time prior to picking him up in Denton?

10 A No, sir.

11 Q It appears to me from listening to the tape that
12 after you read him his rights, told him you were
13 going to ask him a few questions, I think my
14 notes show that you said, "Hold the recorder
15 real close to your mouth." Do you recall the
16 incident and holding the recorder real close to
17 your mouth and do you recall that incident and
18 then you made some statement about he noticed --
19 the circumstances show he didn't do it and that
20 you had asked him what circumstances, and then
21 he started talking about those records? Is it
22 just coincidental that he started talking about
23 the records right then, or do you think you and
24 he had already been talking about the records
25 before this time?

- 1 A We talked about a number of things on that
2 segment of the ride from Denton to south of
3 Fort Worth. It's very possible we did discuss
4 work records prior to the time I started the
5 tape recorder.
- 6 Q Probably -- very probable that you talked about
7 those records, wouldn't you say, Sheriff?
- 8 A It's possible.
- 9 Q Had you had a copy of those records before
10 November 10th, 1983?
- 11 A I had a copy of a portion of them.
- 12 Q All right. And when those records -- would
13 those records have had the name Caulder on them?
- 14 A No, sir, not that I recall.
- 15 Q Would these work records that you would have
16 copies of, would those be the same records that
17 have been introduced as evidence in this case?
- 18 A No, sir.
- 19 Q These are other records?
- 20 A Right.
- 21 Q Would these have been records pertaining to the
22 latter part of October, 1979, and first part of
23 November, 1979?
- 24 A They covered more time than that, but they did
25 cover that time, yes, sir.

1 Q All right. They would not have covered the
2 particular records that have been introduced in
3 court in this case?

4 A They would have covered that time. I don't know
5 exactly what you mean, these particular records
6 introduced in court.

7 Q Well, maybe I misunderstood you, but the records
8 you had in your possession prior to November 10,
9 1983, and I'm not trying to confuse you, whether
10 they were the same records, but did you have
11 copies of any of the records that have been
12 introduced in this trial prior to November 10,
13 1983?

14 A I haven't seen all the records introduced in
15 this trial, Mr. Parker. I've been under the
16 Rule and out of the courtroom during the time
17 that those were introduced.

18
19 MR. PARKER: May I try to find those?

20 THE COURT: Yes, sir.

21 MR. PARKER: May I approach the witness,
22 Your Honor?

23 THE COURT: Yes, you may.

24
25 Q (By Mr. Parker) Sheriff, I want to show you what

1 has been marked as Defendant's Exhibit 14, 15, 16,
2 17 and 18 and ask you if you have ever seen those
3 particular records or copies of those particular
4 records?

5 A No, sir, I have not.

6 Q All right. You have never seen them or copies of
7 these particular records at any time?

8 A No, sir.

9 Q All right. Let me show you what has been marked
10 as Defendant's Exhibits 5, 6, 7, 8 and 9 and ask
11 you to review those and see if you have ever seen
12 those particular exhibits or copies of those
13 exhibits?

14 A No, sir, I have not.

15 Q All right. At any time?

16 A Not at any time.

17 Q Okay. Sheriff, prior to November 10, 1983, had
18 you been informed that there were employment
19 records that reflected that Henry Lucas was on
20 the job during the latter part of October, 1979,
21 and the first part of November, 1979?

22 A Yes, I had.

23 Q Prior to this trial, did anyone with the Williamson
24 County Sheriff's Department or anyone else that
25 you know of, any law enforcement or with the

1 District Attorney's Office, speak with Mack
2 Caulder?

3 A Yes, sir, they did.

4 Q Do you know when they would have spoken to Mack
5 Caulder?

6 A It would have been on or about the 9th, 10th,
7 11th, 12th of November, 1983.

8 Q Sheriff, during the times that you would be with
9 Henry, during the times that you've spoken to
10 him, during the times he's been in your jail,
11 have you purchased him cigarettes?

12 A Yes, sir, I have.

13 Q Of course, he would receive coffee and so forth
14 in your jail, would he not?

15 A Yes, he would.

16

17 MR. PARKER: Pass the witness, Your Honor.

18

19 REDIRECT EXAMINATION

20 BY MR. WALSH:

21 Q Sheriff, did you ever -- did you offer to give
22 him any cigarettes or coffee in return for him
23 confessing to capital murder?

24 A No, sir.

25

1 (Whereupon, State's Exhibit
2 No. 103 was marked for
3 identification by the reporter.)
4

5 Q (By Mr. Walsh) Sheriff, let's talk about your
6 knowledge of those work records, first. You
7 said you first learned about the work records
8 at a seminar in Louisiana?

9 A Yes, that's correct.

10 Q Sheriff, did you later, before -- and let's
11 preface this by stating whether this was before
12 November the 10th of '83?

13 A The seminar?

14 Q Yes.

15 A Yes, it was sometime in October. I don't recall
16 the exact date.

17 Q Prior to November the 10th of 1983, did Mr. Lucas's
18 attorney make you aware that there were some work
19 records in Florida, specifically Mr. Higginbotham?

20 A I don't recall. I became aware that he was aware
21 of some, but I don't recall the date, Mr. Walsh.

22 Q All right, Sheriff, I hand you what has been
23 marked as State's Exhibit 103 and ask if you can
24 identify that exhibit?

25 A Yes, sir, this list appears to be the same or

1 similar to the copies of the photocopies of the
2 work records that I saw in and received in Monroe,
3 Louisiana.

4 Q So, this is what was handed out at that seminar?

5 A That's correct.

6
7 MR. WALSH: Your Honor, we offer State's
8 Exhibit 103.

9 MR. PARKER: No objection, Your Honor.

10 THE COURT: State's 103 is admitted.

11
12 (Whereupon, State's Exhibit
13 No. 103, after being offered
14 into evidence, was admitted
15 by the Court.)

16
17 Q (By Mr. Walsh) Prior to picking Lucas up in
18 Denton on November 10th, 1983, were you aware
19 that -- or not that his attorneys had gone up
20 and talked to him while he was in Denton?

21 A Yes, I was aware of that.

22 Q Were you aware of whether or not they had talked
23 to Lucas about work records before you picked
24 him up on November 10th?

25

1 MR. PARKER: Your Honor, we object to --
2 I don't know how this man would know what
3 they talked to him about unless he was present.

4 MR. WALSH: Well, that wasn't the
5 question, Your Honor. I asked if he was
6 aware that they had talked to him about the
7 work records and if he has knowledge of that,
8 I think he can answer.

9 THE COURT: Objection is sustained. I
10 think it is hearsay.

11

12 Q (By Mr. Walsh) At any rate, prior to picking
13 him up on November 10th, 1983, is this all you
14 had on these work records, Sheriff?

15 A I believe so, sir.

16 Q And counsel didn't show you this? This hasn't
17 been introduced into evidence, at least he didn't
18 show you this, did he?

19 A No.

20 Q And this doesn't have any time cards or paychecks
21 or any names at all other than Henry Lucas on it,
22 does it?

23 A That's correct.

24 Q Would you characterize this as more or less a
25 payroll record or summary?

- 1 A Yes, I think that's what you call it, yes.
- 2 Q As far as the time cards and these daily work
3 sheets that counsel has shown you, did you have
4 any of that information prior to picking Lucas
5 up on November 10th of 1983?
- 6 A No, sir.
- 7 Q Hardison brought that back from Florida, is
8 that right?
- 9 A That's correct.
- 10 Q Did Hardison get back from Florida after you
11 had already had this conversation with Lucas
12 on November 10th?
- 13 A Yes, he returned some days later.
- 14 Q When did you first learn that an individual by
15 the name of Mack Caulder was a foreman for
16 Southeast or Southwestern, whatever it was,
17 Roofing Company?
- 18 A It was on a night of November the 10th, 11th
19 or 12th, after I had talked to Lucas.
- 20 Q So, again, I don't want to be repetitious, but
21 at the time you talked to Lucas about these work
22 records, you had not heard of anyone named
23 Mack Caulder?
- 24 A No, sir, I had not.
- 25 Q Sheriff, I don't want to dig them out, but you

1 have identified previously a -- two matchbooks
2 that were found at the scene, some sort of
3 homemade napkin or Kotex with those two exhibits
4 prior to obtaining the statement from Henry Lee
5 Lucas on November the 22nd that has been
6 introduced into evidence, the written statement.
7 Did you show any of those items to Henry Lee
8 Lucas?

9 A No, sir.

10
11 MR. PARKER: Your Honor, we would
12 object to that line of questioning. I
13 don't think that has anything to do with
14 rebuttal testimony.

15 MR. WALSH: I think it does, to rebut
16 the defense that has been put up. It's
17 not insanity anymore. It's alibi and that
18 he made this up. That's what counsel said
19 in his opening statement.

20 MR. PARKER: Your Honor, I don't know
21 that we have waived any defense of insanity.
22 We haven't.

23 MR. WALSH: Well, I'm not saying they
24 have, Your Honor, but the Defense is --
25 seems to me shifted to alibi and in

1 Mr. McCollough's opening statement he
2 indicated why would someone make something
3 up, why would someone believe it, and I
4 think I am entitled to ask the Sheriff
5 about that to rebut that inference that's
6 been given to the jury.

7 MR. PARKER: We renew our objection
8 that the evidence has not been raised.
9 Whatever might have been said in opening
10 arguments is not evidence. This is not
11 proper rebuttal examination.

12 THE COURT: Objection is sustained.

13 MR. WALSH: Pass the witness.

14 MR. PARKER: Pass the witness, Your Honor.

15 THE COURT: Sheriff, you can step down.

16 MR. WALSH: May we approach the bench,
17 Your Honor?

18 THE COURT: Yes, you may.

19
20 (Whereupon, a discussion was
21 had at the bench, between
22 Court and counsel, out of the
23 hearing of the jury, after
24 which the proceedings
25 continued as follows:)

1
2 THE COURT: Ladies and gentlemen, I'm
3 going to excuse you for a few minutes and
4 ask you to step outside. Remember your
5 instructions.

6
7 (Whereupon, the jury retired
8 from the courtroom, after
9 which the following
10 proceedings were had, out of
11 the presence of the jury:)

12
13 THE COURT: All right, Mr. Walsh.

14 MR. WALSH: Your Honor, at this time we
15 would like to call Mack Caulder in front of
16 the jury for the purpose of asking the witness
17 about his last two prior convictions. We
18 feel that there was evidence in the record
19 already to indicate lack of reformation on
20 his part, but since these last exhibits have
21 come in, the reference to Mack and Mack being
22 paid off, I submit to the Court that that's
23 additional evidence of lack of reformation.
24 Furthermore, Your Honor, at this point I
25 cannot see that the -- any prejudicial effect

1 would come from this on this Defendant.
2 Through the Defense's own witnesses we have
3 established that Mr. Lucas has killed and
4 been convicted of killing three other people,
5 and we feel that this evidence is highly
6 relevant to the credibility of Mack Caulder
7 as a witness before this jury and we feel
8 that there is evidence in the record to
9 show a lack of reformation and we would ask
10 that we be permitted to question Mr. Caulder,
11 not about all of his convictions, but simply
12 about the last two.

13 MR. PARKER: Your Honor, first of all,
14 we refer you to the brief which you have a
15 copy of and the Prosecution has a copy of
16 which states clearly without having to go
17 through all the cases cited in the brief
18 and so forth that get into a man's credibility
19 and judge his credibility must not be prior
20 convictions that are so far remote that
21 they would not bear on his credibility.
22 That's his credibility here today testifying
23 in this trial. This case has held that
24 prior convictions that are over 12 or 13
25 years old, the DWI arrests, will not revitalize

1 or show a lack of reformation because this
2 is not a misdemeanor involving moral turpitude
3 as would a failure to appear would be a
4 misdemeanor involving moral turpitude.

5 Whatever evidence that has been introduced
6 here today was not clear was a statement from
7 the Defendant referring to someone named
8 Mack. It didn't refer to Mack Caulder
9 directly. There again, it does not show
10 any type of crime and would not show any
11 misdemeanor involving moral turpitude or
12 felony offense, and I don't think that that
13 revitalizes these old convictions that show
14 a lack of -- go to his credibility or
15 character here today, and any statements
16 that were made by Henry were not under oath.
17 I don't think the State has shown that Mack
18 Caulder is not reformed, that these prior
19 convictions should be revitalized. For
20 that reason we would object to any impeachment
21 of Mack Caulder by any prior felony convictions
22 of whatever, 11, 12 years in the past.

23 MR. WALSH: Your Honor, the taped
24 confessions specifically refers to the main
25 foreman for John Reeves, a man named Mack,

1 a short, heavy-set man. I think the record
2 is clear that this evidence is referring to
3 Mack. As far as lack of reformation, what
4 those tapes shows in 1979 Mack Caulder was
5 committing a felony theft in the State of
6 Florida, or at least some type of theft by
7 accepting payoffs to alter records, the very
8 records that the Defense has brought before
9 the jury through, as they called, an opening
10 statement, these impartial witnesses, and I
11 think that the jury needs to get the full
12 picture here. I think the evidence shows
13 that this witness has been referred to by
14 the Defendant and this has been shown
15 through the Defendant's own words to have
16 been committing some sort of theft or forgery
17 in Florida in 1979, and that's certainly
18 within 10 years of his release from prison.

19 MR. PARKER: Your Honor, I don't think
20 there has been any testimony under oath or
21 otherwise that shows this was definitely a
22 Mack Caulder. It does not show that -- if
23 the facts were true, it would not show how
24 much money was taken, whether it be a felony
25 or misdemeanor. The State has that burden

1 to show that it be a misdemeanor involving
2 moral turpitude or a felony and I don't think
3 there has been any identity of the person
4 and it would be highly prejudicial to this
5 particular witness. He has not been charged
6 with anything. We would object to impeachment
7 for the grounds stated in our brief and
8 grounds already stated.

9 MR. WALSH: Theft of any amount of money
10 would be a misdemeanor involving moral
11 turpitude, regardless of where it was.

12 THE COURT: Objection is overruled. The
13 Court will admit the evidence.

14 Are you ready for the jury?

15 MR. WALSH: Yes.

16 THE COURT: Bring in the jury.

17
18 (Whereupon, the jury was
19 returned to the courtroom,
20 and the following proceedings
21 were had:)

22
23 THE COURT: Call your next witness,
24 Mr. Walsh.

25 MR. ANDERSON: The State recalls