

DIRECT EXAMINATION

BY MR. PONTON:

Q. Please state your name.

A. Ronald Miller.

Q. Where do you live?

A. Ryan, Oklahoma.

Q. Did you formerly live in Montague County?

A. Yep.

Q. Do you know a fellow named Rueben Moore?

A. Yes, sir.

Q. Did you and Rueben Moore used to be partners
in the roofing business

A. Yes.

Q. Are you related to Rueben Moore?

A. Yes.

Q. How?

A. I'm his son-in-law.

Q. In 1983 did you and Rueben Moore work
together on roofing jobs?

A. Yes.

Q. I want to read to you from what is marked as
State's Exhibit 49-A, which is this document right
here.

A. Uh-huh.

Q. And this is an R. M. Moore bid estimate

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1 dated May 26th, 1983, sold to Ray Kay in scenic
2 Nocona Hills. Is that your signature there to the
3 right of R. M. Moore?

4 A. Yes.

5 Q. And is that your signature there where it
6 says, "Paid in full to Ronald Miller"?

7 A. Yes, the Ronald Miller part.

8 Q. Do you remember making this bid?

9 A. I ain't clear on that.

10 Q. Okay.

11 A. Evidently I had to, because I was doing most
12 of the bidding this in -- or measuring and stuff like
13 that, of jobs.

14 Q. And do you remember working on this job?

15 A. Yeah.

16 Q. Do you remember Henry Lucas working on the
17 job?

18 A. I can't remember exactly who-all helped, but
19 I do remember the job.

20 Q. But that is your signature?

21 A. Yeah. Yes.

22 MR. PONTON: We pass the witness.

23

24

CROSS-EXAMINATION

25

BY MR. JEWKES:

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1 Q. Mr. Miller, I'm going to get by asking just
2 a few questions. We will try to hurry along because
3 it's getting late in the day. I don't want to offend
4 you, but I will -- you know, we will get right down
5 to the point as quickly as possible so you and your
6 family can get back.

7 Mr. Ponton asked you about State's Exhibit
8 Number 49-A and it was your testimony that you don't
9 recall making that estimate. Is that correct?

10 A. Um-hum.

11 Q. Or did I misunderstand you?

12 A. Well, I don't remember exactly. I remember
13 doing the job and everything and I had to do the
14 estimate, but I don't really remember. We went -- I
15 called -- Ray Kay called, I believe, but it has been
16 so long. And I met him at the gate and he led me
17 down there. It was either to roof it or measure it.
18 It's been so long I can't hardly remember.

19 Q. Sure. No problem.

20 A. But I did do the job.

21 Q. Let me ask you this. You're married to
22 Gladys?

23 A. Yeah.

24 Q. And does Gladys write better than you do?

25 A. Yeah. She does all my paperwork. I can't

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1 read hardly or write, either.

2 Q. All right. Mr. Miller, would you recognize
3 Gladys' handwriting if you saw it or do you know?

4 I mean, are you sure --

5 A. I wouldn't know if I would or not.

6 Q. Okay. With respect to State's Exhibit
7 Number 49-A, can you tell the Court whether or not
8 that's Gladys' handwriting?

9 A. I don't know, but she is out there.

10 Q. Okay. Therefore, to make sure I understand,
11 you are not at this point in time, as you previously
12 testified, certain as to who made this estimate or
13 whose handwriting's on it?

14 A. That's right.

15 Q. Nothing.

16 A. Right.

17 Q. I want to ask you a series of quick
18 questions and I want these, your answers, if you can
19 answer the questions, to be based strictly on your
20 recollection and nothing else. All right?

21 A. Uh-huh.

22 Q. Nothing that you have been told by anyone
23 but strictly your recollection. I want you to look
24 over your right shoulder at this chart.

25 Assuming that May the 26th of 1983 was a

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1 Thursday and assuming that this estimate on the Ray
2 Kay job is dated 5-26-83, that would probably
3 indicate that the estimate was made on that date. Is
4 that correct?

5 A. Uh-huh.

6 Q. All right. If you went and made that
7 estimate at Ray Kay's house, was Henry Lucas with you?

8 A. No. When I done the estimate?

9 Q. Yes.

10 A. No, he wasn't with me.

11 Q. Okay. Now, do you have any recollection as
12 to when the job on the Ray Kay house was actually
13 started?

14 A. I believe we started it on a Friday and
15 finished it on a Monday. I ain't sure, but I think
16 so.

17 Q. So is it your testimony that it would have
18 been started on this Friday, the day after the
19 estimate was made, or another Friday? I want you to
20 think about it.

21 A. I don't know. Just tell you I really don't
22 know.

23 Q. That's fine.

24 A. See, there is many times I would bid on one
25 and it would like be a week or one day before we get

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1 on it, you know. But I remember it seems like we did
2 have two different dates like, you know, that we
3 started and didn't finish it or something.

4 Q. In other words, the job was interrupted?

5 A. Something. Because a job that size we could
6 have done in one day if it would have been a pretty
7 day. It may have rained or something. I don't know.

8 Q. Let me show you something else to see if it
9 jogs your memory. If it does, fine. If it doesn't,
10 just tell us it doesn't.

11 I want to show you a series of three checks
12 which have been admitted into evidence as State's
13 Exhibit Number 50-A and I want you to look at this
14 bottom check, which is dated 6-1-83 and signed by
15 Grace Kay, drawn on the account of Raymond or Grace
16 Kay in the amount of \$1,700 payable to R. M. Moore
17 and Ronald Miller.

18 Now, take as long as you need to look at the
19 check.

20 A. What do you want me to do?

21 Q. Nothing. Just look at the check. And then
22 on the reverse side, there appears two signatures,
23 R. M. Moore and Ronald Miller. Is that your
24 signature?

25 A. Yeah, that is my signature.

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1 Q. Okay. Assuming you and Rueben Moore
2 received this check from Raymond Kay on June the 1st,
3 which would have been a Wednesday, as full payment
4 for the Kay job, does that help your memory in any
5 regard?

6 A. No, because a lot of times me and Rube would
7 hand my wife my driver's license and sign the check
8 and turn it over to her. I don't know when she would
9 cash it or what time.

10 Q. I'm about to ask you a question. If I say
11 anything you disagree with me, you stop me, all
12 right, because I don't want to put words in your
13 mouth.

14 At this point in time looking at these dates,
15 can you be certain as to when you started the job on
16 Ray Kay's house?

17 A. No.

18 Q. All right. Looking at these dates, can you
19 be certain as to when you finished the job on Ray
20 Kay's house?

21 A. No.

22 Q. All right. Just a few more questions.

23 Can you be certain as to where Henry Lucas
24 was on May the 27th of 1983?

25 A. No.

1 Q. Can you be certain as to where Henry Lucas
2 was on May the 28th of 1983?

3 A. No.

4 Q. What about May 29th?

5 A. I don't have a very good memory and I didn't
6 pay much attention to him. He was just a hand.

7 Q. That's fine. No problem. I'm not arguing
8 with you.

9 A. Okay.

10 Q. What about on May 30th, 1983, do you know
11 where Henry Lucas was?

12 A. Well, let's see. I don't know. See, if
13 something would have happened to where I would
14 remember something that long ago, I would have. But
15 a lot of times, see, like I don't even know what the
16 date is today. I don't pay no attention. My wife
17 does most of the business. I know it's Thursday.

18 Q. Mr. Miller, the hands that work for you,
19 they were normally paid in cash. Is that correct?

20 A. Yeah, they wanted to, I think.

21 Q. Would your daddy-in-law, Rueben Moore, have
22 kept any type of payroll records on any of your hands?

23 A. Normally -- I don't know. Normally -- The
24 business was kind of real slow and kind of messing up.
25 I may have part time. He was doing a little and I

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1 was doing a little.

2 Q. But you --

3 A. What we done is collected a check and paid
4 the materials and split it down and paid the hands
5 and took what was left.

6 Q. And the hands were paid in cash?

7 A. Uh-huh.

8 Q. And Gladys, your wife, was keeping the books?

9 A. Yeah. But about the only thing she done is
10 when we sit down on payday, she would scribble down --
11 we would tell her just how many days so-and-so had --
12 just a piece of paper, enough to where -- to where
13 they could come in and hand it to them. And then we
14 don't know what happened to it after that.

15 Q. And you and Gladys don't know what happened
16 to those pieces of papers that you scribbled on?

17 A. No. We looked for them for you-all.

18 Q. Yes, sir.

19 A. But we never found them.

20 MR. JEWKES: May I have just a moment with,
21 sir, with co-counsel?

22 THE COURT: Yes, sir.

23 MR. JEWKES: Pass the witness.

24 MR. PONTON: We have no further questions.

25 THE COURT: Thank you. Call your next

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