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Lucas case killed by judge's ruling

Prosecutors plan to seek dismissal

Associated Press

EL PASO — Their case deflated when a judge refused to admit Henry Lee Lucas' confession into evidence, prosecutors said Saturday they will seek to dismiss a murder charge against the former drifter.

State District Judge Brunson Moore granted a defense motion Friday to suppress the confession, and District Attorney Steve Simmons said that without it, the state has no evidence to prosecute Lucas.

Lucas, 50, was indicted on capital murder charges in the May 27, 1983, ax slaying of 72-year-old Librada Apodaca at her El Paso home.

Asked if a probe into Apodaca's death would be renewed, Simmons said, "There is no reason to investigate. The judge's ruling to suppress the confession doesn't mean that Lucas didn't do it. It just means that we don't have any evidence to prosecute with."

Moore ruled that "Lucas' confessions and statements were obtained from him without a knowing and voluntary waiver by the defendant of his right to counsel and his right to remain silent."

The judge ruled on evidence presented during an eight-week pre-trial hearing that ended Nov. 4. During that hearing, defense attorneys sought to establish that the state's

case against Lucas was not substantial.

Lucas confessed to that slaying and hundreds of others. But he later recanted them all, saying they had been coaxed out of him by law enforcement agencies eager to clear unsolved crimes.

In his ruling Friday, Moore also suppressed tape-recorded conversations between Lucas and his lawyers, as well as notes given to a 1985 Waco grand jury that rejected murder charges against Lucas in McLennan County.

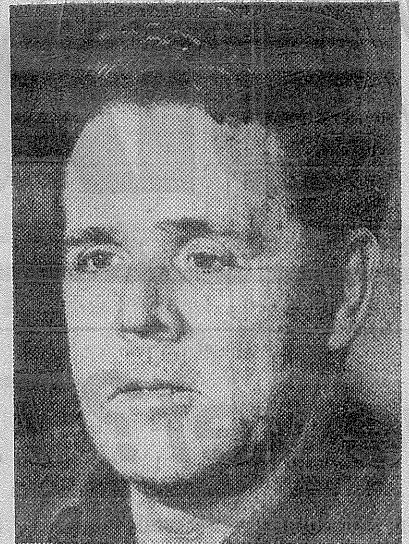
Moore ruled a search of a car made by El Paso police in July 1985 without Lucas' consent was unlawful.

District Attorney Vic Feazell, who led the Waco grand jury investigation, said he was pleased with Moore's decision.

"The judge's action today underscores the findings of our grand jury in McLennan County a year and a half ago that Lucas was not the mass murderer that the Texas Rangers claimed him to be," Feazell said.

Moore complained to attorneys several times during pre-trial hearings that the proceedings were too lengthy and repetitive. Eighty-five witnesses, 154 exhibits and 58 motions and briefs combined to make the transcripts 5,400 pages long.

Lucas' 15-minute videotaped



Henry Lee Lucas

statement to El Paso police was shown during the hearing. In it, Lucas said he was traveling from California when he stopped in El Paso the night of Apodaca's slaying.

He said he drove around El Paso neighborhoods looking for a house to burglarize because he was low on money. Lucas said in the videotape he chose Apodaca's house, entered through an unlocked kitchen door, struggled with the victim, then killed her with an ax.

But the original police report on the crime said the intruder entered through a window, not the kitchen door. Also, a Texas Ranger testified Lucas was under surveillance in Stoneburg, north of Dallas, when Apodaca was killed in El Paso.

Laboratory tests showed Lucas' semen and blood samples did not match the types found in the victim's underwear.

Lucas is on death row in Huntsville for his conviction in the 1979 murder of an unidentified hitchhiker in Central Texas.