

# Black hole engulfs all in Lucas case

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## analysis

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The words of San Francisco legal scholar Ephraim Margolin seem to reverberate almost daily off the courtroom walls where 120th state District Judge Brunson Moore presides.

"Black hole ... black hole ... black hole ..."

And the judge knows he's been sucked right into it.

The latest round of the Henry Lee Lucas case is creeping into its seventh week. It's part of a series of pretrial hearings that started almost 14 months ago. Another week or two remain. After that comes a month or two of jury selection followed by a long trial.

Much of the case already has spilled out during the pretrial hearing on a defense motion to suppress Lucas' one-time confession to the 1983 ax slaying of 72-year-old Librada Apodaca in her Lower Valley home.

In an attempt to discredit the validity of that confession, defense lawyers Rod Ponton and Doris Sipes have dissected scores of other Lucas murder confessions — bogus confessions. And they have had ample cases to choose from among the hundreds of confessions that Lucas once passively signed for police.

The Lucas case is absolutely mind-boggling, the San Francisco law professor and prominent lawyer testified several months ago. That's because any confession com-

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The extraordinary nature of the Lucas case is so immense that it represents one of those rare "black holes in the law," the San Francisco lawyer testified.

Moore, short of height but long on humor, often laments over his misfortune of being assigned the Lucas case. He says he feels himself swirling somewhere inside that hole, yearning only to hear an ordinary burglary case again.

El Pasoans, too, have been sucked into that black hole.

It's already cost taxpayers much more than \$300,000 for legal defense bills and witness travel expenses. The tab doesn't include the prosecutors' salaries and investigative costs. And the meter still is running. Don't be surprised if the final bill hits \$1 million, assuming the case goes to trial.

And don't be surprised if the judge throws out the confession that El Paso police took from Lucas.

That confession — like the hundreds of others — spilled out without any lawyer available to advise Lucas. The Texas Rangers contend that Lucas didn't like, want or need lawyers. But Lucas complained in a letter after his initial arrest in June 1983 that he wasn't allowed to see a lawyer. That letter is one of more than 100 exhibits already admitted into pretrial evidence.

Maybe Lucas wasn't fond of lawyers. But why didn't the rangers force Lucas to consult a lawyer while he was confessing to hundreds of murders? They knew he had spent time in a Michigan state hospital for the criminally insane.

In addition to Lucas, 14 other people either have confessed to

or been implicated in Apodaca's murder. And the motivations and logistics for some of those appear more reasonable than they do for Lucas' confession.

But Lucas' confession came at a convenient time, considering suspicions that some family members might know something about the killing, which Librada Apodaca's nephew, police Sgt. Jimmy Apodaca, was in charge of investigating.

The judge's ruling on the confession will depend on whether he thinks Lucas' constitutional rights were violated. It can't hinge on whether he merely thinks the confession was as phony as other Lucas confessions — and there's been ample testimony and evidence of bogus confessions. Some are outrageous, such as Lucas' one-time claim that he killed former Teamsters President Jimmy Hoffa.

Henry Lee Lucas is on trial. So are the Texas Rangers for their conduct, for their eagerness to portray Lucas as the biggest killer in history. The entire criminal justice system will be on trial.

That's why it's an important case worth watching.

El Paso District Attorney Steve Simmons has retreated from the Lucas case; last fall Simmons sat in the first chair when the case offered hope of a

conviction and the accompanying fame and glory from another death sentence for Lucas. Simmons no longer is active in the case. Instead, three of his assistants are prosecuting it.

The veteran prosecutor doesn't talk about it. A court document that he filed last spring speaks for him. In it, Simmons wrote that Lucas' "reign of terror must be stopped, and while it is indeed unfortunate that the best case against Lucas is the Librada Apodaca case, someone has to take a stand against this ruthless killing machine."

Lucas, Simmons said, must "be executed (so he will) never again stain the landscape of this country."

Simmons needs to have a smoking gun tucked away somewhere to prove it. Otherwise, we're left only with the skimpiest of conflicting evidence linking Lucas to that brutal killing. Lucas' semen doesn't match a stain found on the victim's underwear; his fingerprints were nowhere to be found; and he's got several unwavering alibi witnesses putting him 650 miles from El Paso on the day Apodaca was killed.

The black hole is sucking at Simmons, too.

Gary Scharrer covers politics for the El Paso Times.