

1 THE COURT: Mr. Walsh?

2 MR. WALSH: The State calls Dale
3 Stobaugh.

4
5 DALE STOBAUGH,

6 being called as a witness on behalf of the State and
7 after having been duly sworn, was examined and testified
8 as follows:

9 DIRECT EXAMINATION

10 BY MR. WALSH:

11 Q State your name.

12 A Dale Stobaugh.

13 Q How are you employed?

14 A Supervisor of the Questioned Documents Section of
15 the Texas Department of Public Safety Crime Lab in
16 Austin.

17 Q How long have you been employed in that capacity?

18 A Approximately ten years.

19 Q How long have you worked for the Department of
20 Public Safety?

21 A Approximately ten years.

22 Q What are the duties of your job there at the DPS?

23 A Our function of the lab involves identification by
24 handwriting comparison, typewriting examination,
25 ink analysis, paper analysis, restoration of

1 obliterations, and generally proper treatment of
2 any kind of a document which might help reveal the
3 truth in a criminal case.

4 Q Do you work full time or part time?

5 A Full time.

6 Q What special training have you had that qualifies
7 you to hold the position that you hold?

8 A The Department requires a one-year training program
9 where you work under experienced examiners and read
10 30-odd books on the topic of forensic document
11 examination. And I have attended forensic schools
12 put on by the FBI, the Forensic Science Foundation,
13 and various other seminars as funds were available.

14 Q Is there a theory that exists whereby a person can
15 look at a known writing sample of one person and
16 compare that with an unknown writing and come to a
17 conclusion whether the same person wrote both
18 instruments?

19 A Yes, sir.

20 Q Would you explain that theory?

21 A Briefly, it can be summarized in that we learn to
22 write in our grade school years. We all possess
23 about the same amount of manual dexterity, and we
24 learn to copy styles or pattern that have been put
25 around the classroom for us or out of a copy book.

1 Over the years, as our capabilities develop and we
2 start learning to write more adeptly and fastly,
3 individualistic characteristics enter into our
4 handwriting. And that is not the case when we are
5 first learning to write because our skills are very
6 limited, and we are copying a style that has
7 already been put in front of us. It is on those
8 individualistic characteristics that we develop
9 after a number of years and experience a lot of
10 handwriting that handwriting identification or
11 elimination is based upon.

12 (Whereupon State's Exhibit
13 Nos. 74 through 78 were marked
14 for identification by the
15 Reporter.)

16 Q (By Mr. Walsh) Mr. Stobaugh, without going into any
17 of the contents contained in any of these exhibits,
18 I'll ask you if you can identify State's Exhibits
19 74, 75, 76 and 77 and 78, if you can identify those
20 exhibits.

21 A Yes, sir, I can.

22 Q I also hand you what has been marked as State's
23 Exhibit 16, which has been admitted into evidence,
24 and ask if you can identify that exhibit.

25 A Yes, sir.

1 Q I hand you what has been marked as State's Exhibit
2 14 and ask if you can identify this exhibit.

3 A Yes, sir, I can.

4 Q I show you what have been marked as State's
5 Exhibits 28 through 73 and ask if you can identify
6 those exhibits.

7 A Yes, sir, I can identify all of them.

8 Q Let's start first with what has been admitted into
9 evidence as State's Exhibit 16, and then what has
10 not been admitted but has been marked as State's
11 Exhibit 77.

12 MR. WALSH: Your Honor, may we go off the
13 record so I can speak to the Court Reporter here?

14 THE COURT: You may.

15 (Whereupon, there was a discussion
16 between counsel and the Court
17 Reporter, after which proceedings
18 continued as follows:)

19 MR. WALSH: We were in error awhile ago
20 on our markings. We'll start at the beginning.

21 Q (By Mr. Walsh) This is State's Exhibit 16,
22 State's Exhibit 74 which you have previously
23 identified, State's Exhibit 75 which you have
24 previously identified, State's Exhibit 76 which
25 you have previously identified --

1 A (Witness nods)

2 Q -- State's Exhibit Number 77 which you have
3 previously identified, and State's Exhibit 78 that
4 was marked 77 awhile ago but is corrected to 78.

5 I would like for you to assume that
6 portions of these exhibits that I have just
7 referred to and showed you are the known
8 handwriting samples of individuals; okay?

9 A Yes, sir.

10 Q Assume that. Have you compared the handwriting in
11 these exhibits with starting off State's Exhibit
12 Number -- Exhibits 28 through 73?

13 A Yes, sir, I have.

14 Q As a result of the comparisons that you have made
15 between these assumed-known handwritings and
16 certain endorsements under the name of Henry Lucas
17 on these exhibits, do you have a conclusion as to
18 whether the same person whose handwriting is
19 contained in these exhibits is the same person who
20 endorsed these checks?

21 A Yes, I do.

22 Q Would you explain to the jury your conclusions.

23 A It's my opinion that based on the examination of
24 the known handwritings submitted in the name of
25 Henry Lee Lucas and the checks or these instruments

1 here were all endorsed by the writer of the known
2 standards, with the possible exception of Check
3 Number 4414.

4 MR. HIGGINBOTHAM: 44 what?

5 THE WITNESS: 14.

6 Q (By Mr. Walsh) This exhibit you're referring to?

7 A Yes, sir.

8 Q And that has been marked as State's Exhibit 60.

9 A Correct.

10 Q Turning next to State's Exhibit 14, have you
11 compared the writing contained in that matchbook
12 with the writing contained in these samples here?

13 A Yes, I have.

14 Q And what opinion do you have, if any, concerning
15 whether or not the same person who wrote the things
16 in these exhibits wrote the numbers in that
17 matchbook?

18 A I cannot identify or eliminate the writer of the
19 known standards as having done any of the writing
20 on the matchbook marked as State's Exhibit Number
21 14.

22 Q So you don't know one way or the other on that one.

23 A No, sir.

24 MR. WALSH: Pass the witness.

25 THE COURT: Mr. Higginbotham.

1 MR. HIGGINBOTHAM: May I approach the
2 witness, Your Honor?

3 THE COURT: Yes, you may.
4

5 CROSS-EXAMINATION

6 BY MR. HIGGINBOTHAM:

7 Q If I understand correctly, Mr. Stobaugh, you said
8 that you have checked and you have looked at the
9 exemplars that you talked about and then at these
10 checks, the State's Exhibits 28 through 73, I
11 believe. Was that your direct testimony?

12 A Yes, sir.

13 Q Okay. And you say that the person -- in your
14 opinion, the person that wrote those exemplars is
15 the same person that endorsed these checks. And I
16 understood you to say except possibly Check 4414.

17 A Yes, sir.

18 Q Are you able to say for certainty that Henry Lee
19 Lucas didn't endorse Check 4414?

20 A No, sir.

21 Q But you are able to say that the other checks, in
22 your opinion, he did endorse.

23 A Yes, sir.

24 Q Okay. Now as to what has been marked as State's
25 Exhibit 14, which is the matchbook we're talking

1 about?

2 A Yes, sir.

3 Q And it is your testimony that you cannot either
4 identify Henry Lee Lucas as having written those
5 numbers on that matchbook, nor can you eliminate
6 him as having written those numbers on the
7 matchbook.

8 A That's correct.

9 Q That is your testimony.

10 A Yes, sir.

11 Q And I think the prosecutor said succinctly, you
12 just can't tell us one way or the other.

13 A That's correct.

14 Q Did you have an occasion -- I'm going to show you
15 this now; it has been marked as State's Exhibit
16 Number 29. Do you recall having seen that check?
17 Did you -- let me put it a different way. Did you
18 analyze the endorsement on the back of that check?

19 A Yes, sir, I did.

20 Q Now, that has two signatures on the back, or it has
21 what purports to be two signatures on the back.

22 A My report stated an opinion regarding the primary
23 endorsement, the first one.

24 Q Your report?

25 A It appears to be the second one below a number.

1 Q The secondary endorsement, did you make any report
2 concerning that?

3 A No, sir.

4 Q Only the primary endorsement?

5 A Yes, sir.

6 Q Did you have any opinion as to the secondary
7 endorsement?

8 A No, sir.

9 Q You can't tell me from what you have who may have
10 written the secondary endorsement.

11 A No, sir.

12 Q But you did have a report about your findings?

13 A I do, yes, sir.

14 Q Did you submit that to the District Attorney?

15 a I did.

16 Q Do you know when you submitted that to the District
17 Attorney?

18 A It was written on March the 14th and should have
19 gone out on or thereabouts the same date.

20 Q Of this year?

21 A Yes, sir.

22 MR. HIGGINBOTHAM: May we see that report
23 under Gaskin?

24 If I may, Your Honor, have just a minute.

25 THE COURT: Yes, you may.

1 Q (By Mr. Higginbotham) Do you have a copy of your
2 report in front of you, sir?

3 A Yes, sir.

4 Q I direct your attention to page 2(a).

5 A Yes, sir.

6 Q Am I correct in saying that your report says that,
7 "It has been determined that the writer of the
8 Henry Lee Lucas standards" -- I presume that means
9 those exemplars you have -- "wrote the endorsements
10 appearing on the Labor, Inc., checks 4583 and 4644."
11 Is that your findings?

12 A Yes, sir.

13 Q For the record, those checks, 4587 and 4644,
14 correspond to what State's exhibits?

15 A 28 and 29.

16 Q And what dates, respectively?

17 A 10-24-79, 11-1-79.

18 Q So then it is your testimony that checks 4583 which
19 has been marked as State's Exhibit 28 showing a
20 date of 10-24-79, and Check Number 4644 which has
21 been marked as State's Exhibit Number 29 which
22 bears a date of 11-1-79, it's your opinion that the
23 primary endorsements on these checks were signed by
24 Henry Lucas.

25 A Primary, or the endorsements in the name of Henry

1 Lee Lucas were signed by the writer of the standard
2 writing submitted in the name of Henry Lucas.

3 Q So you're assuming it. I think the assumption was
4 that those writings you were working from were done
5 by Henry Lucas.

6 A Yes, sir.

7 MR. HIGGINBOTHAM: Pass the witness.

8

9

REDIRECT EXAMINATION

10 BY MR. WALSH:

11 Q One thing I forgot to ask you on the matchbook,
12 State's Exhibit 14 --

13 A Yes, sir.

14 Q -- that was delivered to the -- to you by Sheriff
15 Jim Boutwell; is that correct?

16 A That's correct.

17 Q Do you have the date he delivered that exhibit?

18 A It was submitted to my office on March the 7th,
19 1984.

20 Q And what do your records show as to when it was
21 delivered to someone else outside your lab?

22 A It was returned to the submitting agency March
23 16th, 1984.

24 Q Would that have been to Ray Hardison?

25 A Yes, sir, it was.