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MR. BUTLER: Pass the witness,
Your Honor.

REDIRECT EXAMINATION

QUESTIONS BY MR. VANCE:

Q Mr. Young, you could also say that the orange Pinto
did not pass your position and go down to the beach
area, did it?

A Yes, sir.

Q And that was between 7:00 and approximately 8:30 at
night?

A Yes, sir.

MR. VANCE: Pass the witness.

MR. BUTLER: We don't have
anything further.

THE COURT: All right, may he
be finally excused? All right, Mr. Young, you are
finally excused.

(Witness excused.)

R I C K Y G U T H R I E, called as a witness
on behalf of the Defendant, having been duly sworn,
testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. REAVES:

Q Mr. Guthrie, would you state your name for the
record?

1 A My name is Ricky Dean Guthrie.

2 Q Okay, how do you spell your last name?

3 A G-u-t-h-r-i-e.

4 Q Mr. Guthrie, where do you live?

5 A I live at 3550 Hillcrest, Apartment 113, Waco, Texas.

6 Q And are you employed currently?

7 A Yes, I am.

8 Q Okay, where do you work at?

9 A I work for Hendricks and Adams Construction Company.

10 Q What do you do for them?

11 A I am a rigger or a flag man for the sky crane at

12 Hillcrest Hospital.

13 Q Okay, Mr. Guthrie, directing your attention back to

14 the night of July 13, 1982, okay, were you in Waco

15 at that time?

16 A I was.

17 Q Okay, and did you have occasion to be in Koehne Park

18 on that night?

19 A Yes, sir, I was.

20 Q Okay, if I could get you to come up to what has been

21 marked Defendant's Exhibit 2, if you would, step up

22 here.

23 First of all, do you recognize this diagram

24 as being a diagram of Koehne Park?

25 A Yes, I do.

22

1 Q Okay, does that appear as it looked to you or was
2 back on July of 1982?

3 A Yes, sir.

4 Q Okay, first of all, do you recall, what time did you
5 go to Koehne Park that night?

6 A I arrived at Koehne Park around 9:00 o'clock or
7 8:00 o'clock. There is a variance there on the
8 time that I got there.

9 Q Okay, when you got there, which part of Koehne Park
10 did you go to?

11 A I entered from on Lake Shore Drive, in and around
12 into the circle area.

13 Q Okay, so you came back to this area here?

14 A Yes.

15 Q Okay, were you with anyone that night?

16 A Yes, I was.

17 Q Who was that?

18 A Phillip Schulze.

19 Q Whose car were you in?

20 A His car.

21 Q Okay, what kind of car did he have?

22 A It was a tan Pontiac or Plymouth Volare or
23 Horizon, something to that effect.

24 Q Now, when you went to Koehne Park, what did you
25 do when you got to the circle area?

- 1 A When we originally got there, we parked off into
2 this area here right at the entrance because there
3 was other cars in the area.
- 4 Q Okay, if I could get you to take that marker, and
5 if you would, put a circle where you parked your
6 car and put RG by it.
- 7 A That is where we originally parked.
- 8 Q Okay, did you move at -- you can go ahead and have
9 a seat.
- 10 A Thank you.
- 11 Q Did you move at some time later?
- 12 A Yes, I did.
- 13 Q Move your car?
- 14 A Yes, I did.
- 15 Q And where did you move it to?
- 16 A I moved it next to -- on the driver's side of the
17 Pinto.
- 18 Q Okay. Now, you say the Pinto. There was, also, a
19 Pinto out there?
- 20 A Yes, sir, there was.
- 21 Q And what color Pinto was it?
- 22 A It was an orange Pinto.
- 23 Q Okay, and if you would, come back to the diagram
24 and show the jury -- if you want to, you can use
25 that yardstick and show the jury where the Pinto was.

1 A The Pinto was approximately in this position right
2 here (indicating).

3 Q Okay, and you pulled your car up?

4 A On the driver's side of that car.

5 Q Okay, what was the reason for moving your car?

6 A When we originally got there, there was no other
7 place to park, and there was -- you know, there was
8 moderate traffic coming in and out, and where our
9 car was, every headlight that came and turned around
10 shone right in our car. So we moved positions.

11 Q Were you sitting in your car or were you all sitting
12 on the picnic tables?

13 A No, we stayed in the car.

14 Q Did you notice anybody in the Pinto?

15 A There was no one in the Pinto.

16 Q Okay, how many other people were around that evening?

17 A When I got there, there was a group of black people
18 listening to music at the picnic table, and there
19 were -- there was a yellow or kind of an off-colored
20 orange electrician's truck there. I don't know if
21 anyone was in it or not.

22 Next to it was a blue car. I don't know who
23 was in that car. It was a small car, and then the
24 Pinto, and then there was a station wagon, and there
25 may have been one other car down there at the time.

- 1 Other than that, there was -- as far as I know,
2 nobody else was down there.
- 3 Q When you were there at Koehne Park, you say it was
4 around 8:00 or 9:00 o'clock. Was it dark yet?
- 5 A It was getting dark.
- 6 Q Okay, dusk?
- 7 A Yes.
- 8 Q Okay, was it about dusk when you moved your car next
9 to the Pinto?
- 10 A A little after dusk.
- 11 Q Okay, had it gotten completely dark yet?
- 12 A Yes.
- 13 Q Could you still see in the area?
- 14 A Yes.
- 15 Q Okay, is there any kind of lighting out there?
- 16 A No.
- 17 Q Okay, did you see anybody come up to the Pinto?
- 18 A During the whole time that I was there, an hour
19 and a-half to two hours, there was no one that came
20 near the Pinto.
- 21 Q Did you see anybody else pull up during that time?
- 22 A Well, I saw a lot of people leave, and right at
23 about 15 -- 20 minutes before I got ready to leave
24 the area, a car pulled up, and it pulled up on the
25 far side of the circle.

2

1 Q Okay, let's --

2 A It pulled up and --

3 Q Go back up to the diagram.

4 A Pulled up into this area right here (indicating).

5 Q Okay, and what time was that?

6 A The time on that was either right around 10:00 or

7 10:30, I would -- in my best estimate.

8 Q Okay, how many people got out of that car? Was it

9 a car, or was it a truck?

10 A It was a car, that I can remember.

11 Q Okay, do you recall how many people got out?

12 A There were several people that got out of it.

13 Q More than three?

14 A Yes.

15 Q Okay, what did they do?

16 A Well, when they got out of the car, they started

17 walking down toward the boat dock area. You walk

18 down into this area here (indicating).

19 Q Okay, what kind of area is that?

20 A It is a wooded area and a ravine down in the -- there

21 is a boat dock down that way and also, right across

22 from it, you know, the boat ramp.

23 Q You are saying they walked back in this area?

24 A Yes.

25 Q Okay, did you see them after they walked back there?

1 A No.

2 Q Okay, were you ever able to identify who those
3 people were?

4 A The only identification that I could give as far as
5 who they were was that one of the young ladies was
6 wearing a red and white striped blouse.

7 Q Okay, so there was, at least, one girl?

8 A Yes.

9 Q Okay, was there more than one girl?

10 A Not to my knowledge.

11 Q Okay, what happened when they went back into that
12 area -- the wooded area? Did you hear or see anything
13 further?

14 A I could hear some giggling every now and then, and
15 I didn't hear anything.

16 Q Did you hear anything unusual other than giggling?

17 A No, we weren't -- when we left about 10 minutes --
18 15 minutes after they arrived so --

19 Q Okay, I believe, you have been asked before to try
20 to identify who those people were.

21 A Yes.

22 Q Is that correct?

23 A Yes.

24 Q I will show you what has been marked as Defendant's
25 Exhibit No. 40 -- or State's Exhibit No. 40, State's

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Exhibit No. 41 and State's Exhibit No. 42 which are pictures of Tony Melendez, David Spence and Gilbert Melendez.

Are those the people that you saw walk back into the wooded area?

A I couldn't tell.

Q Okay, do you know how long they -- did they appear to look like that?

A No.

Q They didn't appear to look like these pictures?

A It was -- they had their backs to us when they got out of the car. I mean, they went out and went down the hill.

Q Okay, did you ever see those people come back out of that area?

A No.

Q They were still there when you left?

A Yes.

MR. REAVES: Your Honor, we will pass the witness at this time.

CROSS EXAMINATION

QUESTIONS BY MR. BUTLER:

Q Mr. Guthrie, you have previously talked to police officers and law enforcement regarding what you did and what you saw that night, have you not?

1 A Yes, sir.

2 Q Do you know what time it is when it gets dark at

3 that time of year in Waco?

4 A What month was this the night again?

5 Q This was the middle of July of 1982.

6 A Okay, it starts getting dark around 9:00 o'clock.

7 Q Now, have you told people -- I believe, you have

8 testified today that you saw several black people

9 sitting at one of the tables, and they were playing

10 loud music?

11 A Yes, sir.

12 Q And weren't bothering anybody. They were just

13 minding their own business?

14 A Yes.

15 Q And there was a white pickup type vehicle with

16 toolboxes on the side?

17 A Correct.

18 Q Do you remember what was written on the side of it?

19 A No, I don't.

20 Q You don't recall whether or not it had something

21 to do with a welding company?

22 A No, sir.

23 Q Did that person -- did you ever see the person who

24 was associated with that vehicle?

25 A I did not.

1 Q Do you remember seeing anybody with binoculars?
2 A No, sir.
3 Q Were the folks playing the music at the picnic
4 table there when you arrived?
5 A Yes, sir, they were.
6 Q And how long after they left did you leave?
7 A I would say, around 30 to 40 minutes.
8 Q All right, would you remember it better now, or
9 would your memory have been better back at the time
10 you talked to the police about this?
11 A Considering it has been three years, my memory
12 would have been better then than it is now.
13 Q Okay, it is possible that you told them that you
14 left about 15 minutes after the folks that were --
15 A It is quite possible it could have been that way,
16 yes, sir.
17 Q Do you recall whether or not it was dark when you
18 left?
19 A Yes, it was definitely dark when I left.
20 MR. BUTLER: May we have just
21 a moment, Your Honor?
22 THE COURT: Yes, sir.
23 (Brief pause.)
24 MR. BUTLER: That is all we have,
25 Your Honor.

REDIRECT EXAMINATION

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QUESTIONS BY MR. REAVES:

Q Mr. Guthrie, I will go back over it in case I didn't hear you. The car or --

MR. BUTLER: Your Honor, I am going to object to him going back over something in case he didn't hear him. That is repetitious.

MR. REAVES: I haven't even asked the question yet, Judge.

MR. BUTLER: Well, if he prefaces it with, he will go back over it in case I didn't hear you, I am going to object to it.

THE COURT: Rephrase the question.

Q Mr. Guthrie, the car that pulled in or the vehicle that you saw pulling in back in this area towards the time you were about to leave, can you identify that any further than being a car?

A No, I cannot.

Q Whether it was large or small?

A No, I cannot.

Q Now, I believe previously, you have talked with some police officers and law enforcement people about what you saw out there.

A Correct.

1 Q It has been quite some time ago.

2 A Yes.

3 Q Are you testifying today as best you can remember
4 things?

5 A As best I can remember.

6 Q Of something that happened over three years ago?

7 A Yes, sir.

8 MR. REAVES: No further questions,
9 Your Honor.

10 RE CROSS EXAMINATION

11 QUESTIONS BY MR. BUTLER:

12 Q Mr. Guthrie, if you had seen what happened to those
13 kids, if you had been a witness to that, you would
14 have certainly told us about it, wouldn't you?

15 A Yes, sir.

16 Q If you had any knowledge regarding the identity of
17 the people that killed the kids or any knowledge
18 that you knew directly affected the identity, you
19 would certainly testify to that, wouldn't you?

20 A With no question.

21 Q And you are testifying to the events as best you
22 recall?

23 A That is correct.

24 MR. BUTLER: We have nothing
25 further, Judge.

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MR. REAVES: We have nothing further, Your Honor.

THE COURT: May Mr. Guthrie be excused, gentlemen?

MR. REAVES: No objection.

THE COURT: All right, Mr. Guthrie, you are finally excused. You can go back to Waco or whatever you need to.

(Witness excused.)

(Brief recess.)

MR. REAVES: We call as our next witness Calvin Nesbit.

C A L V I N N E S B I T, called as a witness on behalf of the Defendant, having been duly sworn, testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. REAVES:

Q Mr. Nesbit, if you would, please, state your name for the record.

A Calvin Nesbit.

Q And how do you spell your last name?

A N-e-s-b-i-t.

Q Okay, where do you live, Mr. Nesbit?

A In Waco.

Q Okay, and what do you do for a living?