

1 Baier to the stand.

2 THE COURT: Dennis Baier. You've already been
3 sworn, Mr. Baier, have you not?

4 THE WITNESS: Yes, sir.

5 THE COURT: Have a seat.

6 DENNIS BAIER

7 called as a witness on behalf of the Defendant, and having
8 been first duly sworn, testified as follows, to-wit:

9 DIRECT EXAMINATION

10 BY MR. HUNT:

11 Q Dennis, state your full name for the record, please.

12 A Dennis Baier.

13 Q How are you employed, Dennis?

14 A With the City of Waco.

15 Q How long have you been so employed?

16 A Approximately ten years.

17 Q And in what capacity are you employed?

18 A Police officer.

19 Q Dennis, can you tell me the first time you had contact
20 with David Wayne Spence in relation to the lake murders?

21 A By "relation" --

22 Q I mean in part of your investigation of the lake murders.

23 A Probably in either late September or early October.

24 Q Okay. Now, would you state for the Court and the record
25 please what your relationship was relative to the inves-

1 tigation of the lake murders.

2 A Okay. I was assigned as a followup officer, more or
3 less, on that case.

4 O What do you mean a "followup officer"?

5 A Well, the initial investigation was conducted by other
6 officers, and I was assigned to more or less review the
7 offense report.

8 Q Okay. Can you tell me how many contacts you had with
9 David Wayne Spence from September of 1982 until the
10 present?

11 A A definite number would be rather hard to put. I would
12 say in the neighborhood of six or seven times, roughly.

13 Q Okay. Where did those contacts take place?

14 A In the McLennan County Jail.

15 Q Can you give me the approximate dates of those contacts?

16 A Not all of them. Not all of them.

17 Q Give me your best approximation.

18 A Well, I believe there was one in early October.
19 Probably late March of '80 --

20 Q October of '82?

21 A That's correct. March of '83, and probably May or
22 June of '83.

23 Q Okay. That would account for probably three. You
24 said six or seven. Well, again, that was a rough
25 estimate. I can only think of approximately three or four

1 times that I have talked to him. But I'm sure there
2 were three -- two or three more times.

3 Q Why was David first considered a suspect in the lake
4 murders?

5 MR. BUTLER: Objection. Not material.

6 THE COURT: Sustained.

7 BY MR. HUNT:

8 Q Dennis, during the time that you had contact with
9 David Wayne Spence, did you on each and every occasion
10 give him his warnings?

11 MR. BUTLER: Objection, Your Honor. Not
12 material.

13 THE COURT: Sustained.

14 BY MR. HUNT:

15 Q Dennis, did you ever offer David Wayne Spence a
16 polygraph test?

17 MR. BUTLER: Objection, Your Honor. It's not
18 material.

19 THE COURT: Sustained.

20 BY MR. HUNT:

21 Q Dennis, did David Wayne Spence ever reject a polygraph
22 test?

23 MR. BUTLER: Objection, Your Honor. It's not
24 material.

25 THE COURT: Sustained.

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BY MR. HUNT:

Q Dennis, when you were assigned to this case, were you technically -- my understanding is that you officed in the District Attorney's Office; is that correct?

A No, sir.

O Okay. Where were you officed?

A Waco Police Department.

O Okay. How much of your time let's say from about September of 1982 until March of 1983, how much of your time was spent working on the lake murders?

MR. BUTLER: Objection, Your Honor. Not material.

THE COURT: Sustained.

BY MR. HUNT:

O Dennis, when is the first time that you learned that David Wayne Spence was purported to be a member of the Church of Satan?

MR. BUTLER: Objection, Your Honor. It's not material.

THE COURT: Sustained.

MR. HUNT: Your Honor, I believe I can show the relevancy of this line of questioning if you would permit me a few more questions.

THE COURT: Overruled.

MR. HUNT: Your Honor, then I would object under

1 the basis of Article 40.09 of the Texas Code of Criminal
2 Procedure in that the Court is refusing to let me
3 perfect a bill.

4 THE COURT: Overruled.

5 MR. HUNT: Your Honor, then I would further
6 object on the basis of the violation of the Defendant's
7 rights to speedy trial and due process under both the
8 Texas and Federal Constitutions.

9 THE COURT: Overruled.

10 BY MR. HUNT:

11 Q Dennis, tell me whether or not you know if any State's
12 witnesses that have to do with the lake murders were
13 hypnotized or questioned under hypnosis?

14 MR. BUTLER: Objection, Your Honor. It's not
15 material.

16 THE COURT: Sustained.

17 MR. HUNT: Your Honor, I believe I can show
18 the relevance of this line of questioning if you will
19 permit me a few more questions.

20 THE COURT: Overrule your request.

21 MR. HUNT: Your Honor, then I would object on
22 the basis of Article 40.09 of the Texas Code of Criminal
23 Procedure.

24 THE COURT: Overruled.

25 MR. HUNT: Your Honor, then I would further

1 object on the basis of the Defendant's deprivation of
2 both his right to a speedy trial and due process under
3 both the State and Federal Constitutions.

4 THE COURT: Overruled.

5 BY MR. HUNT:

6 Q Dennis, were you present or listening during the conver-
7 sations that David Wayne Spence had with a psychiatrist
8 while he was incarcerated in the McLennan County Jail
9 after his initial arrest in September of 1982?

10 MR. BUTLER: Objection, Your Honor. It's not
11 material.

12 THE COURT: Sustained.

13 MR. HUNT: Your Honor, I believe I can show
14 the relevance of this line of questioning if you would
15 permit me a few more questions.

16 THE COURT: Overrule the request.

17 MR. HUNT: Your Honor, if that's the case,
18 then I will object on the basis of Article 40.09 of the
19 Texas Code of Criminal Procedure in that the Court is
20 refusing to allow me to perfect a bill of exception.

21 THE COURT: Overruled.

22 MR. HUNT: I would further object on the basis
23 of the Defendant's deprivation of rights to speedy trial
24 and due process under both the State and Federal
25 Constitutions.

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THE COURT: Overruled.

BY MR. HUNT:

Q Dennis, when in your mind did David Wayne Spence become an accused person of the lake murders?

MR. BUTLER: Objection, Your Honor. That calls for legal conclusion.

THE COURT: Sustained.

MR. HUNT: Your Honor, I believe that I can ask a few more questions in order to clear up this line of questioning.

THE COURT: Overrule your request.

MR. HUNT: Are you refusing to let me go into this line of questioning any further, Your Honor?

THE COURT: Yes, sir.

MR. HUNT: Your Honor, then I would object on the basis of Article 40.09 of the Texas Code of Criminal Procedure in that it's necessary to have these questions asked in order to perfect my bill.

THE COURT: Overrule your request.

MR. HUNT: Your Honor, it's your specific direction that I can't go into any questions having to do with this line of questioning?

THE COURT: Yes, sir.

MR. HUNT: Okay. Then I would object further on the basis of both the Fifth and Sixth Amendments to

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1 the United States Constitution and the Fourteenth, and
2 the Texas State Constitution on the basis of deprivation
3 of speedy trial and due process.

4 THE COURT: Overruled.

5 BY MR. HUNT:

6 O Dennis, do you recall the conversation in which you were
7 present on which occasion Vic Feazell asked the question,
8 "How's it going," and was responded something to the
9 effect that he still says he's not guilty, and Vic
10 Feazell in turn said, "Well, then just kill the son of
11 a bitch."?

12 MR. BUTLER: Objection, Your Honor. It's not
13 relevant, not material.

14 THE COURT: Sustained.

15 MR. HUNT: Your Honor, I believe I can definitely
16 establish the relevancy of this question in the line of
17 it has to do with the harm being done to the Defendant
18 and the motive of the District Attorney in denying him
19 the right to speedy trial.

20 THE COURT: Overruled.

21 MR. HUNT: It also has to do with when the
22 Defendant became an accused, Your Honor.

23 THE COURT: Overruled.

24 MR. HUNT: Your Honor, may I pursue this line
25 of questioning and ask some more questions about that?

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THE COURT: No, sir.

MR. HUNT: Your Honor, then I would object on the basis of Article 40.09 of the Texas Code of Criminal Procedure in that the Court is refusing to permit me to perfect my bill.

THE COURT: Overruled.

MR. HUNT: And I would further object on the State and Federal constitutional grounds having to do with due process and right to speedy trial.

THE COURT: Overruled.

MR. HUNT: Pass the witness, Your Honor.

MR. GOBLE: I think the rule has been invoked. Captain Weyenberg is a witness.

MR. BUTLER: He hasn't been sworn yet, Judge.

MR. HUNT: Your Honor, we pass the witness.

THE COURT: Do ya'll want Mr. Weyenberg under the rule? He just walked in.

MR. HUNT: Would you swear him and place him under the rule, please.

THE COURT: Raise your right hand.

(Whereupon Captain Dan Weyenberg was sworn.)

The rule has been invoked. It will be necessary that you remain outside in the hallway, not in the courtroom. You can't discuss your testimony.

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MR. WEYENBERG: Thank you.

MR. HUNT: I pass the witness, Your Honor.

THE COURT: I've got one other thing. You asked him when he found out he was a suspect. I'm going to allow that question.

MR. BUTLER: He didn't ask him that. He asked him when he became an accused.

THE COURT: Oh, all right.

MR. HUNT: Are you going to let him answer my question, Your Honor?

THE COURT: I thought he said suspect.

MR. HUNT: I did say accused.

MR. BUTLER: You can ask him about suspect.

MR. HUNT: That's all we've got.

THE COURT: All right. You may step down. That's all.

Do you want Mr. Weyenberg next?

MR. HUNT: We would call Dan Weyenberg.

THE COURT: Dan Weyenberg.

MR. FULLER: I'll get him, Your Honor.

DAN WEYENBERG

called as a witness on behalf of the Defendant, and having been first duly sworn, testified as follows, to-wit: