

1 (Whereupon, a recess was had, follow-
2 (ing which, the following proceedings
3 (were had out of the presence and
4 (hearing of the jury, to-wit:

5 PROCEEDINGS HAD JUNE 25, 1984 (P.M.)

6 THE COURT: Raise your right hand.

7 (Whereupon, the witness was sworn.

8 THE COURT: Just have a seat right here.

9 MR. HUNT: Your Honor, before I begin asking
10 questions, could we have a ruling on Mr. Michael?

11 THE COURT: I haven't ruled on that yet.

12 MR. HUNT: I would like to make certain that
13 the record reflects that we have not released him from
14 the subpoena.

15 THE COURT: I understand that.

16 MR. HUNT: And there is a good possibility
17 that we will call him.

18 THE COURT: I understand.

19 MR. HUNT: Thank you, Your Honor.

20 JESSE HAYDEN IVY

21 called as a witness on behalf of the State of Texas, and
22 having been first sworn, testified as follows, to-wit:

23 VOIR DIRE EXAMINATION
24 (OUT OF THE PRESENCE OF THE JURY)

25 BY MR. HUNT:

0 Mr. Ivy, would you state your name, for the record?

MR. HUNT: I'm sorry, Your Honor. Are you

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ready?

THE COURT: Yes, I'm ready.

BY MR. HUNT:

O Mr. Ivy, would you state your name for the record?

A Jesse Hayden Ivy.

O Okay. Mr. Ivy, I'm Russell Hunt. I'm one of the attorneys that's here representing David Spence. I have some questions to ask you. I'm going to ask you, if you would, to answer outloud, so we can take down what we have to say for the record. Will you do that for me, sir?

A I sure will.

O Okay. My understanding is, that you are a person who has been incarcerated in the past with David Wayne Spence, and you are, in a few minutes, going to be testifying before the jury relative to something that David Wayne Spence told you, is that correct, sir?

A That's true.

O Would you please give me the benefit of telling me the approximate dates of when those conversations, or that conversation took place?

A Sometimes in September.

O September of what year?

A Of this one.

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Q September of 19 --

A What is this, '83? '84?

Q This is 1984.

A All right.

Q So, was it last year?

A It was this year. It was last year.

Q Okay. September of 1983, then?

A Yeah.

Q Okay. Can you tell me where those conversations took place?

A Yes, sir, I can.

Q Would you do that, please?

A On the Eastham Unit, which is a prison unit in TDC, in Lovelady, Texas, on Kayline, which is a cell block housed by such people as myself.

Q Okay. I would like, if you would, to give me the date or dates of the conversations, please?

A Well, to be perfectly honest with you, I can't. You know, I don't remember no dates.

Q Well, can you narrow it down to, for instance, did all of these conversations take place in September?

A No, sir. It was on two separate conversations.

Q Okay. Were there more than two separate conversations?

A Not really; no, sir.

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Q So, there were two conversations. Did both of the conversations take place in September?

A Yes, sir, they did.

Q Okay. Prior to the first conversation -- before the first conversation -- had you talked with any law enforcement officers at all about David Wayne Spence, or what we will call "the lake murders"? Those are the murders that occurred here in Waco on July 13, 1982.

A No, sir.

Q Did you even know about the lake murders?

A No, sir.

Q Okay. Had you been told by anyone, that if you could come up with information that would help solve the lake murders, that it would be, in any way, benefit you?

A No, sir.

Q Okay. After the first conversation with David Spence, I assume that there was a break in time before the second conversation, is that right?

A Yes.

Q Could you tell me how many days apart they were?

A Not really.

Q Were they weeks apart or days apart?

A Probably weeks.

Q Okay. Between the time of the first conversation and the

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2 time of the second conversation, did you talk to any
3 law enforcement officers, or other prisoners, about the
4 fact that you had information that you thought might be
5 able to benefit you?

6 A No, sir.

7 Q Did anybody tell you, if you could come up with informa-
8 tion to help solve the lake murders, that it would
9 benefit you?

10 A No, sir.

11 Q You, then, had a second conversation with David Spence,
12 is that right?

13 A Yes, sir.

14 Q Okay. After that second conversation, apparently, you
15 let the people in the District Attorney's Office know
16 that you had some kind of a conversation, is that right?

17 A No, sir.

18 Q Well, how did the people in the District Attorney's
19 Office know that you had any conversation with David
20 Spence?

21 A Well, the best way I can figure that out is, they called
22 me down and asked me to make a statement. I made a
23 statement as to what I knew. The next thing I know, I
24 was in Waco, Texas.

25 Q Okay. Where were you when they called you down and asked

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you to make a statement?

A Where was I at? I was in the penitentiary.

Q Where?

A On Eastham, Lovelady.

Q Okay. You were in that same unit?

A Yes, sir.

Q And they, just out of the blue, called you down there?

A Just out of the blue.

Q How would they know to call you down?

A I have no idea.

Q It was just for no apparent reason. Who called you down?

A The Major.

Q Okay. Then, did you give a statement to the Major?

A Yes, I did.

Q Was anybody there from McLennan County?

A No, sir.

Q Gave a statement to the Major. What did the Major tell you, when he asked you to make a statement?

A He just asked me to make a statement, if I knew anything about David Wayne Spence.

Q Did he ask you first, did you know anything about David Wayne Spence?

A No, sir.

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Q Tell me, the best you can recall, what he said to you?

A The best I can recall, he asked me --

MR. BUTLER: Judge, I'm going to object to anything any further along this line. He hasn't tied it down as to when in time this happened. He has not tied it down, for purposes of this hearing, it's not admissible.

MR. HUNT: Let me try to tie it down in time, Your Honor.

THE COURT: All right, sir.

BY MR. HUNT:

Q When did this conversation take place with the Major that called you down?

A I believe it was in October or November, I'm not quite sure. I think it was in November. I'm pretty sure.

Q Okay.

A The last of November.

Q The last of November?

A Yes, sir.

Q 1983. The Major asked you to make a statement?

A Uh-huh.

Q Did he ask you first, if you had any information? Or did he just tell you to make a statement?

A No, sir. He didn't ask me if I had any information. He

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just asked me if I knew anything about it.

Q Okay. And you told him you did, and you made a statement?

A I did.

Q Prior to that, had you talked to any law enforcement officer at all about David Wayne Spence or the lake murders?

A No, sir, I hadn't.

Q Had you been told by any inmate, or anyone, that if you could give information that would help in that crime, that it would be of benefit to you?

A No, sir.

Q Okay. At that time, did you work in the Major's office?

A No, sir, I sure didn't.

Q Did you ever work in the Major's office?

A No, sir, I sure haven't.

Q Okay. How long had you been in TDC, at that time, when you first got a conversation from David Spence?

A Aw, I figure about three years. Two and a half or three years.

Q And what was -- were you working in any connection with any of the officials there? Or what was your function there at Eastham Unit?

A You would have to come to me a little different on that,

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because I don't quite understand what you're asking me.

Q What was your job?

A What is my job?

Q Yes.

A I'm an SS clerk in the issue room.

Q An SS clerk?

A Yes, sir.

Q What does that mean?

A That means that I pass out brogands, pants, shirts, shoestrings, what have you.

Q Okay.

MR. HUNT: That's all the questions we have, Your Honor.

THE COURT: Any questions from the State?

VOIR DIRE EXAMINATION
(OUT OF THE PRESENCE OF THE JURY)

BY MR. BUTLER:

Q Mr. Ivy, at the time you were called and requested to make a statement, was David Wayne Spence still there at the Eastham Unit?

A No, sir, he wasn't.

Q And at the time you were asked to make a statement, did you?

A Yes, I did.

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Q And was that the only written statement you ever made concerning your knowledge of David Wayne Spence?

A Yes, it was.

Q And could it have been -- was that statement dated and notarized?

A Yes, it was.

Q Could it have been the 2nd day of February, 1984?

A It certainly was.

Q And do you know whether or not -- do you know when David Wayne Spence left the Eastham Unit?

A Not really, but I could take a guess at it.

Q Was it in February? Or was it earlier than that?

A I think it was in December.

MR. BUTLER: I have nothing further, Your Honor.

MR. HUNT: We don't have any further questions, Your Honor.

THE COURT: All right.

And what objections does the Defense have?

MR. HUNT: We have no objections to this witness' testimony, based on his previous testimony in this hearing.

THE COURT: All right.

We need to bring the jury in.

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