

Tuesday, March 27, 1984

Murder case hearings slow, tedious

By TOMMY WITHERSPOON
and MARY ANN KREPS
Tribune-Herald Staff Writers

Proceedings were slow and tedious in 54th State District Court on Monday as Judge George Allen, prosecutors and defense attorneys began wading through scores of pre-trial motions filed in the Lake Waco triple homicide case.

Allen has scheduled pre-trial hearings for capital murder defendants David Wayne Spence, Muneer Mohammed Deeb, Gilbert Melendez and Anthony Melendez for the remainder of this week.

The four men are charged in the July 1982 stabbing deaths of teen-agers Raylene Rice, Jill Montgomery and Kenneth Franks, whose bodies were found in Speegleville Park at Lake Waco.

Court-appointed defense attorneys Russ Hunt and Hayes Fuller, who represent Spence, subpoenaed 24 witnesses, including nine law enforcement officers, to appear in court Monday to detail incidents involving the investigation.

McLennan County District Attorney Vic Feazell was absent from some of Monday's proceedings because he spent most of the day representing a client in a civil suit.

Feazell did leave the civil proceedings long enough, however, to testify in triple murder pre-trial hearings after being subpoenaed by defense attorneys. Prosecutor Ned Butler represented the district attorney's office in Feazell's absence.

Allen, who deferred rulings on defense motions Monday, said he will wait until the completion of pre-trial testimony before making decisions on defense

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requests.

Although most of the testimony Monday involved Spence's case, attorneys for the other defendants were present in the courtroom making notes and representing their clients in the judge's chambers when identical motions involving all defendants were being discussed.

Allen placed attorneys on both sides of the case under a "gag order," instructing them not to discuss court proceedings with the media.

Hunt and Fuller have filed a number of motions in the case, including one to exclude the testimony of a forensic dental specialist from New Mexico who reportedly has linked Spence's dental pattern with bite marks found on the two women victims.

The attorneys charge that Spence was forced to give law enforcement officials a bite specimen while being held in the McLennan County Jail and was denied a request to have an attorney present when the specimen was obtained.

The motion states that Dr. Homer Campbell is expected to testify that "in all dental certainty," Spence is responsible for leaving bite marks or bruises on the victims' bodies.

But the defense attorneys claim that Campbell's

testimony will not be based on "tried and proven scientific principle, but is based on a relatively new procedure which is not recognized by members of the scientific community."

Hunt and Fuller also have filed a motion asking that testimony be prohibited from any witnesses whose statements have been hypnotically enhanced.

They also have filed motions seeking copies of grand jury testimony, all statements made by Spence to law enforcement officials, all evidence the state has gathered in the case and information from police files.

Feazell is representing Jerome I. Sobel, owner of Waco's four Script Shop pharmacies, in a \$50,000 civil suit that was filed against Sobel Aug. 9, 1982, before Feazell was elected district attorney.

"I felt a moral obligation to see this through," Feazell said, explaining why he is continuing to handle a civil case. "Some (civil cases) I was able to refer out; some I didn't because the client didn't want to go to another lawyer."

"If you're going to put in there (the *Tribune-Herald*) that I'm trying this lawsuit, put in there that I don't play golf or go fishing on the weekends — I work."

Feazell, who has said he will be the lead prosecutor in Spence's trial, said he would have preferred to

help prosecutor Ned Butler on Monday handle hearings in the Lake Waco triple murder case.

But Feazell said his request for a continuance in the civil case was refused by 170th State District Judge Ray Mormino.

"It was an older case, and I was intent on getting it through," Mormino said, explaining why he did not grant the continuance. The judge added that he had granted Feazell's earlier requests for a continuance in light of scheduled hearings on the Lake Waco case.

Waco attorney Mark Knapp is assisting Feazell in the civil case.

Andy Shuval, executive director of the Texas Prosecutor Council, said professional prosecutors are allowed to finish out pending civil cases if the case was filed before the prosecutor was sworn into office.

The civil case, filed by Southwestern Drug Corp. of Delaware, alleges that Sobel, owner of Radiopharmacy Consultants Inc. of Austin, has failed to pay \$53,106.28 in promissory notes.

Radiopharmacy Consultants Inc. filed for Chapter 11 bankruptcy in November 1981.

Sobel alleges, according to court documents, that he signed the notes, but was told that by doing so he was satisfying auditors for Southwestern Drug Corp. and that the notes would not be used against him.