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2 Do ya'll want this witness to stand by, or are  
3 ya'll going to agree that he can be excused?

4 MR. FEAZELL: We're through.

5 MR. HUNT: We will release him too; Your Honor.

6 THE COURT: You may go, Mr. Reynolds. Thank  
7 you.

8 MR. HUNT: Thank you a lot.

9 MR. BUTLER: Sergeant Robert Fortune.

10 THE COURT: Just have a seat, Sergeant Horton.  
11 You have already been sworn.

12 THE WITNESS: Yes, sir.

13 ROBERT FORTUNE

14 called as a witness on behalf of the State of Texas, and  
15 having been previously sworn, testified as follows, to-wit:

16 DIRECT EXAMINATION

17 BY MR. BUTLER:

18 Q State your name, please.

19 A Robert Fortune.

20 Q And how are you employed, sir?

21 A With the Waco Police Department, as a sergeant.

22 Q How long have you been so employed?

23 A About 16 years.

24 Q All right. Were you so employed on or about the 14th  
25 day of July of 1982?

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A Yes, sir, I was.

Q On that day, did you -- excuse me. On that day, did you have occasion to go to Koehne Park?

A Yes, sir.

Q What was your reason for going there?

A Missing persons report.

Q All right. And what, if anything, did you do, when you arrived at Koehne Park?

A We found one of the missing persons' vehicle.

Q All right. Do you recall where in the park that vehicle was found?

A It was a part called "The Circle."

Q And what did you do when you arrived there?

A We took photographs of the vehicle and fingerprinted it.

Q Do you know what time of day or night that was, sir?

A That was the afternoon. I don't recall the exact time.

Q And what kind of vehicle was it that you found there?

A An orange Pinto.

Q Who went there with you?

A Officer Nicoletti.

MR. BUTLER: Would you mark those?

(Whereupon, the instruments hereinafter (described were identified as State's (Exhibits 15 through 21.

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BY MR. BUTLER:

Q Okay, let me show you what has been marked for identification purposes, Sergeant, as State's Exhibits No. 15 and 16, and ask if you can identify them, please?

A Yes, sir, I can.

Q All right. What are they, please?

A This photograph is the missing persons' vehicle, orange Pinto. And this is our police car parked beside it.

Q All right.

A And this appears to be the circle. That is the circle at Koehne Park.

Q All right.

A And that's a photograph, a different angle of the Pinto. Here is the police car.

Q All right. Do those photographs truly and accurately depict what they purport to depict? That is, that vehicle, that orange Pinto, as you saw it there on that date?

A Yes, sir.

MR. BUTLER: Your Honor, we would offer State's Exhibits 15 and 16 into evidence.

MR. HUNT: We have no objections to 15 and 16, Your Honor.

THE COURT: State's 15 and 16 are admitted.

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MR. BUTLER: All right.

(Whereupon, the instruments above referred to were received in evidence as State's Exhibits 15 and 16, and copies of the same appears in this record at the pages shown in the Index hereof.

BY MR. BUTLER:

Q Now, what, if anything, did you do when you arrived there at that location, other than taking pictures of the vehicle, Sergeant?

A We dusted the vehicle for fingerprints, at that time.

Q And what did you do then?

A We impounded the car for safekeeping.

Q All right. By "impounded," what do you mean?

A Took it to the Waco Impoundment Center for vehicles. Called a wrecker and had it towed in.

Q All right. And did you do anything else concerning that missing persons report, or that vehicle, that afternoon?

A No, sir.

Q All right. Let me show you what has been marked for identification purposes as State's Exhibit 17, 18, 19, 20 and 21, and ask if you can identify them, please?

A They appear to be aerial shots of Koehne Park.

Q All right. Does that truly and accurately depict Koehne Park, as you recall it? That is, the entrance to the park, the boat ramp and the circle parking area that you

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have previously testified about?

A Yes, sir.

MR. BUTLER: Your Honor, we'd offer State's Exhibits 17, 18, 19, 20 and 21 into evidence.

MR. HUNT: Your Honor, we have no objections to State's 17 through 21.

THE COURT: 17 through 21 are admitted.

(Whereupon, the instruments above referred to were received in evidence as State's Exhibits 17 through 21, and copies of the same appear in this record at the pages shown in the Index hereof.)

BY MR. BUTLER;

Q Sergeant, if you would, approach this map over here. Would you point out for the jury, please, where Koehne Park is?

A This area right here.

Q All right. Would you place this pin in the area of the circle where you found that Pinto?

A About right there, I believe.

Q All right. Did you have any other occasion, on the 14th day of July, 1982, to do any other work on this case?

A Yes, sir, I did.

Q All right. And when was that?

A It was after midnight, it would actually be the 15th.

Q So, it would have been on the 15th?

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A Yes, sir.

Q The same night, but the next --

A Right.

Q -- calendar date?

A I went to the Connally-Compton Funeral Home and escorted the bodies from there to the Forensic Science Lab in Dallas.

Q All right. How many bodies did you escort?

A Three.

Q All right. And what was your reason for doing that?

A For autopsies.

Q All right. After that, did you have occasion to do any other work on this case?

A Well, I followed a lot of blind leads and a lot of bad searches, that resulted in nothing. That's about it.

Q For about how long?

A For about two weeks.

Q And, then, did you get other assignments?

A Yes, sir.

Q To work on other things?

A Yes, sir.

Q For the record, Sergeant, is that area there where you found the Pinto in Koehne Park, in McLennan County, Texas?

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A Yes, sir, it is.

MR. BUTLER: We would pass the witness, Your Honor.

MR. HUNT: Could we see Sergeant Fortune's report?

Your Honor, could we have a brief break, while we go over this?

THE COURT: Lex, do you have that easel?

THE BAILIFF: Yes, sir.

(Whereupon, Court stood at ease momentarily.)

CROSS EXAMINATION

BY MR. HUNT:

Q Sergeant Fortune, I need to ask you some questions. You said that you went to Koehne Park to take a look at the vehicle that had been found there, I guess, by Richard Franks, is that correct?

A Yes, sir.

Q Okay. Could you tell me approximately what time you got there?

A Around afternoon. I'm not sure of the exact time.

Q Okay. And that would have been on Wednesday, the 14th, is that correct? Could you answer aloud, please?

A Yes, sir.

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Q It's hard to remember to do. I assume that Nicoletti was the one that actually did the dusting for prints, is that correct?

A Yes, sir. That's correct.

Q Can you tell me whether or not Richard Franks explained to ya'll before you started dusting for prints, that he had been through the vehicle, apparently searched the vehicle relatively well, before you dusted for prints?

A At that time, he did not tell me that; no, sir.

Q Okay. When did you find that out?

A It must have been a week or so later.

Q Okay. Can you tell me where in the vehicle Nicoletti dusted for prints?

A Primarily outside.

Q Did he dust inside for prints at all, if you recall?

A I don't recall.

Q Okay. When you got to the vehicle, was the vehicle locked or unlocked?

A Unlocked.

Q Okay. Both sides?

A Just, I believe, the right-hand door was unlocked, I believe.

Q Not sure?

A Not sure.



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2 Q Not sure?

3 A Not sure.

4 Q Okay. Again, it has been two years. The aerial photo-  
5 graphs that we just looked at, do you have any idea when  
6 they were taken?

7 A No, sir, I don't.

8 Q Okay. Now, when you said that sometime after midnight --  
9 so, that would have been Thursday morning?

10 A Yes, sir.

11 Q Okay. That you escorted the bodies to the Southwest  
12 Institute of Forensic Sciences in Dallas. Tell me what  
13 you mean by you "escorted the bodies." Does that mean  
14 you accompanied them in a van of some kind, or something?

15 A Okay. A van was hired by the funeral home. And I fol-  
16 lowed that van in a police car.

17 Q Okay. I see. Can you tell me who else accompanied the  
18 bodies to Dallas?

19 A Detective Ramon Salinas was with me.

20 Q Okay. So, you and Salinas followed the van up there,  
21 and they took the bodies up there. Can you tell me what  
22 was done with the bodies when ya'll got to Southwest  
23 Institute in Dallas?

24 A They were just placed in the morgue and we left.

25 Q Okay. Can you recall approximately what time you got

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there?

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A I would say between 3:00 and 4:00.

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Q Okay. Did they give you some kind of an explanation why they couldn't, or wouldn't do the autopsies then? Is it they just waited until the next work day or something?

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A They don't work at night.

8

Q Okay.

9

A They might now; they didn't then.

10

Q All right. Did they tell you when the autopsies would be performed?

11

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A We were called back the next morning.

13

Q Okay. Now, would that have been Thursday? Assuming it was Thursday night in the wee hours when you got there, then were you called back that Thursday morning sometime?

14

15

A One of us called back.

16

17

Q Okay. Which one, you or Ramon?

18

A I don't recall. I think it was Lt. Horton.

19

20

Q Okay. Did someone, then, from Waco P.D. go on up there during the autopsies? Or was that necessary?

21

22

A We did not go during the autopsies.

23

Q Okay. They just called to get information from you and let you know that they were going to do the autopsies.

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Does that sound right?

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A Yes, sir.

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Q Okay. I assume that the bodies were transported in the black crash bags that were used to take them from the scene there at Speegleville Park, is that correct?

A That's correct.

Q Okay. Now, you said that you were assigned to follow, basically, blind leads for two weeks, and then you were no longer assigned to that detail?

A I worked on the case off and on.

Q Okay.

A But I was in charge of another unit, the Crimes Against Persons unit.

Q Okay. So, you worked exclusively on that for two weeks, and then --

A Well, all of the time you do other things --

Q Sure.

A -- that come in. But, primarily, I spent two weeks on the case, about.

Q Okay. Then, was there someone from P.D. assigned to work that exclusively?

A We had a unit set up, yes.

Q Okay. And who was that?

A You want all of the names?

Q Yes, sir.

A Lt. Horton, myself, Detective Salinas, Officer Nicoletti,

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Officer Holstein, Deputy Sheriff Abner, and I believe, Texas Ranger Joe Wiley.

Q Okay. And that group was assigned to the lake murders for how long a time period?

A Right at two months.

Q Okay. Okay. Are you aware of the outcome of the test for fingerprints?

A Off of the vehicle?

Q Yes, sir.

A We didn't find any, I don't think, that were legible.

Q Okay.

A Might have found one, I'm not sure now whether we did or not.

Q Okay. Can you tell me if anybody ever identified who that print belonged to?

A Not to my knowledge.

Q Okay. When you were at Koehne Park, how long did you spend there with the vehicle, approximately?

A Probably an hour.

Q Okay. And, again, that was in connection with the missing persons report, is that correct?

A Yes, sir.

Q Okay. Was there any kind of a search done of that area, at that time? Or was it purely to investigate the

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vehicle?

A Well, a very short search, at that time.

Q Okay. What would that have consisted of?

A Just around the car. The immediate area around the car.

Q Did you or anybody else find anything that you felt was significant right around the car?

A I think we picked up a boot and two beer bottles.

Q Okay. Is that the boot that is referenced in another subsequent report that said, apparently, some firemen were out there --

A Yes, sir.

Q -- and they knew that the boot had no significance?

A Yes, sir.

Q Was there any significance to the beer bottles?

A Well, they were there fairly close to the car, so we took them as evidence to be printed later.

Q Okay. Do you know whether they were printed?

A Not for a fact; no, sir.

Q Okay. Was Richard Franks also there with you, at that time, when you were there in Koehne Park with the car?

A I don't remember.

Q Okay.

MR. HUNT: We'll pass the witness, Your Honor.

MR. BUTLER: Were these entered into evidence,

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Judge, 17 through 21?

THE COURT: Seventeen through 21 are admitted.

MR. BUTLER: We have no further questions of this witness.

THE COURT: All right.

Sergeant Fortune, you may step down. Thank you, sir.

THE WITNESS: Thank you.

MR. HUNT: Your Honor, we believe that we will probably call Sergeant Fortune later, so we're not releasing him, at this time.

THE COURT: All right.

Well, he will be around.

MR. BUTLER: You have no objection to him going back to work.

MR. HUNT: No. Certainly not.

(Whereupon, Counsel for the State and Counsel for the Defense approached the Bench and an off the record discussion was had out of the hearing of the Reporter, following which the trial continued as follows, (to-wit:

THE COURT: We'll let the jury finish looking at the pictures.

(Whereupon, Court stood at ease momentarily.