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Venue change asked for Spence

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Attorneys for David Wayne Spence asked Thursday for a change of venue in his capital murder trial, claiming that publicity about Spence's prior felony convictions and his alleged membership in the Church of Satan make it impossible for him to receive a fair trial in Waco.

"It has been alleged that David Wayne Spence is a member of the Church of Satan and is therefore an evil and satanical person. Waco and McLennan County are extremely religious communities," said the motion filed by Spence's court-appointed attorney Russ Hunt.

"As an example of the extremely strong feelings regarding this issue," the motion adds, "(District Attorney) Vic Feazell has made the statement that 'David Wayne Spence is the devil.'"

Spence, 25, has been charged with three



David Spence

counts of capital murder in the July 1982 stabbing deaths of Jill Montgomery and Raylene Rice, both 17 and of Waxahachie, and Kenneth Franks, 18 of Waco. 54th State District Judge George Allen has ordered Spence to stand trial May 21 for the death of Miss Montgomery.

Muneer Mohammad Deeb, 24, Anthony Melendez, 24, and his brother, Gilbert Melendez, 28, also are charged in the deaths.

Noting the fact that Waco is frequently referred to as "Jerusalem on the Brazos," Hunt's motion claims the reports of Spence's membership in the Church of Satan "have created such a religious bias against him that it will be wholly impossible to select a jury that is not prejudiced."

"Because of the intensity of these religious feelings, it is likely and probable that prospective jurors will misrepresent or conceal their true feelings toward (Spence) out of a desire to rid the community of this 'devil worshipper,'" the motion added.

Spence was sentenced to 90 years in prison and fined \$10,000 in March 1983 on charges he sexually abused an 18-year-old Waco man by holding a knife to his throat and forcing him to perform sexual acts with another man.

Gilbert Melendez pleaded guilty to the same offense in December 1982 and was sentenced to seven years in prison.

Spence also was convicted of robbery in Tarrant County in 1980 and sentenced to four years in prison.

But Hunt and co-counsel Hayes Fuller argue in the motion to move the trial that neither conviction will be admissible at Spence's trial unless he takes the witness stand in his own defense.

The aggravated sexual abuse case is being appealed, so it cannot be counted as a final conviction, the lawyers claim.

Citing what they claim are "injurious, inflammatory and unfair statements" concerning Spence's alleged involvement in the Lake Waco killings, defense attorneys claim the "hostile community atmosphere" in Waco would make it impossible to select an impartial jury here.

If convicted of capital murder, Spence and the other defendants face death by injection or life imprisonment.

Allen ruled on about 30 defense motions during pre-trial hearings earlier this month, but he has yet to rule on requests by Spence's attorneys to prohibit the testimony of a Dal-

las dental specialist or the testimony of anyone whose memory has been hypnotically enhanced.

The judge has not set a date for testimony concerning those two motions or the change of venue motion.

Dr. Homer Campbell, a forensic dental specialist from Albuquerque, N.M., is expected to testify he can match bite marks found on the female victims' bodies with dental samples taken from Spence while he was in the McLennan County Jail.

Defense attorneys have asked Allen to disallow Campbell's testimony and claim that it will be a "travesty of justice" should it be allowed.

Attorneys claim that forensic odontology, the study of the anatomy of the teeth, is not favorably recognized in the scientific community. They also claim that Spence's rights were violated when he was forced to give bite samples without having an attorney present.

Also, Spence's attorneys told Allen that if he allows Campbell's testimony, the judge will have to grant additional funds for the defense to employ "the finest forensic odontologist available" to counter Campbell's statements.