



Eagle
Bryan, Texas

OCT 2 1985

Mistrial asked in Spence case

Bryan defense attorney W.W. Vance has asked for a mistrial in the capital murder case of David Wayne Spence of Waco because of comments made by the prosecuting attorney in an article published in the *Eagle* Sunday.

Vance, who was appointed to represent Spence in the case that was transferred to Brazos County on a change of venue, charges in a motion filed Tuesday that McLennan County District Attorney Vic Feazell's comments violated the terms of a protective order issued last April by State District Judge W.T. McDonald Jr. He asks that the judge either grant a mistrial or jail Feazell for contempt of

court.

The protective order is designed to assure the defendant a fair trial by quashing publicity in the case. It prohibits those connected to the case in an official capacity from discussing certain matters with the media or public.

Vance argues that Feazell violated the express terms of the order by giving an interview to an *Eagle* reporter. Comments attributed to Feazell in last Sunday's article violated the order in seven instances, Vance charges.

Specifically, Vance alleges that Feazell violated the protective order when he commented about the cost of

trying Spence for capital murder a second time, about parole laws, and about a prosecutor's strategy in trying multiple murder cases. Vance says that Feazell's comments effectively expressed his opinion as to the guilt or innocence of Spence.

"The story speaks for itself," Vance said.

Feazell could not be reached for comment.

Spence is scheduled to go on trial Oct. 8 for the July 1982 murder of 18-year-old Kenneth Franks in Waco. A hearing on the motion for mistrial and contempt is expected to be held on Monday.