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COURT OF APPEALS  
HOUSTON, TEXAS

CAUSE NOS. 16,003; 16,004; 16,005;  
16,006; 16,007; 16,008

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THE STATE OF TEXAS \* IN THE DISTRICT COURT OF  
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VS. \*  
\* BRAZORIA COUNTY, TEXAS  
\*  
GEORGE FRANKLIN BONNER, JR., \*  
\*  
AND \*  
\*  
JOHN MANUEL CANTU \* 23RD JUDICIAL DISTRICT

STATEMENT OF FACTS

**FILED**

at \_\_\_\_\_ o'clock \_\_\_\_\_ M

OCT 28 1985

FRANCES BENNETT  
Clerk of District Court  
Brazoria County, Texas

By *Alma King* Deputy

Volume III of IV Volumes

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	*	BRAZORIA COUNTY, TEXAS
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AND	*	
JOHN MANUEL CANTU	*	23RD JUDICIAL DISTRICT

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TRIAL

1 a witness; and who's your first witness, Mr.  
2 Dies?

3 MR. DIES: T. O. Boch, Your Honor.

4 THE COURT: Mr. Boch, come forward and  
5 take the witness stand, please.

6 All right. Let's come to order, please;  
7 and Counsel, you may proceed.

8 MR. DIES: Thank you, Your Honor.

9  
10 T. O. BOCH,

11 having been called to testify by the State and after having  
12 been previously sworn, testified on his oath as follows:

13

14 DIRECT EXAMINATION

15 BY MR. DIES:

16 Q State your full name for the jury, please.

17 A T. O. Boch.

18 Q And state your occupation.

19 A Captain of Identification for the Brazoria County  
20 Sheriff's Department, Angleton, Texas.

21 Q Would you describe briefly the nature of your work,  
22 please, sir?

23 A I am in charge of the identification division. It is my  
24 job to make major crime scenes, gather evidence. It is  
25 also my job to compare known fingerprints with unknown

1 fingerprints.

2 Q Can you tell us how long you have been working in this  
3 particular capacity, please?

4 MR. SILVAS: Your Honor, in the interest  
5 of time, Counsel for Mr. Bonner will stipulate  
6 to the expertise of Mr. Boch as a fingerprint  
7 expert.

8 THE COURT: Thank you, sir.

9 MR. HARGROVE: We also stipulate, Your  
10 Honor.

11 THE COURT: All right. It is so noted  
12 that he's declared an expert on it.

13 MR. DIES: Your Honor, then with regard  
14 to that stipulation and agreement, Your Honor,  
15 I will accept it and ask that Counsel agree  
16 and stipulate that he is qualified and that  
17 his testimony under oath would substantiate  
18 his qualifications, Your Honor.

19 MR. SILVAS: So agreed, Your Honor.

20 MR. HARGROVE: So agreed, Your Honor.

21 Q (By Mr. Dies) With regard then to the kind of work that  
22 you do and you mentioned specifically comparison of  
23 known fingerprints or palm fingerprints to unknown or  
24 latent; is that correct?

25 A That is correct, sir.

1 Q Now, I asked you to do something in connection with your  
2 expertise today, did I not?

3 A You did, sir.

4 Q Okay. What was it that you did for me in connection  
5 with your particular expertise?

6 A I came to the courtroom and I fingerprinted Mr. Cantu  
7 and Mr. Bonner and compared them with some -- what is  
8 known to me as pen packets for you, sir.

9 Q You have those -- you brought those fingerprint cards  
10 and we had them marked, did we not?

11 A That is correct, sir.

12 MR. DIES: May I approach the witness,  
13 Your Honor?

14 THE COURT: You may.

15 Q (By Mr. Dies) T. O., I'll hand you what's been marked  
16 for identification purposes at this time as State's  
17 Exhibits 91 and 92, 93, 94, 95, 96, and 97. Beginning  
18 with State's Exhibit No. 91 and No. 92, can you  
19 recognize those particular exhibits, please, sir?

20 A I can, sir.

21 Q And how do you recognize those particular exhibits?

22 A I recognize them with my signature -- initials on them,  
23 the date and the time that I took the fingerprints and  
24 put them on these cards.

25 Q All right. With regard to State's Exhibit No. 91 and

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1 92, more specifically, you can tell us they are what?

2 A They are the known fingerprints of Mr. Cantu sitting  
3 right there. (indicating)

4 Q For purposes of the record, would you describe then what  
5 that person is wearing?

6 A He's got sort of a polka dot shirt, brown pants, kind of  
7 maroon.

8 MR. DIES: Your Honor, may the record  
9 reflect the witness has identified the  
10 Defendant John Cantu?

11 THE COURT: It may so reflect.

12 MR. DIES: At this time, Your Honor, I  
13 will tender and offer into evidence for  
14 Counsels' inspection and objection State's  
15 Exhibits 91 and 92.

16 MR. HARGROVE: No objections, Your Honor.

17 MR. SILVAS: No objections.

18 THE COURT: Admitted.

19

20 (Whereupon, State's Exhibit Nos. 91 and 92 were offered  
21 and received in evidence.)

22

23 MR. DIES: Thank you, Your Honor.

24 Q (By Mr. Dies) T. O., with regard to State's Exhibit No.  
25 93 and 94, do you recognize State's Exhibit 93 and 94?

1 A I do, sir.

2 Q And how do you recognize 93 and 94?

3 A I recognize them by the -- on State's Exhibit No. 93, I  
4 recognize it by the right thumb prints that I checked  
5 and on State's Exhibit No. 94, the fingerprints that I  
6 compared.

7 Q Okay.

8 MR. DIES: Your Honor, at this time with  
9 regard to State's Exhibit No. 93, I will offer  
10 into evidence and tender for Counsels'  
11 inspection and objection properly certified  
12 and true copies of the judgment and sentence  
13 in the cause with regard to Mr. Cantu, Your  
14 Honor, and I will tender and offer into  
15 evidence subject to Counsels' inspection and  
16 objection State's Exhibit No. 94, Your Honor,  
17 official government records and properly  
18 certified authenticated copies of the pen  
19 packets, Your Honor.

20 MR. HARGROVE: I have no objections to  
21 No. 93. And No. 94 I would object for the  
22 offer of the picture. We were not furnished a  
23 copy of it, and I didn't know it existed.

24 THE COURT: All right. Let me look at  
25 the exhibits please, Counsel.

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All right. I'm going to overrule your objection. Ninety-three and 94 are admitted.

(Whereupon, State's Exhibit Nos. 93 and 94 were offered and received in evidence.)

Q (By Mr. Dies) With regard to State's Exhibits 95 and 96, T. O., can you recognize those exhibits?

A I can, sir.

Q And how do you recognize those exhibits?

A With the date, time, and my initials on the two exhibits.

Q All right. And they are generally what?

A These are the known fingerprints of George Bonner.

Q Okay. Would you point him out for the Court and describe what he's wearing for the record?

A He's wearing a brown shirt, blue trousers, sitting next to Mr. Joe there. (indicating)

MR. DIES: Your Honor, with regard then to this particular Defendant, may the record reflect that this witness has identified that Defendant, Your Honor?

THE COURT: It may.

Q (By Mr. Dies) And with regard to State's Exhibit No. 97, do you recognize State's Exhibit No. 97?

1 A I do, sir.

2 Q And how is it that you recognize No. 97?

3 A By the fingerprints in that exhibit.

4 MR. DIES: At this time, Your Honor, I  
5 will offer into evidence and tender for  
6 Counsels' inspection and objection State's  
7 Exhibit No. 97, Your Honor.

8 MR. SILVAS: No objection, Your Honor.

9 THE COURT: Admitted.

10

11 (Whereupon, State's Exhibit No. 97 was offered and  
12 received in evidence.)

13

14 Q (By Mr. Dies) Specifically, then, T. O., with regard to  
15 91, what is 91 now?

16 A State's Exhibit No. 91 is the fingerprint from the right  
17 hand of Mr. John Cantu.

18 Q And the prints that appear on State's Exhibit No. 92?

19 A State's Exhibit No. 92 are the fingerprints of the left  
20 hand of Mr. John Cantu.

21 Q And I asked you, of course, to obtain those particular  
22 prints, did I not.

23 A You did, sir.

24 Q And for comparison, did you not?

25 A That is correct, sir.

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1 Q Can you tell the jury if you made a comparison with  
2 regard to State's Exhibit No. 91 and 92 with anything  
3 that has been introduced into evidence at this time?

4 A I compared State's Exhibit No. 91 and 92 with State's  
5 Exhibit No. 93.

6 Q All right. What of State's Exhibit 94?

7 A And also I did compare State's Exhibit 91, 92 with  
8 State's Exhibit No. 94.

9 Q All right. With regard to an explanation for the jury,  
10 what is a latent print?

11 A A latent print is -- could be one that you cannot see or  
12 an unknown, that we would refer to as an unknown print,  
13 we don't know where it came from.

14 Q And the known print, of course?

15 A Known print is when we fingerprint a person where we  
16 actually do the fingerprinting ourself and we know where  
17 the print came from. In this particular case, on these,  
18 I did do the actual fingerprinting myself.

19 Q Are fingerprints unique to individuals, human beings?

20 A Yes, sir.

21 Q Is it possible for persons to leave same fingerprints,  
22 two persons to leave the same fingerprints?

23 A It would be possible -- to answer that question, two  
24 people would not have the same fingerprints.

25 Q All right. Can you tell us how it is that you go about

1 comparing or went about specifically comparing the known  
2 prints of the Defendant Cantu with the prints contained  
3 in the other exhibits, please, sir?

4 A What I did after I came to the courtroom and  
5 fingerprinted Mr. Cantu, I then went to my office and  
6 used my magnifying glass to make the comparison of the  
7 fingerprints; and how I do that I look for similarities,  
8 definite points of comparison to make the positive  
9 identification.

10 MR. DIES: Again may I approach the  
11 witness, Your Honor?

12 Q (By Mr. Dies) With regard to State's Exhibit No. 95 and  
13 96, they are specifically what, T. O, 95, first of all?

14 A Ninety-five is the fingerprints of the right hand of  
15 George Bonner.

16 Q And 96, please, sir?

17 A Ninety-six is the fingerprints of the left hand of  
18 George Bonner.

19 Q And did you use those for comparison with regard to  
20 State's Exhibit No. 97 and the prints contained therein?

21 A I did, sir.

22 Q All right. With regard then State's Exhibit No. 93 and  
23 94, the documents that you compared the fingerprints on  
24 cards 91 and 92, did you arrive at any particular  
25 conclusion as a result of your comparison on the prints

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1 contained on those exhibits?

2 A I did.

3 Q With regard to your comparison and your examination, can  
4 you tell us your conclusion?

5 A The fingerprints that are on State's Exhibit No. 93 and  
6 94 are positively identified as belonging to Mr. Jaun  
7 Cantu.

8 Q All right. With regard then to State's Exhibits 95 and  
9 96, the fingerprint cards that you obtained from the  
10 Defendant George Bonner, did you compare them and reach  
11 some particular conclusion from your examination and  
12 comparison to State's Exhibit No. 97?

13 A I did, sir.

14 Q Can you state your conclusion?

15 A The fingerprints on State's Exhibit No. 95 and 96 that I  
16 took in the courtroom are positively identified as being  
17 in State's Exhibit No. 97.

18 Q All right. And with regard to the penitentiary packet  
19 and the certified conviction wherein you examined the  
20 thumb print and fingerprints of John Manuel Cantu with  
21 the known fingerprints in the penitentiary packet and  
22 the certified copies, it's your opinion that the  
23 Defendant John Manuel Cantu is the same person who made  
24 the print that appears in the penitentiary packet and  
25 the certification conviction?

1 A He is, sir.

2 Q And with regard then to Mr. John -- excuse me, Mr.  
3 George Franklin Bonner, based upon your expertise, it's  
4 your opinion that Mr. George Franklin Bonner whose  
5 fingerprints you obtained in the courtroom is the same  
6 person whose fingerprints are found in State's Exhibit  
7 No. 97, the penitentiary packet?

8 A They are, sir.

9 Q There is contained a photograph in each of the  
10 particular penitentiary packets; is that correct?

11 A I would have to check, sir.

12 Q Okay.

13

14 (Whereupon, the witness examines the exhibits.)

15

16 A In State's Exhibit 94 and 97, there is a photograph,  
17 sir.

18 Q Thank you, sir.

19

MR. DIES: No further questions, Your

20

Honor.

21

THE COURT: Anything, Mr. Silvas?

22

MR. SILVAS: I have no questions.

23

THE COURT: Anything, Mr. Howell?

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MR. HARGROVE: Yes, sir, I have just a

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few.

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THE COURT: Go ahead.

CROSS-EXAMINATION

BY MR. HARGROVE:

Q How many characteristics does the average fingerprint have?

A It all depends. There is no set number. It depends on how many you look for when you go to look for them. It's up to the individual identification officer to decide how many he wants to use.

Q Yes, sir, I understand that but what I meant was how many does the average print contain? Would you agree somewhere between 100 and 200?

A I would say around 100.

Q Around 100?

A I'm not saying for sure because I can't tell you exactly how many. You would have to count each fingerprint to come up with the exact number and I would not give a number that I'm not sure of, sir, unless I counted.

Q What's the most you've ever seen in a print?

A Well, the most I ever seen in a print -- it depends on whether you're using a fingerprint or a palm print. If you use a palm print, you can come up with a whole bunch of them. I looked at the fingerprint yesterday and there were 34 points of comparison that we found and it

1           could be more than that.

2           Q    How many would Mr. Cantu's have?  Could you make an  
3           accurate guess at that?

4           A    I wouldn't make an accurate guess.  I would take them  
5           and count each one of them and come back and tell you.  
6           The way I made my conclusion, when I check fingerprints,  
7           I have a set policy that when I compare fingerprints and  
8           make a positive identification, I have a number that I  
9           use and any below that, I will not use.

10          Q    What number do you use, sir?

11          A    The number I use?

12          Q    Yes, sir.

13          A    I use seven and above.

14          Q    How many did you use in this case?

15          A    Well, I had all ten fingers I used.  I would have to go  
16          back and check each finger but I did have enough to make  
17          the positive identification.

18          Q    How long have you been doing this, sir?

19          A    How long have I been doing it?

20          Q    What I'm getting at is do you have any idea how many  
21          sets of fingerprints you've seen?

22          A    Sir, I've been doing this for 28 years and it would be  
23          in the thousands of prints that I have seen, sir.

24          Q    The reason I was asking, do you know how many is on file  
25          in Washington, how many sets of fingerprints.

1 A No, sir, I don't.

2 MR. DIES: I need to object, Your Honor.  
3 That's not material or relevant to any issue  
4 this jury has to decide. It calls for hearsay  
5 as well, Your Honor.

6 THE COURT: All right. If you know, you  
7 may answer.

8 A At present time, Judge, I don't know because it's been  
9 in creation. It's over a million marks I know. The  
10 exact number, I don't know, sir.

11 Q How would 75 million sound?

12 A I wouldn't --

13 MR. DIES: I need to object if Counsel  
14 wishes to testify, Your Honor, assuming facts  
15 not in evidence.

16 THE COURT: I'll sustain that. Ask your  
17 next question, please.

18 MR. HARGROVE: Pass the witness, Your  
19 Honor.

20 THE COURT: Anything else?

21 MR. DIES: No further questions, Your  
22 Honor.

23 MR. SILVAS: I have nothing further.

24 THE COURT: You may step down, sir.

25 THE WITNESS: May I be excused, sir?

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THE COURT: You may be, just stay under the Rule, Mr. Boch. If I need you again, you'll be called but go on about your duties.

THE WITNESS: Okay. Thank you, sir.

MR. DIES: Tim Jung.

Your Honor, I had not previously; but at this time I would tender and offer into evidence State's Exhibit No. 95 and 96.

MR. SILVAS: No objection.

MR. DIES: Your Honor, may I place these on the rail for the jury's view.

THE COURT: You may. They're admitted.

(Whereupon, State's Exhibit Nos. 95 and 96 were offered and received in evidence.)

TIMOTHY JAMES JUNG,

having been called to testify by the State and after having been previously sworn, testified on his oath as follows:

DIRECT EXAMINATION

BY MR. DIES:

Q State your full name please, sir.

A It's Timothy James Jung.

Q And spell your last name, please, for the court