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THE COURT: All right, thank you,
ma'am. You are finally excused.

(Witness excused.)

MR. FEAZELL: Your Honor, the
State calls Mr. Gilbert Melendez.

G I L B E R T M E L E N D E Z, recalled as a
witness on behalf of the State, having been duly
sworn, testified as follows:

THE COURT: All right, you are
still under oath, Mr. Melendez, having been previously
sworn in this proceeding. If you will have a seat
on the witness stand there.

DIRECT EXAMINATION

QUESTIONS BY MR. FEAZELL:

Q Your name is Gilbert Melendez?

A Yes, sir.

Q And you are the same Gilbert Melendez who has
testified earlier in this case.

A Yes, sir.

Q Mr. Melendez, when you testified earlier, you told
the jury about using your white truck to take the
bodies from Koehne Park over to Speegleville Park.

A Yes, sir.

Q Correct? You, your brother Tony and David Spence?

A Yes, sir.

- 1 Q When did you buy that truck, sir?
- 2 A I bought the truck around the first part of July --
- 3 July the 3rd, I believe.
- 4 Q 19 what?
- 5 A 1982.
- 6 Q All right, do you remember how much you paid for it?
- 7 A Yes, sir, it was around \$300.
- 8 Q How did you pay for it?
- 9 A I paid for it cash.
- 10 Q The day you bought the truck, was that the first
- 11 time you ever saw it?
- 12 A Yes, sir.
- 13 Q Do you recall ever driving that truck at all in
- 14 the month of June?
- 15 A No, sir.
- 16 Q Okay, from your memory, Mr. Melendez, do you know
- 17 where the truck was on the 4th of July 1982?
- 18 A Yes, sir, I had the truck on the 4th of July of
- 19 1982.
- 20 Q Were you driving it?
- 21 A Yes, sir, I was.
- 22 Q How is it, sir, that you remember the 4th of July
- 23 1982?
- 24 A Well, I remember that because on the 4th of July,
- 25 I was over at some relatives house, and I took --

- 1 well, she was my aunt, and I took her sons to get
2 some fireworks.
- 3 Q At a fireworks stand?
- 4 A Yes, sir.
- 5 Q Did you all go in the pickup truck?
- 6 A Yes, sir, we did.
- 7 Q Okay, when was the first time that you took the
8 truck out to Bosqueville to Calvin Nesbit's house?
- 9 A I -- the first time I took the truck over there was
10 a few days before the 13th -- two or three days
11 before that.
- 12 Q All right, why did -- I believe, you have already
13 testified because it was missing?
- 14 A Yes, sir.
- 15 Q At that time, was there anything, to your
16 knowledge, wrong with the carburetor, fuel pump
17 or water pump?
- 18 A No, sir.
- 19 Q Were the tires flat?
- 20 A No, sir.
- 21 Q How did you get it out to Mr. Nesbit's place?
- 22 A I drove it out there.
- 23 Q And after you took it out there, is it your
24 testimony that the next time you saw the truck
25 was on the night of July 13th?

- 1 A Yes, sir.
- 2 Q When did you take the truck back out to Mr. Nesbit's
3 place?
- 4 A I stopped back out there one time before I actually
5 left it there the last time, which was after the
6 13th -- I am not sure -- a week after or so. I
7 was still having a little missing problem with it.
- 8 I believe, I decided not to leave it there,
9 and I went out in the afternoon after work sometime,
10 and he really didn't have time to look at it or
11 anything, and it was late in the evening.
- 12 I still needed to use it. So I didn't leave
13 it out there, and then the next time I took it out
14 there was the time I left it.
- 15 Q Okay, when was that?
- 16 A That would be a few weeks after that. That would
17 be somewhere around the -- beginning of August, I
18 believe.
- 19 Q All right.
- 20 A Around that time.
- 21 Q Gilbert, during that time, late July and early
22 August, were you hanging around the area of Alexander
23 Street any?
- 24 A Yes, sir, I believe, that is in North Waco. Around
25 that time, there was a place -- there is a club

1 there called the Armadillo Club, and it is a pool
2 hall.

3 It sells beer. I used to go there often, and
4 I know people that live around in that area. So I
5 was in that area, yes, sir.

6 Q During that time, were you still driving the truck?

7 A Yes, sir, I was.

8 Q And it was working?

9 A Yes, sir.

10 Q Mr. Melendez, I will show you what has already
11 been introduced into evidence as State's Exhibit
12 No. 51 and ask you if you recognize what that is
13 a picture of?

14 A Yes, sir, that is a picture of my truck.

15 Q Okay, and that is the very truck that you all
16 hailed the bodies in?

17 A Yes, sir, it is.

18 Q I will show you what is already in evidence as
19 State's Exhibit 49 and ask you if you recognize
20 that?

21 A Yes, sir, that is the title to the truck.

22 Q Did you ever register the title?

23 A I am not sure. I don't think I did register the
24 title.

25 Q Okay, the name on the back is Gilbert Fajardo.

- 1 Is that the name you told the jury last week you
2 sometimes went by?
- 3 A Yes, sir.
- 4 Q What is the date here that Mr. Sulak signed it over
5 to you?
- 6 A It is the 3rd of July 1982.
- 7 Q Did he sign it over to you on the same day you
8 bought it and paid him the cash?
- 9 A Yes, sir, he did.
- 10 Q I will show you the application for title. That
11 is already in evidence as State's Exhibit No. 49.
12 Do you recognize your signature?
- 13 A Yes, sir.
- 14 Q Was your signature notarized?
- 15 A Yes, sir, it was.
- 16 Q And what is the date here that it was notarized?
- 17 A The 3rd of July 1982.
- 18 Q I will show you what is introduced into evidence
19 as State's Exhibit 50, that being the notary
20 receipt for \$5.
- 21 A Yes, sir.
- 22 Q Do you remember the lady, Margorie Raye that
23 notarized the application for title and the title?
- 24 A Yes, sir, we went to her house and did that.
- 25 Q Okay, I believe, she even made a mistake here on

1 the receipt. It says "Gilbert Sulak."

2 A Yes, sir, I think, she mixed up the last names.

3 Q All right. Now, the person that you took your
4 truck out to in Bosqueville, last week, all you
5 could remember was Calvin. Could that be Calvin
6 Nesbit?

7 A Yes, sir, it could be.

8 Q Did you ever go out there to see Calvin Nesbit with
9 David Spence?

10 A Yes, sir, I have.

11 Q How many times did you go out and see Mr. Nesbit
12 with David Spence?

13 A At least, two or three times.

14 Q Did you ever have occasion to buy some tires and
15 take them out there?

16 A Yes, sir, I did.

17 Q For your truck?

18 A Yes, sir.

19 Q When, if you recall, was that?

20 A That was about, possibly, three to four weeks after
21 I had left the truck.

22 I had called David about two weeks after the
23 last time I had seen him which was the 13th. When
24 I had called him from the store, he had come to
25 pick me up.

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I was off of work. So I had already left the truck out at Mr. Calvin's house. So I wasn't driving the truck then.

So that evening -- that afternoon when David picked me up, shortly after that which would be anywhere -- around a week, I guess, or two, I bought the tires from a man that I worked for, and David went over with me to his house.

We picked the tires up in his car and took them over to Calvin's.

Q All right, which car was David driving, at the time?

A He was driving the station wagon.

Q The station wagon you testified to last week that he had gotten after trading in his --

MR. VANCE: Your Honor, I will object to the leading nature of his questions.

THE COURT: Sustained.

MR. VANCE: I would ask the witness to testify -- not Mr. Feazell.

Q Tell us, Mr. Melendez, which station wagon it is you are talking about.

A That is the station wagon that -- when I called David that day, the new car he had bought, that was the station wagon that he had bought when he come

1 to pick me up that I had asked him about.

2 Q All right. Now, after July 13th, you testified
3 last week it had been a couple of weeks later that
4 you called David?

5 A Yes, sir.

6 Q Okay, what car was he in when he came to pick you up?

7 A He was in the station wagon.

8 Q All right, without going into the substance of the
9 conversations, can you remember any specific
10 conversations that David Spence had with Calvin
11 Nesbit?

12 A Yes, sir.

13 Q Without going into it?

14 A Yes, sir, I can.

15 Q All right, when you took your truck out to him the
16 second time in early August, did you drive it out
17 there, or was it towed?

18 A No, sir, I was having some trouble with it. The
19 day that I took it out there, I went by a friend's
20 house, and we checked it out, and I asked if he
21 would follow me out there to Calvin's that I would
22 take it out there because it was giving me a lot of
23 trouble.

24 Then it was missing out more, and so he attempted --
25 I attempted to drive it out there, and he followed

1 me, and we ended up -- it was sputtering. So I
2 ended up just pulling it out there.

3 We pulled it with his truck the rest of the
4 way out to Calvin's house.

5 MR. FEAZELL: We will pass the
6 witness, Judge.

7 CROSS EXAMINATION

8 QUESTIONS BY MR. REAVES:

9 Q Mr. Melendez, let me see if I understand you.
10 First of all, you did take the truck out to
11 Mr. Nesbit's house or to Calvin's house?

12 A Yes, sir, I did.

13 Q Okay, and you did take that out -- truck out to
14 his house before July 13, 1982?

15 A Yes, sir.

16 Q Okay. Now, I asked you when you previously
17 testified when you took the truck back and you
18 didn't really seem to remember, and I think, you
19 eventually said that it was a couple of days to a
20 week after July 13th of 1982.

21 You are now changing that answer?

22 A No, sir, I am not.

23 MR. FEAZELL: I would object
24 to him paraphrasing the evidence that way,
25 Your Honor, because I don't remember it that way.

1 THE COURT: Do you understand
2 the question?

3 THE WITNESS: No, sir, I don't.

4 THE COURT: All right, repeat
5 the question, Mr. Reaves.

6 Q If I previously asked you if you remembered when and
7 you didn't remember, you remember now?

8 A I remember about what? I am not exactly sure on
9 the times.

10 Q Okay, so how much could you be off -- a week, more
11 than a week?

12 A Just a few days.

13 Q Just a few days. When you took the truck out to
14 Calvin's house the first time, who did you -- did
15 you go out there with anybody?

16 A No, sir, I was just out there, and I stopped by and
17 asked Calvin a few things about the truck.

18 He told me it may be the carburetor -- things
19 like that.

20 Q Who was the other -- who was the person that told
21 you about Calvin -- that introduced you to Calvin?

22 A It was a man I knew that was a friend of Calvin's.
23 His name was David. I am not sure what his full
24 name is.

25 Q Okay, was it David Scott?

1 A I am not sure.

2 Q Now, after the second time you took the truck
3 back, you say you never saw it again?

4 A I went back there with the truck one time to talk
5 to Calvin about it, and I decided to keep the
6 truck.

7 So I left with the truck, and then the last
8 time I took the truck there which is the time that
9 we pulled it over there, that is when I left it
10 there, but I went back to the truck and worked on
11 it several times.

12 Q Okay, this would have all been -- we are now into
13 August, according to what you are saying, now?

14 A That would be around the end of July or the first
15 of August -- around there somewhere.

16 Q And you towed the truck out when you were working
17 on it both of those times?

18 A Well, I went out to work on it after that time that
19 we towed it out there.

20 Q Was Calvin out there then?

21 A When we towed it out there? Yes, he was there.

22 Q When did you go out there with Mr. Spence and
23 take some tires out there?

24 A That was after I had called him which would have
25 been a couple of weeks after I saw him on the 13th

1 which would be around a week or so, something like
2 that -- maybe two.

3 Q A week or two after the 13th?

4 A After I called him, two weeks after the 13th.

5 Q What were you buying tires for?

6 A For the truck.

7 Q Why?

8 A Because I got a good deal on the tires, and I had
9 the money to buy them. So I was buying them for the
10 truck.

11 Q Nothing the matter with those on your truck?

12 A No, sir.

13 Q Okay, do you remember what day July the 3rd was
14 when you bought the truck?

15 A No, sir, I don't.

16 Q Don't remember whether it was during the week or
17 on a weekend?

18 A No, sir, I don't.

19 MR. REAVES: Your Honor, we
20 don't have any further questions.

21 REDIRECT EXAMINATION

22 QUESTIONS BY MR. FEAZELL:

23 Q Let me try to clear something up here. When you
24 bought the tires and took them out there, how long
25 was that after July the 13th?

1 A That was about four weeks, around there somewhere.

2 Q So two weeks after you had seen Spence?

3 A Yes, sir, two weeks after I had seen Spence.

4 Q Okay, would that put it then somewhere in mid August?

5 A Yes, sir, around there somewhere.

6 Q Why didn't you ever go back and get your truck?

7 A I had worked on it, and I had some things that I
8 was working on with the truck.

9 Shortly after that, I was arrested, and I never
10 had a chance to go back to look at the truck.

11 MR. FEAZELL: All right, that
12 is all, Judge.

13 MR. REAVES: We don't have any
14 further questions, Your Honor.

15 THE COURT: All right, you can
16 step down, Mr. Melendez.

17 (Witness excused.)

18 MR. FEAZELL: Your Honor, the
19 State calls Captain Dan Weyenberg.

20 D A N W E Y E N B E R G, recalled as a witness
21 on behalf of the State, having been duly sworn,
22 testified as follows:

23 THE COURT: All right,
24 Captain Weyenberg, having been previously sworn
25 in this cause, you are ready to testify.